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Brazil, the GATT, and the WTO: History and prospects

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BRAZIL, THE GATT, AND THE WTO: HISTORY AND PROSPECTS¹

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Introduction

This paper is on Brazilian multilateral commercial diplomacy first in the General Agreement on Tariffs and Trade (GATT), between 1947 and 1964, then in the World Trade Organization since 1995. To consider this history from a Brazilian angle it was often necessary to describe the development of multilateral negotiations from a wider perspective given the specificity which mark much of GATT and WTO diplomacy and rules. The first section covers the 1947-1980 period and includes the early period, dominated by negotiations of the GATT and of the Havana Charter, the first twenty years of the GATT, and the Tokyo Round in the 1970's. It also includes Brazilian involvement in dispute settlement during this period. Section 2 analyses the negotiations between 1980 and 1986, which preceded the launching of the Uruguay Round. The third section is on the Uruguay Round. Section 4 considers Brazil's involvement in GATT dispute settlement actions between 1980 and 1984. The fifth section is on Brazil and the WTO. Section 6 considers Brazilian long-term commercial diplomacy in the GATT and the WTO. The final section is on the way ahead, with particular emphasis on Brazil's interests and likely role in future multilateral trade and negotiations and in the working of the multilateral trading system.

1. Brazil and the GATT, 1947-1980

Early years: GATT and ITO

Brazil was reasonably active in the negotiations which led to both the General Agreement on Tariffs and Trade in 1947 and to the still-born Havana Charter and International Trade Organization (ITO) in 1948³. United States proposals on future rules to govern world trade were presented to the United Nations and discussed and modified after negotiations in which Brazil was one of the 17 countries represented. The resulting document served as a basis for negotiation of the ITO charter in Havana. In the meantime, as a provisional arrangement, a General Agreement on Tariffs and Trade (GATT) as well as tariff concessions to be applied after 1948 were negotiated. Brazil was also one of the 23 founding fathers of GATT.

In Havana, Brazil was one of 56 countries represented in the ITO negotiations. Brazilian central interests at the time included the opposition to preferential trade agreements, the possibility to invoke quantitative restrictions due to balance of payments difficulties, and the continued possibility to enforce both the compulsory mixture of domestic and imported products and the discriminatory internal taxation of imports.⁴ Together with Australia, India and other developing economies it insisted in the right to apply import quotas discriminating against different types of products. The approved charter included a much diluted provision for the application of quantitative restrictions based on “development reasons”. As the Havana Charter was not ratified by the United States, the GATT, which had been thought as a provisional arrangement to be absorbed into ITO’s charter, was transformed into the basic set of rules to regulate commercial policies on a multilateral basis and was to survive until 1995 as an *ad interim* committee of the International Trade Organization.

The essential provisions of GATT included the abolition of quantitative restrictions to trade so that protection depended as far as possible only on tariffs; the universal adoption of the most favoured nation clause so that bilateral trade concessions were to be automatically extended to third countries; and the progressive reduction of tariff barriers through the negotiation of reciprocal concessions in multilateral negotiation rounds.⁵ A concession was made when a contracting party enters into a commitment that duties charged on a specific good will not exceed a specified level (the tariff is said to be bound at this level). From the point of view of the pure theory of international trade tariffs reduce welfare, especially those imposed by small economies, that is those unable to influence world prices. Protection is to be essentially explained by political economy arguments: sectors with political clout are able to extract rents from the rest of the economy. A successful multilateral trade negotiation can be thought as involving the internal renegotiation of rent-extraction protection in all contracting parties aiming at a reduction in the level of protection. Important potential advantages from GATT membership, particularly for a small economy, are related to the possible protection offered by its dispute settlement and rule enforcement provisions as well as by the unconditional application of the most favoured nation clause.

The first 20 years: rich men's club and free riders

Until the Kennedy Round of multilateral negotiations (1963-1967), exchange of concessions in the GATT were mostly between developed economies. Some see the developing countries as free riders as tariff reductions were multilateralized by the MFN clause and there was very little involvement of developing countries. Others see the GATT as a richmen's club geared exclusively to meet the interests of developed economies as tariff concessions were mainly irrelevant for developing economies without supply response.⁶

Dissatisfaction with the GATT among developing countries made possible the relaxation of rules on the application of quantitative restrictions invoking balance of payments difficulties. In Brazil, indeed, tariffs became unimportant as a measure of protection as import controls were introduced after mid-1947 and exchange cover auctions in 1953. In 1957 a new tariff was introduced and the renegotiation of the Brazilian schedule of concessions with some of the trade partners lasted until the early 1960's.⁷ Restrictions based on balance of payments became the rule.

The most interesting initiative by Brazil in the GATT in the 1960's was taken jointly with Uruguay on nullification and impairment of obligation (article XXIII). It was proposed that developed countries paid financial compensation to developing countries for violation of rules. Developing countries could withdraw their GATT obligations towards developed countries if the latter introduced measures affecting their exports. The principle of collective retaliation as a last resort measure was also proposed. But the initiative resulted in only minor changes in the dispute settlement rules.⁸

Developing countries concentrated their efforts in sidestepping the GATT in negotiations which led to in 1964 to UNCTAD (United Nations Conference on Trade and Development) and to the preferential treatment of developing country exports in the market of developed economies under the System of Generalized Preferences. In 1965, a Part IV was added to the General Agreement which mentioned the possibility of non-reciprocal concessions between developed and developing contracting parties

but remained a declaration of principles.⁹ After much initial resistance the United States agreed at the second UNCTAD in 1968 to support the creation of a Generalized System of Preferences. The derogation at the GATT, required because it was a violation of the MFN clause, was agreed in 1971 for ten years. With the shift in economic policy after the military coup in Brazil in 1964, a tariff reform in 1967 reduced the level of protection, but this was reversed in 1969, and still more markedly, after the oil shock of 1973-1974, which was followed by the re-adoption of tight non-tariff import controls until the late 1980's. So Brazil's almost permanent status was that of a country invoking Article XVIII:B of the General Agreement, which allowed quantitative restrictions based on balance of payments difficulties.

Brazilian interest in the Kennedy Round, similarly to that of other developing countries was rather limited. This assessment, based on the evaluation that negotiations would continue to be dominated by the main developed economies, was vindicated by the Round's results: reduction in average tariffs for products of interest for developing countries was of 20% while that on products interesting developed economies was in the 35-40% range.¹⁰

Brazil and the Tokyo Round

As negotiations in the UNCTAD became bogged down Brazil's attention turned again to GATT, and in particular to the Tokyo Round. This move was also partly prompted by the rising barriers faced by exports of the more advanced developed economies in the markets of the developed economies. In the Tokyo Round (1973-1979) there was for the first time a clear clash between the more advanced developing countries such as Brazil and the United States, seeking reciprocity in terms of concrete concessions. In Brazil, the Ministry of Finance was against making any tariff reduction offer, a clear indication of the imbalance between the strength of lobbies favouring continued high protection and those seeking access to cheaper inputs and capital goods. Brazil ended offering a list restricted to 200 products and made explicit its interest in concessions for orange juice, beverages and processed meat. But little was obtained by Brazil or other developing economies: tariff reduction of 33%, for products for which there was a special interest by developed economies, was again higher than the 26% cut affecting products of interest for developing economies.¹¹

For developing countries GATT codes and reform of the GATT system were more important than tariff negotiations. Codes were designed to prevent free riding through the adoption of a MFN clause restricted to specific signatories.¹² From the point of view of the most important code was on subsidies due to importance of the US market for Brazilian manufactured exports and to the Brazilian policy of export enhancement based on special fiscal rebates besides those affecting indirect taxes. In spite of resistance in the Ministry of Foreign Affairs, the position of the Ministry of Finance prevailed and Brazil was the first developing country to sign the Code on Subsidies agreeing to freeze and phase out these GATT-illegal subsidies.¹³ Other signatories of the Subsidies Code such as India and Pakistan entered into much weaker commitments.¹⁴

In the reform of the GATT system issue negotiations in the Framework¹⁵ group took as basis for discussion a Brazilian proposal which included: the provision of a legal basis for the GSP so that preferences would be bound and their withdrawal subject to compensation; further flexibility in the use of Article XVIII balance of payments safeguards; modification in the dispute settlement mechanisms as well as definition of right to non-reciprocity of developing countries. Developed economies had a special interest in dispute settlement and limitations in the use of export controls. US policy was to stress its reticence to allow the MFN clause to be relegated to a secondary role – a surprising view if compared to the spirit of the codes which strongly undermined Article I – and the expectation that trade preferences under the SGP would be withdrawn when developing countries reached a certain level of development.¹⁶

The main resulting agreements included the binding of the derogation which made GATT-legal non-reciprocity based on special and differential treatment. Developing countries in turn agreed to a quite general declaration that established the principle of graduation which would make developing countries which reached a specific but undefined development threshold to strengthen their commitment to GATT obligations.¹⁷

Brazil used the GATT's dispute settlement mechanism only once in the 1970's, following Australia in its claim that the EC system of payments to sugar importers

violated Article XVI, causing the EC share of the world market to increase and serious injury to other exporters. The panel found in Brazil's favour but the matter was closed by a change in the EC legislation.

2. Skirmishes before the Uruguay Round 1980-86

US interest in 'new themes' – services, intellectual property (TRIPS¹⁸), investment and trade (TRIMS¹⁹) and high technology products – was clearly stated already in 1980. Negotiations on these issues were thought to be potentially favourable to US interests. GATT was also preferred as a negotiation venue if compared to some specialized international agencies where US influence was more diffuse. Brazil, like other relatively advanced developing economies, assumed a defensive stand in talks which preceded GATT's 1982 ministerial meeting, trying to obstruct the inclusion of TRIPS, TRIMS and, especially, services, in the provisional agenda of the next round of multilateral negotiations. Opposition was based on fears that the inclusion of new themes would divert attention from the GATT backlog, that is, of pending negotiations on market access generally, but particularly from textiles and agriculture, issues of special interest for most developing economies.²⁰

In spite of the resistance by developing economies the 1982 GATT ministerial declaration included a specific mention to the new themes.²¹ The United States exerted bilateral pressure to undermine the stand of specific countries. Brazil was in a particularly vulnerable position due to the international financial crisis which followed the Mexican crisis of August 1982. A bridge loan by the US Treasury to Brazil was important to face difficulties in the end of that year and the US also agreed that Brazil postponed for two years its commitment to abolish GATT-illegal subsidies. Brazil ended up by agreeing with the mention to services in the ministerial declaration while stressing that this had no implications on its substantive stance on the negotiation of the new themes. This *volte face* weakened the coalition of developing economies opposing the inclusion of new tissues in the agenda.²²

The long negotiations which preceded the launching of the Uruguay Round in Punta del Este in September 1986 were marked by continuous divergences in relation to the inclusion of the new issues, and particularly of services. More radical opposition

originated in the so-called G-10 coalition of developing countries in which Brazil and India played a prominent role.²³ The opposition was based in arguments which ranged from the usual resistance to include in the GATT agenda issues, which had been traditionally dealt with other agencies, to doubts arising from the lack of analytical skills and negotiation experience to deal with such new issues, and the asymmetrical nature of advantages entailed by liberalization.²⁴ The initial proposals also did not include themes of special interest of the developing economies such as international mobility of labour, access to technology and regulation of the activities of multinationals.²⁵ The draft ministerial declaration which competed with that of the G-10 was prepared by the G-9 group composed of EFTA, Australia, Canada and New Zealand. In June 1986, a group of 20, composed by developing countries which did not agree with the G-10 draft, started meeting with the G-9 and the outcome was the Swiss-Colombian draft which was presented as a basis for negotiation in Punta del Este in competition with the G-10 document.²⁶

3. The Uruguay Round, 1986-1994²⁷

The Swiss-Colombian draft was not, however, effectively supported by the European Communities due to differing views on agricultural liberalization. The EC sought the support of the G-10, or at least of Brazil and India, in the direction of a slowing down in agricultural liberalization in exchange for its effort to refrain the US enthusiasm with the new themes. There were also G-10 and EC common grounds to worry in relation to US intentions to transform the traditional GATT consensus rule into majority vote.²⁸

From the Brazilian point of view active interest in the Round, in principle, centered on some of the old issues such as textiles, temperate agriculture tropical products, and antidumping, subsidy countervailing duties and safeguards applied in export markets. To the Brazilian government the advantages of avoiding concessions on the new themes seemed to outweigh comfortably the benefits related to liberalization in the traditional issues. This was due both to the agenda building process itself and to the intrinsic difficulty in evaluating gains and losses by countries or sectional interests within countries. There were, for instance, many doubts concerning the direction and magnitude of the net gains from trade liberalization for Brazilian exports to the

markets of developed economies, as for instance, textiles, as well as on the differentiated impact of agricultural liberalization on specific products: soya, sugar, wheat and beef.²⁹

The declaration that launched the Uruguay Round reflected a compromise: new themes such as TRIPS and TRIMS were treated as GATT issues from the start while specific negotiations would be held simultaneously on services, but not within the scope of GATT. Decision on the incorporation of the outcome of the services negotiations in the GATT was thus postponed. For G-10 countries the division of negotiations into two parts aimed at blocking cross concessions involving services and the backlog of traditional issues. It was thought that it would be easier to block concessions concerning services as the potential balance of concessions favoured the developed economies.

Results of the first two years of negotiations were presented at Montreal in December 1988.³⁰ The US insisted that agricultural export subsidies should be totally phased out in ten years. This could not be accepted by the EC, keen on maintaining a wedge between internal and export agricultural prices. Argentina reacted strongly to the agricultural deadlock. The Latin American members of the Cairns group³¹, pressed to put results reached in negotiations in eleven other negotiation groups on hold, subject to agreement in all negotiations to be reached until April 1989. US support to this position, after a sharp initial resistance, made possible to condition results in the Round to progress in agriculture.

The inclusion of the principle of national treatment of foreign suppliers in the services draft was a significant step forward in the negotiations and a substantial concession by the more reluctant developing economies. The sectoral examination of concepts, principles and rules was of great relevance for developed countries wishing to weaken the relevance of concepts such as "increasing participation of developing countries" and "regulatory situation" which could provide a basis for a reduction in the involvement of developing economies in the negotiations.³² The emphasis placed by some developed economies on a framework agreement on services seemed rather weakened by the statement that before the approval of such an agreement, concepts, principles and rules would be examined in relation to their applicability to specific

sectors and modalities of transaction to be covered by the framework agreement on services.³³ The possibility of exclusion of certain sectors from the agreement also made possible the participation of some of the developed economies which had reservations, as for instance the US in relation to maritime transport.

The main results of interest for developing economies included increased access to markets in the developed economies, including for tropical products, and also the transformation of nontariff barriers in tariff protection, especially in agriculture. Other results of interest included improvement in the dispute settlement mechanism and working of the GATT system, in particular in strengthening its links with the World Bank and the IMF as well as in increasing the involvement of ministers in its working programme.³⁴

In April 1989 the agricultural deadlock was broken when the US agreed that mention should be made to substantial and progressive reductions in subsidies and domestic support in the long term, thus agreeing that the EC would avoid an undertaking to abolish such policies within a specified time frame. Since the difficulties on safeguards were postponed by an agreement on the working programme of the negotiating group, pressures were on developing countries given the polarization of negotiations on textiles and TRIPS. The gap on TRIPS was substantial and concentrated on whether the issue should be negotiated in the GATT or in the WIPO, as India and Brazil insisted. As the Indian opposition weakened, the position of the developed countries prevailed and the decision on whether GATT or WIPO would enforce the relevant decision postponed. In the case of textiles there was an explicit undertaking to dismantle the MFA (Multifibre Arrangement) and it was agreed that within the Round's time span a decision would be reached on how the sector would be incorporated into GATT.³⁵

In Brussels, in 1990, in the meeting that should have crowned the four years of negotiation since Punta del Este, the failure of Montreal was repeated: the redefinition of the US proposal (a cut of 75% in domestic support and 90% in export subsidies over 10 years) still left it very far from the best the EC was reported as willing to offer (a cut of around 30% in both cases, base 1986).³⁶ Again, the Cairns Group, and especially its Latin American members, among which Brazil, was important to assure,

after initial US resistance, that no agreement emerged without substantial advance in relation to agriculture.³⁷ The US strategy of stressing the EC's intransigence on agriculture as the main reason for the failure of negotiations proved at least temporarily correct.

One year after the Brussels deadlock the GATT Secretariat circulated a document which was deemed to reflect the results of the negotiations and could serve as a basis for compromise.³⁸ Only offers related to the reduction in tariff and non-tariff barriers and initial undertakings in the liberalization of services were excluded. The crucial issue at stake was the incorporation of agriculture in the GATT. Liberalization undertakings were to include: reduction in support to domestic production; improvement of market access; reduction in export subsidies. The proposed reduction in domestic support was of 20%, base year 1986-1988. Non-tariff barriers would be transformed into tariffs and these would be reduced on average by 36% in six years (minimum 15%). Expenditures with subsidies were to be reduced by 36% and quantities affected by 24%. Brazil had a special interest on the latter since its exports, especially of soya products and poultry, were unfavourably affected by programmes such as the US Export Enhancement Program. Special and differential treatment would benefit developing countries either through a limitation of undertakings or an extension of implementation periods. The main threat faced by Brazilian agricultural exporting interests, however, was the menace by the EC to "rebalance" its agricultural policy so as to adjust to the effects of liberalization. This would entail tariff quotas on products such as soya and molasses (6%) and soya products and citric pellets (12%) applied to volumes equivalent to the 1986-1988 average. Beyond this threshold equivalent ad valorem duties would be of 84% and 190%, respectively.³⁹

The main proposals on anti-dumping referred to disciplines concerning the definition of criteria to determine constructed prices, the relation between dumping and injury to domestic production, to procedural steps to be taken in opening investigations and the application of retroactive duties. Compensatory duties would be subject to a sunset clause designed to limit its application unless the AD process was reviewed. Some features concerning subsidy countervailing measures, such as sunset provisions, were similar to those on AD. Only "specific" subsidies, ie, those applied to specific enterprises, industries or groups of enterprises of industries were to be subject to

disciplines. Subsidies contingent on export performance and on the use of domestic goods were to be prohibited. “Actionable” subsidies were those which cause injury to domestic industry of other signatories. Developing economies with a GNP per capita of less than US\$1,000 would have eight years to implement the new rules. A sunset clause would also apply to safeguards and all voluntary export restraints or orderly marketing arrangements or similar measures would be discontinued in four years with one exception per country which will be allowed to continue until it is phased out in 31 December 1999. Safeguard measures are to be applied irrespective of sources and consultations are envisaged to establish quota allocation among affected suppliers. Safeguard shall not be applied against exports from developing countries unless certain thresholds concerning market share by a given developing country or the aggregate share of developing countries are exceeded.

Dismantlement of the MFA was planned to proceed slowly. In the beginning of phase 1 only 12% of the total volume of imports was to be taken out of the MFA and integrated into the GATT. The inclusion of a further 4% was being negotiated. After three years phase 2 would include a further 17%. After a further 4-year period, 18% more of imports would be included into GATT. Ten years after the beginning of the process all imports would be integrated into GATT. During phase 1 quota limitations would increase at rates 16% higher than those under the MFA; under phase 2 quota expansion rates were to be 25% higher than those under phase 1; in phase 3, 27% higher than those in phase 2 .

The agreement on services included three essential elements: a set of basic obligations by all signatories; national undertakings specifying additional liberalization schedules; and a set of annexes dealing with exceptions and specific sectors. The scope of the agreement included a variety of alternative modes of supply. Exceptions to a general MFN clause would be limited to ten years. In view of the importance of national legislation there would be specific provisions related to transparency and form of application. Commitments on market access and national treatment would be included in national schedules. Progressive liberalization would result from successive negotiation rounds. Specific annexes would regulate movement of labour, financial services, telecommunications services and air-transport services. The annex on services defined the rights of parties to take prudential measures, detailed obligations

on market access and national treatment concerning the payments and clearing systems operated by public entities as well as to official funding and refinancing facilities. The annex of telecommunications centered on the access to and use of public telecommunications services and networks. Although the annex on air transportation excluded traffic rights it included a wide scope of ancillary activities.

The focus of the draft agreement on TRIPS was on the effectiveness of such norms and multilateral dispute settlement. The most important general principles included national treatment and MFN. Protection standards were more stringent than those established by the Bern and Paris conventions on the protection of literary and artistic works and intellectual property as well as the Washington treaty on integrated circuits; computer programmes and biotechnological developments would be protected; indication of origin would be improved; a 20-year patent protection would be available for almost all products and processes; additional obligations would be created in relation to confidential information, anti-competitive practices and licensing. Developing countries would have a 5-year transition period and least developed countries eleven years. For products without previous patent protection this protection would have to be introduced in ten years. Patenting procedures for pharmaceutical and agricultural chemical products in this case, however, would start in the beginning of the transition period in order to preserve the novelty of the invention and the possibility of future use of the patent.

The draft on TRIMS listed measures inconsistent with national treatment and the prohibition of quantitative restrictions in special related to national treatment and balance of trade equilibrium. The document also included parts related to rules of origin, pre-shipment inspection, technical barriers, import licenses, customs valuation, government procurement and working of the GATT system.

Brazilian interest in access centered on the reduction of barriers in the developed economies of tropical products and certain specific products such as orange juice. In the Montreal meeting of 1988, offers by these economies on tropical products affected total exports of US\$ 14.9 billion, later improved in 1990 to US\$ 22.7 billion. This would correspond to an expansion of world trade in tropical products of only 3.3% due to the concentration of offers on products already enjoying de facto free entry in

developed country markets and the pre-existence of preferential schemes such as the Lomé convention and the GSP. coffee. For Latin America cuts were concentrated in the EC and mainly affected coffee and cocoa.⁴⁰ Offers for orange juice involved tariff cuts of around 15-20%.

It was reported that the EC and the US had reached in the Blair House meeting in Washington, D.C., at the end of November 1992, agreement both on a GATT agricultural package and on their wrangles concerning oilseeds. There would be a restriction of the sown area of oilseeds in the EC, would limit the industrial use of oilseeds, the EC would abandon its rebalancing plans and exports of beef by the EC to Asia would be suspended.⁴¹ Commitment to reduction of subsidized exports would be reduced from the 24% cut in the Dunkel draft to 21%. This was the binding constraint on export subsidies due to price changes since 1986 and would entail a reduction of price incentives to producers of less than a sixth in six years. Direct payments to producers would be excluded from the commitment to cut 20% of domestic support since 1988. This was in any case not binding due to price changes in the meantime. Reduction of sown area was in line with the targets of the Mac Sharry reform of the Common Agricultural Policy (CAP). Liberalization would be concentrated on products more affected by CAP reform: grains and seeds relatively more, beef only modestly, and sugar and dairy almost nothing at all. Equivalent tariffs, including NTB tariff equivalents, would be reduced on average (unweighted) 36%, minimum 15% per tariff line. In practice the average reduction would near 15% since many tariff lines are 0%.⁴² Many pending points remained on details of the agreement covering policies to be excluded from the agreement (the so-called green box), the treatment of several government services provided to producers, of food aid programmes and of specific direct payments to producers and their relation to support of domestic production.

From the point of view of Brazilian agricultural imports there was great interest in the combined effect of the legalization of subsidies which would follow from the agreement between the US and the EC through the so-called peace clause, which blocked temporarily the use of countervailing measures to parry the effect of export subsidies on domestic agriculture. But Brazil's ability to influence the outcome of this essentially bilateral negotiation was, to put it lightly, extremely modest. Brazil which

already preferred the Dunkel draft to the Round's failure, would continue, *faute de mieux*, to prefer the Blair House agreement to total failure of the GATT negotiations.⁴³

Brazil participated regularly in the sectoral negotiations which took place in some cases spasmodically in other negotiating groups . In services, the Brazilian offer included land transportation, engineering and construction, consulting services, accounting and franchising, in line with offers by other big developing countries.⁴⁴ In the case of TRIPS, after mid-1990 and the visit of the USTR to Brazil, the Brazilian stance became more flexible in relation to demands of the developed countries and more concentrated in the specific negotiation of proposals to reform standards.⁴⁵

The final phase of the negotiations started in Geneva in 1993 and culminated in Marrakesh in April 1994. It centered in the solution of difficulties between the EC and the US concerning at first agriculture, then services. France had a crucial role in the negotiations having great restrictions on the magnitude and the timing of agricultural liberalization and insisting on restrictions to access to the European market for audiovisual services. After the end of 1992 France made increasingly clear her reluctance to accept the terms of the Blair House agreement. French estimates of surplus grain production, based on different assumptions on the evolution of productivity, reached 15 million tons in 1994.⁴⁶ Passions were raised in France and opposition to both agricultural liberalization, and liberalization of audiovisual services, because of its impact on cultural identity, became the core of the resistance to the proposed agreement.⁴⁷ From the accommodation of these difficulties between the EC and the US resulted a significant dilution in the agricultural trade liberalization agreed in Blair House. The change in the base year for the computation of reduction of subsidies made possible sizable additional subsidized exports of grains by the EC and of grains and oilseeds by the US. The peace clause was extended from six to nine years. Tariffication could be postponed, provided there was an increase in the minimum levels of access.

After the solution of the agricultural deadlock negotiations between the EC and the US centered on services: audiovisual, financial and maritime and air transportation. These issues were de facto excluded from the final agreement. This was a vindication

of the forecast of the so-called hard-liners of the 1980's, Brazil and India, about the difficulties of including services in the general agreement.⁴⁸ Negotiations of two issues with a high potential to undermine the multilateral system were postponed. The first was to make MFN conditional on minimum access in the agreement on financial services. The second was the exclusion of taxation from the understanding on national treatment, that is the possibility of accepting tax discrimination between national and foreign firms.

The overall average tariff cut on industrial products was of 32%: 38% in developed economies and 25% in developing economies. As tariffs were much higher in developing economies the impact on import costs was much more significant than in developed economies. Also, cuts in developed countries were deeper on imports from other developed economies (40%) than on imports from developing economies (28%). The average cut of tariffs in developed economies on tropical products was 43% (35% on coffee, tea, cocoa and mate). But the cuts affecting some of the most important Brazilian exports were lower as, for instance, orange juice whose tariffs were reduced by 20% in the EC and 15% in the US and Japan.⁴⁹ Brazil, in line with other Latin American countries but in contrast with Asia, bound all its tariff schedule: at 35% for industrial products and up to 55% for agricultural products. Before the Uruguay Round only 23% of trade was in bound tariff lines and only 6% of the lines were bound. Convergence to new bindings was to take five years with yearly reduction equivalent to one fifth of the difference between the initial tariff and the new bound tariff level.

Estimates of the impact of the Uruguay Round on Brazil suggest that the static effect would be in the region of 0.3%, similar to that of other Latin American economies and many developed economies such as the US and much below the 2-3% range relevant for many Asian economies. The inclusion of increasing returns of scale effects increases this to only 0.4%. Only with dynamic effects this reaches 1%, compared to 0.7% for the world economy.⁵⁰

The MFA, which had been extended until the beginning of 1995, was to be implemented in ten years. The share of trade included in stage 1 was raised from 12% to 16%, but all the other characteristics mentioned in the Dunkel draft were

maintained. As the developed countries were successful in their efforts to expand the list of products covered by the agreement but whose exports are not constrained by the MFA at least during the first two stages of the process, no product subject to a quota will be affected. All difficulties and the danger of backsliding are concentrated in stage 3.⁵¹

In the case of AD, CVD and safeguards the final agreement followed the Dunkel draft although the possibility that the panel overturned national decisions on AD was severely curtailed by the fact that their work was to be restricted to the determination of whether the establishment of facts by national authorities had been proper and their evaluation unbiased and objective. In the case of safeguards, the possibility of departing from quota determination based on past export performance, the so-called quota modulation possibility, can potentially undermine the commitment to restrict targeting of specific suppliers. It was agreed that negotiations on certain services would continue after the conclusion of the round: financial services to be concluded in July 1995; basic communications, civil aviation, maritime transportation and audiovisual to be concluded by mid-1996. The final agreement embodied substantial advance in relation to the institutional consolidation of the new World Trade Organization in comparison with the fragile previous arrangement. Dispute settlement machinery has been substantially improved. Given the structural lack of symmetrical bargaining power between members, however, the remedy of retaliation is bound to be inadequate for most, if not all, developing countries. The position is not improved by the possibility of cross-retaliation as between different sectors and agreements, as goods, services and TRIPS. It was also decided that a Committee on Trade and Environment should be created. This can be interpreted as a first move by some members to widen still further the scope of issues considered in the WTO.

It should also be mentioned that there was no formal and unambiguous understanding in the Uruguay Round on the illegality of unilateral measures such as section 301 of the US trade legislation. There are indications that the US government continues to believe that the possibility of using section 301 stands in all circumstances in which there is no legal undertaking to use multilateral remedies. This may be a source of difficulty in view of the EC interpretation that the Uruguay Round results make it illegal to apply such instruments. The issue of eventually using a newly created Euro

301 type instrument in case of US insistence in the use of 301 is very divisive issue in the European Union.

4. Brazil in the GATT, 1980-1994

The incidence of consultations and panels involving Brazil increased significantly in the 1980's. Brazil was involved as a complainant : in a panel against Spain in 1980 on the new legislation on coffee⁵²; in new consultations in 1982, together with other contracting parties, on EC sugar export subsidies; in consultations with the US on ethyl alcohol; in consultations with the US in 1988 on the unfavourable impact of the US Export Enhancement Program on Brazilian exports; in a long dispute with the US on subsidy countervailing duties which allegedly had been unduly collected in the early 1980's which was the object of two panels. The first in the Subsidies Committee was lost by Brazil in 1989; the second, on discriminatory treatment was won in the Council in 1992. The matter was finally disposed of by US legislation following the ratification of the Uruguay Round results.⁵³ In 1993 Brazil complained against the EC on the imposition of duties because of alleged dumping of cotton yarn. This led to a panel which found against Brazil. In 1993 Brazil also asked the conciliation of the Anti-Dumping Committee on the treatment by Mexico of Brazilian exports of electric power transformers as well as the good offices of the Director-general on exports of wool suits too the United States. In both cases solutions were found without use of conventional dispute settlement.

Complaints against Brazil in the 1980's were mainly from the US: the dispute in 1983 on poultry exports was solved by a market sharing agreement also involving the EC; the 1989 US complaint on the Brazil import licensing system became obsolete with the reform of the Brazilian trade regime after March 1990. There was a complaint against Brazil in 1992 by the EC due to Brazil's imposition of subsidy countervailing duty on imports of milk powder and other milk types. In 1994 the panel findings were against Brazil and the duties were withdrawn.

Brazil complained twice to the GATT in relation to bilateral sanctions applied by the US in the 1980's. In 1987, the US brandished commercial sanctions to Brazilian exports amounting to more than US\$ 100 million in answer to alleged violations of

the legislation on intellectual property and investment related to information technology products. The sanction was withdrawn with the reversal of a Brazilian decision on the sale of software in the domestic market. However, from Brazil's point of view, the most important bilateral dispute to be discussed in the GATT was the Brazilian complaint on the US imposition of surtaxes of 100% on Brazilian exports of paper products, pharmaceuticals and electronic products in retaliation for the alleged inadequate protection of pharmaceutical patents allowed by the Brazilian legislation on intellectual property. Brazil requested a panel to examine the question of principle involved, that is the conflict of the action by the US with the rules and obligations defined by the GATT.⁵⁴ Although the US faced much criticism in the GATT, since its decision had not been preceded by any attempt to solve the matter according to the multilateral rules, the matter was only solved bilaterally by an undertaking by the Brazilian government that the Executive would propose new legislation to Congress that would be in line with US desiderata.

The notification of Mercosur to the GATT in 1992 led to frictions between developing and developed economies in the GATT Council and in the Committee on Trade and Development as Mercosur members insisted on the notification under the Enabling Clause of the Framework Agreement which provides a permanent legal basis for preferential trade agreements in favour of developing countries and not under Article XXIV. This was strongly opposed mainly by the United States, which insisted in notification under Article XXIV. The matter remains unresolved.

5. Brazil and the WTO after the Uruguay Round, 1994-1998

Unfinished business after the Uruguay Round included negotiations on basic telecommunications, financial services and maritime transport. An agreement on basic telecommunications was reached in February 1997 to enter into force in January 1998. This covered voice telephony, data transmission, telex, telegraph, facsimile, private leasing circuit services, fixed and mobile satellites systems and services, cellular telephony, mobile data services, paging and personal communications systems. Agreement was reached after protracted negotiations during which the US repeatedly insisted that it would be unwilling to join unless offers by other participants were improved. Similarly, an agreement of financial services was finally reached in the end

of 1997, to enter into force in March 1999. The US had also in this case insisted that until the end that access offers by other participants were insufficient but ended by joining. Such difficulties had prevented the US from joining the 1995 interim agreement. Negotiations on maritime transport became deadlocked and it was decided in June 1996 that they should be suspended until the year 2000 when comprehensive negotiations seeking further

There were few substantive concessions in the Brazilian schedule of commitments under GATS concerning financial services.⁵⁵ Limitations on market access and national treatment were left unbound for most sectors and modes of supply. There is no commitment on consumption abroad or cross-border supply of financial services. Commercial presence requires discretionary executive authorization which may impose constraints as, for instance, in branching. Reinsurance and work accident insurance remain public monopolies with quite vague promises that commitments will follow once relevant legislation is approved. The most substantive item in the schedule is the assured presence of foreign persons in the privatization of public sector financial institutions and that commercial presence will be granted to foreign banks acquiring public banks.

The schedule of commitments on basic telecommunications offered more concessions. Supply of value added services did not require specific governmental licence. Licences are to be granted only to juridical persons constituted according to Brazilian legislation. Additional commitments as reflected in the General Telecommunications Law covered competitive safeguards, interconnection, universal service, public availability of licensing criteria, independent regulation and allocation and use of scarce resources. Limitations of 49% of voting capital on foreign capital in satellite telecommunications (space segments facilities of satellites) is to lapse in July 1999.

In 1995-1998 Brazil was complainant in several panels. It participated with Venezuela in the action on environmental standards related to gasoline against the US which was reinstated in 1995 and led, after review being sought in the Appellate Body, to the US agreeing to change its legislation to remove discriminatory distortions.⁵⁶ A panel established in July 1997 at the request of Brazil to examine the importation of certain

poultry products by the EC, in alleged breach of a Brazil-EC bilateral agreement, found against Brazil and this was confirmed by the Appellate Body in July 1998. A panel was established in July 1998 to examine a complaint by Brazil against Canada on measures affecting the export of civilian aircraft. In 1998 Brazil was also involved in a consultation with Peru on exports of buses.

Complaints against Brazil included the request by the Philippines in 1996 for a panel on importation of desiccated coconut which found for Brazil, a decision confirmed in the Appellate Body in 1997. There is a panel examining since July 1998 the Brazilian export financing programme at the request of Canada. Other consultations involving complaints against Brazil included those by Sri Lanka in 1996 on coconut, and by Japan on automotive investment and by the EC on payment terms for imports, both in 1998.

In 1996, Brazil imposed a quota system on imports of automobiles and tried to obtain a waiver to do so from the Balance of Payments Committee. As the Committee was unable to accept that Brazil's balance of payments position warranted such a policy, the automotive regime of investment incentives was modified so that Brazil's tariff reduction commitments in the Uruguay Round remained unaffected although a tariff quota continued to discriminate between imports made by producers investing in Brazil and imports from other suppliers which exceeded their quotas.

The main concrete result following the Singapore Conference at the end of 1996 was the negotiation of an agreement on the trade of information technology goods. Forty countries, answering for more than 90% of world trade in such goods, joined the Information Technology Agreement and agreed to reduce to zero their tariffs on such goods in four equal steps between July 1997 and January 2000. Brazil was not a signatory. Signaling issues to be included in the future agenda, the Singapore conference also set up working groups on the relationship on trade and investment, on the transparency in government procurement and on the interaction between trade and competition policy. Finally, mention should be made to work in progress in the Committee on Trade and Environment covering a wide mandate to examine links between trade and environmental measures in order to promote sustainable

development as well as to make recommendations on possible modifications of the WTO provisions with this aim in mind.

6. Brazilian diplomacy and the GATT

Brazil was a GATT founding father but its involvement up to the Tokyo Round was really marginal. Brazilian stance in the UNCTAD in the 1960's underlined the importance of stands of principle in Brazilian foreign economic policy and also the considerable autonomy of Itamaraty in the definition of such a policy. The reversal of the timid trade liberalization of 1967 in the late 1960's and the concentration of interest in GSP preferences made it natural that Brazil continued aligned to the G-77 grand coalition of developing countries which had taken shape in New Delhi in the first UNCTAD conference in 1964.

The Tokyo Round marked a revision of the traditional US policy of support of the multilateral trading system based on the unconditional application of the MFN clause. Emphasis was increasingly placed on reciprocity and criticism to the position of free riders, especially by some of the larger developing countries, protected by special and differential treatment clauses. The idea of limiting the scope of the MFN clause, making it conditional on minimum threshold of concessions, gained strength. This reversal of the traditional US foreign economic policy since 1934 would be crowned by the belated conversion of the US to the advantages of regionalism, which resulted in NAFTA and the enthusiasm about the FTAA. This was an answer partly to the deepening and widening of the European process of integration, and partly to the perceived competition menace from Asia. In this context of changes in the US foreign economic policy, bilateral frictions with countries such as Brazil, large and relatively less poor than the average developing economy, and with an active foreign policy, became frequent.⁵⁷

The increasing difficulties faced in 1970's by industrial exports of developing countries to have access to the US market and the growing involvement of governments in financial negotiations related to the debt problem after 1979, made interdepartmental coordination of decisions concerning foreign economic policies more complex> It also eroded Brazil's bargaining power. The economic ministries

were more reluctant to leave policy formulation and implementation essentially to professional diplomats. This is well illustrated by the almost open conflict between Itamaraty and the ministries of Finance and/or Planning on Brazil's signature of the Subsidies Code in 1979 and also on the terms of the GATT Ministerial Declaration of 1982 on the agenda for the next round.

The more conventional interpretation to explain the Brazilian stance in the GATT, at least until 1987, of resistance to the inclusion of new issues in the agenda, and insistence in the importance of the backlog, is that this was a natural consequence of Brazil's foreign policy growing convergence with the G-77 group of developing economies which took form in the UNCTAD. This process had started in the early 1960's and had been only temporarily affected by the military coup of 1964 and temporarily closer political ties with the US in the second half of the 1960's. The concrete economic interests which could have justified such a policy were rapidly disappearing as Brazil's productive structure and export changed. Exports of industrial products increased their share in total exports from 4% to around 50% in the end of the 1970's. The fragmentation of the interests of developing economies after the beginning of the 1960's was a natural consequence of the differentiation of their export structure. A developing economy was necessarily an exporter of primary commodities until the 1960's but this ceased to be true in the 1970's. Moreover, it became increasingly clear that even in relation to traditional issues, such as textiles and clothing and agriculture, interests could be clearly antagonistic. Interests were different also in relation to tariff preferences and market access for manufactures in the developed economies.⁵⁸ Thus, coalitions based on the convergence of concrete interests such as that in the case of services tended to represent only a small subset of developing countries.

A perhaps more convincing alternative explanation for the Brazilian initial stance concerning the Round was that this policy resulted from the conclusion that Brazil indeed had different interest when compared to other developing economies. That the G-10 was in fact a G-2, that is an alliance with India, based on concrete interests of both countries. There was an obvious interest for the Brazil-India coalition to exploit the differences between developed countries and block or slow down the advance of negotiations on the new issues. This strategy was relatively successful until Punta del

Este in face of the differences between the US and the EC in relation to agriculture. But after Punta del Este it was impossible to maintain the initial position, given the increasing pressure from the developed economies, especially the US, and the weakening stance of the G-2, and particularly of Brazil. Although there was an attempt to present the Punta del Este results as a compromise and a relative success of Brazilian diplomacy, it would seem retrospectively that the main result of the Brazilian efforts was a face saving solution which rationalized the stance taken in the years preceding the launching of negotiations. The attempt to limit damage by the device of trying to block cross concessions involving goods and services by dividing the negotiations in two tracks simply did not work.⁵⁹

There is no doubt that the Brazilian bargaining position was weakened by the country's growing financial vulnerability since the end of the 1970's. But it is also clear that the economic stagnation which started in 1981 and was to last until well into the 1990's, following a long period of high growth with protection which had started in the end of last century, stimulated a re-examination of the net advantages of the continued adoption of an import substitution model. It became also increasingly clear that an industrial development strategy based on "picking the winners" was generating substantial friction with suppliers, especially the US, without significant benefits in a situation of increasing loss of credibility related to the persistent macroeconomic disequilibria, especially high inflation. The bargaining power of developing countries was also undermined by the end of the bipolar world with the collapse of the Soviet Union.⁶⁰

Brazilian policy in the GATT in the first half of the 1980's was a natural consequence of an economic strategy which had its roots in the last spurt of import substitution industrialization in the 1970's. This was a natural policy in a country where ideas linking rapid growth and high protection were firmly tied in hearts and minds. With the fragility entailed by the continued adoption of such economic strategy becoming increasingly evident, however, it was to be expected that this was reflected in Brazilian foreign economic policy even with such a protectionist inertia.

Given its stance in the early stages of the negotiations on the new issues it is not surprising that Brazil was reticent in the initial moves leading to the formation of the

Cairns group, as it would be difficult to conciliate active profiles as a foot dragger concerning the new issues and as a *demandeur* in agriculture. There were two strategies in conflict after Punta del Este and between 1986 and 1988 there was a gradual substitution of previous commitment to block the new issues negotiations to a more active role concerning agriculture.⁶¹

The inclusion of the new issues in the Uruguay Round stimulated the adoption of a more active Brazilian agenda. The reorientation of the Brazilian stance was already clear in Montreal with both a more flexible stance on the new issues, especially TRIPS, and a consequent convergence with the US position, via Cairns, on agricultural liberalization. So interest was focused on an issue which was important in the historical GATT backlog, in which Brazil had a concrete interest as a *demandeur*⁶² and deemed as crucial by Argentina, a country which was tending to become a priority from the point of view of Brazilian foreign policy.⁶³

After March 1990 the new government adopted a comprehensive programme of liberal reform, including the deepening of tariff cuts. The average tariff rate which had already been reduced from more than 50% in 1987 to 32.2% in 1990 was scheduled to be further reduced unilaterally to 14.2% by the beginning of 1994. This was afterwards anticipated to mid-1993.⁶⁴ Non-tariff trade barriers, and specially import prohibitions which had been effective at least from the early 1970's were abolished. The removal of bilateral sources of friction with the United States became a priority in a situation marked by a comprehensive effort to regain credibility which included also efforts on deregulation, privatization and price stabilization. Although the stabilization efforts failed and President Collor impeached in 1993 for corrupt practices, trade liberalization had come to stay. It was expected that lower protection would make stabilization easier, would contribute to increase competitiveness of domestic industry and that bilateral and multilateral good behaviour concerning commercial policy matters could improve the chances of reaching a reasonable settlement in the protracted foreign debt negotiations.

The preliminary evaluation of the new foreign economic policy would appear to suggest evidence of an unduly automatic support of the policies promoted by the US, without great preoccupation with reciprocity, even taking into account the

asymmetry in the bargaining power of the two countries. One could even think of unrewarded good behaviour. But is it reasonable to evaluate foreign economic policy without taking into account the global picture related to the stabilization programme and the restructuring of the economy? It is unlikely that such a critical stand would subsist if the stabilization attempt had been successful. Later, with the failure of the stabilization programme and further erosion of political credibility, when it was impossible to hide the dark side of the government which there to be seen from its beginning, the possibly excessive enthusiasm in falling in line *à outrance* with the US was easier to detect. In any case, it is difficult to exaggerate the importance of the shift in traditionally protectionist trade policies after 1990 which on the whole has been preserved to date.

The Brussels 1990 meeting marked the consolidation of Brazil's transition to a positive agenda in the negotiations. Once again it had an active role in the negotiation of agricultural trade liberalization.⁶⁵ The failure of Brussels, which had been planned as the final meeting of the round, had the advantage of providing more time to allow for the shift in Brazilian policy towards a substantive discussion of the agenda. Criticisms of this shift have emphasized the subordinate position of Brazil in relation to the US. In the core of the criticism is the nature of the relations between the Cairns coalition, the US and the EC. There is no doubt that convergence between Cairns and the US was a vital factor for the limited success of those in favour of trade liberalization in agriculture. Once the divergences were concentrated on agriculture, the US-Cairns *rapprochement* was inevitable. Moreover, in contrast with 1986, the EC was in the defensive and unable to make any concession that could make some of the members of Cairns less sanguine.⁶⁶ The reversal of this situation, with the clear victory of French diplomacy in the final stages of the negotiations in 1993, weakening the commitments to agricultural trade liberalization and blocking the negotiations of some services, did not have significant implications on the evaluation of Brazilian policy in the GATT in 1990-1993.

It is difficult to see which alternative policies could have been adopted by Brazil. The loss of credibility in the 1980's and early 1990's drastically reduced the degrees of freedom to define and implement foreign economic policies. The scope for choice imagined by those who criticized the policies because they were based on

“conformism with constrained development”, or because they were those of a "second class power", or based on ideas of a "conceptually 'small Brazil' ", simply did not exist.⁶⁷ It was exactly because Brazil in the 1970's attempted rather ineptly to cease to be a second class power, based on projects defined in a centralized and defective decision-making process centered around the idea of a "Brasil grande", that the country faced a crisis in which it lost its credibility, ceased to grow and weakened its bargaining power.

With the introduction of the Real stabilization plan in 1994 commercial policy became vulnerable to pressures related or allegedly related to the level of the real exchange rate. In October 1994, to counter the appreciation of the Real and the rise in domestic prices tariffs on automobiles were reduced to 20%. With the Mexican crisis at the end of the year the position was radically reversed as capital movements became temporarily unfavourable. Tariffs on imports of automobiles were increased to 70% and import quotas established in the context of a so-called automotive regime which offered generous fiscal (including tariff) rebates to firms investing in Brazil. This was an essentially mercantilist regime based on rudimentary targets of alleged balance of payments neutrality and heavily relying on export performance criteria. The quotas were substituted, after the unfavourable reaction by the WTO Committee on Balance of Payments, already mentioned, by a tariff quota which at least respected the bound maximum tariff schedule included in the Brazilian schedule in the Uruguay Round. Other piecemeal reversals of liberalization occurred in the shape of frequent and erratic adjustments of tariffs on capital goods, the use of safeguards on textiles, electronic consumer goods and toys, and restrictions to terms of financing of imports.⁶⁸

In the WTO the Brazilian stance can be described as defensive as the main objective was to digest the significant trade liberalization efforts entailed by the Uruguay Round commitments, by negotiation of the Mercosur's external tariff and unilateral liberalization since 1987.⁶⁹ A demonstration of such cautious policy was the refusal to join the Information Technology Agreement. Although Brazil's lack of interest in the ITA was mainly explained by the “take it or leave it” nature of the proposal by the developed economies.⁷⁰ There is an important additional reason which is that all

piecemeal sectoral liberalization initiatives such as ITA end up by undermining the re-examination by the WTO of traditional issues and particularly agriculture.

7. Perspectives

The recent crisis in Brazil is not likely to have permanent effects on which should be Brazil's objectives in the WTO and on the expectations of other WTO members on Brazilian policies in the WTO. Even if it is certain that Brazil's bargaining power and influence will be again temporarily undermined by its the financial fragility. The times of high growth combined with high protection will not return. They were possible because of market power in the coffee market or, more recently, because Brazil's competitor's also adopted protectionist policies. It continues to be difficult to find credible arguments which refute that the foreign economic policy which best serves the overall interests of the Brazilian population is based on the continuous adoption of liberal commercial policies which increase the efficiency of domestic production and/or put a ceiling to the high profits generated by the market power of oligopolies.

Brazil, as a big developing country, has a great interest in a multilateral trading system that assures access to its exports in all markets. It is among the WTO members with more diversified interests in different negotiating groups. This is a result of its size, geography, availability of natural resources, climatic diversity and geographical diversification of its trade. In normal macroeconomic conditions it has pursued, or could pursue, a wide range of objectives in its commercial policy beyond participation in the multilateral fora: deepening of sub-regional integration within Mercosur, widening sub-regional initiatives to include more members in South America and perhaps also in the South Atlantic, entering preferential arrangements in the hemisphere or with selected partners such as the EC. But its first best commercial policy objective remains multilateral liberalization.⁷¹

What is wanted from Brazil by its partners at the WTO is also a continuous commitment to an open market policy. But it is, of course, not easy to make compatible the domestic political economy of protection of different WTO members with continuous trade liberalization. The role of the WTO and of multilateral

disciplines is likely to be more important for countries such as Brazil, with a limited bargaining power, than for big economies or trading blocs such as the US, the EC and Japan. In principle, size is more likely to be efficiently exploited in bilateral negotiations by major players than in the WTO. Also, the greater is Brazil's commitment to multilateral disciplines, the more important will be its role in the WTO and its ability to influence rule-making and assure a fair use of dispute settlement mechanisms.

It is important, however, to have in mind that there is not much scope for substantial concessions to be made by Brazil in a new round of multilateral negotiations. Tariff cuts in the Uruguay Round were much more significant on industrial products than on agricultural products. Cuts in industrial tariffs were higher in developing country markets than in developed countries. It is to be expected that developing countries would press for a pace of agricultural liberalization and on textiles considerably brisker than that for industrial products in which developed countries are most interested. Widening the scope of issues negotiated in the WTO is also a field which is likely to be marked by many difficulties. Both environment and labour standards are issues in which Brazil is sure to have interests which would tend to diverge from those of most major players.

¹ This paper uses extensively material previously published in Abreu (1994) and Abreu (1996) on Brazil and the General Agreement on Tariffs and Trade (GATT). The author thanks the cooperation of many officials of the Brazilian Ministry of Foreign Affairs, as well of the GATT and WTO (World Trade Organization) Secretariats. He also thanks for their help or comments Alice R. de P. Abreu, Renato G. Flôres Jr., Simone S. Lopes, Eduardo H. de M.M. Loyo and Rogério L.F. Werneck. The views expressed are of his exclusive responsibility.

² Professor of Economics, Department of Economics, Catholic University of Rio de Janeiro. Paper to be presented at the conference 'The International Relations of Brazil: New Possibilities and Old Constraints', organized by the Centre for Brazilian Studies, University of Oxford, to be held in St Antony's College, Oxford, 15-16 March 1999. Draft dated 29.1.99.

³ For the initial ITO and GATT negotiations, see Brown (1950) and Mark and Weston (1988). For the first 20 years of GATT from the point of view of developing economies, see Lafer (1971).

⁴ See memorandum dated 23.12.47, enclosure to Havana to Exteriores, no.2, 2.1.48, and annex 1, Havana to Exteriores, no. 3, Diversos no Exterior, Conferência de Comércio e Emprego, Arquivo Histórico do Itamaraty, Rio de Janeiro.

⁵ See the General Agreement in GATT (1969).

⁶ See Golt (1978).

⁷ See Silva (1983), p. 225, and Dam (1970), pp.98-99.

⁸ See Dam (1970), pp. 368-70 and Jackson (1977), pp. 429-30. See also Hudec (1990), p. 242 e appendix C and GATT BISD 14th supplement (1966), p.18.

⁹ See Hudec (1987), pp. 56-60.

¹⁰ See UNCTAD (1968), p. 94. See also Preeg (1970), p. 202, for formal complaints at the end of the Round on the asymmetrical results obtained.

¹¹ See Balassa (1980), pp. 97-8 and GATT (1979), pp.120-122.

¹² The declaration at the end of the Round that the conditional MFN clause included in the codes did not affect the commitment to unconditional MFN treatment, as per article I of the GATT, underlines the uncertainty surrounding the issue.

¹³ See Lima (1986), pp. 330-336.

¹⁴ See Hufbauer (1983), pp. 341-2 and Winham (1986), pp. 222-3.

¹⁵ The full name is The Legal Framework for Differential and More Favourable Treatment for Developing Countries in Relation to GATT Provisions.

¹⁶ See Maciel (1978) and Winham (1986), pp. 144-146. The original document incorporating the Brazilian proposals is Statement by the Representative of Brazil, H.E. Ambassador George A. Maciel, 21 February 1977, GATT MTN/FR/W/1, same date.

¹⁷ See Winham (1986), p.274 ff.

¹⁸ Trade-Related Aspects of Intellectual Property Rights.

¹⁹ Trade-Related Investment Measures.

²⁰ Ironically, on the matter of the division of labour between different international agencies, in 1982 developed and developing economies were in exactly the reverse positions in relation to their stances in the 1947-48 negotiations in ITO negotiations. Developing countries were then in favour of the inclusion of services in the Havana Charter, while developed countries insisted that there existed specialized agencies to deal with such issues. See Brown (1950), pp. 130-1 on articles 46 and 53 of ITO.

²¹ See Maciel (1986), pp.84-5.

²² See Lima (1986), pp. 338 and ff.

²³ G-10 was formed by Argentina, Brazil, Cuba, Egypt, India, Nicaragua, Nigeria, Peru, Tanzania and Yugoslavia. There is no controversy on the importance of Brazilian diplomacy in the GATT in 1983-1987. There is, however, a sharp divergence on the real nature of this diplomatic action as clear by the comparison, for instance, between the *Financial Times* of 16.12.93, underlying Brazil's commitment to obstruction at this stage, with the self-evaluation of Ambassador Nogueira Batista, Brazil's ambassador to GATT at the time, in Tachinardi (1993), p.240.

²⁴ See Batista (1987).

²⁵ Brazil's obstructive stance in Geneva was undermined when Olavo Setúbal, then Minister of Foreign Affairs, declared at a meeting in Stockholm in 1985 that he favoured the inclusion of services in the agenda. See Oxley (1990), pp. 132-3 and the critical comments by Ambassador Paulo Tarso Flecha de Lima on what he considered to be the excessively obstructionist stance adopted by Brazil in Tachinardi (1993), pp. 232 and 238.

²⁶ For details on the negotiations which resulted in the Swiss-Colombian draft see Low (1993), p. 211 and Oxley (1990), pp. 135-6.

²⁷ The literature on the Uruguay Round is immense. Schott and Buurman (1994) and Das (1998) present evaluations from radically different perspectives. Dixit (1996) includes a very interesting analysis of GATT as a case study in transaction cost politics.

²⁸ Oxley (1990) p. xvi, mentions that while the European trade ministers had agreed that the main tactical objective was to isolate India and Brazil, the EC negotiators reached agreement secretly with these two countries on the two-part format which will prove to be the consensus in Punta del Este. See also Preeg (1995), p. 7.

²⁹ For a contemporary attempt to evaluate the Brazilian concrete interest in the different issues at stake in the Round see Abreu e Fritsch (1989).

³⁰ For details on negotiations, see *News of the Uruguay Round*, and the *Boletim de Diplomacia Econômica* [previously *Boletim de Negociações Comerciais Multilaterais*], published by the Brazilian Ministério das Relações Exteriores.

³¹ In 1985, a coalition of 'fair' agricultural traders was formed including mostly producers of temperate agricultural products interested in agricultural trade liberalization. It included Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, the Philippines, Hungary, Indonesia, Malaysia, New Zealand, Thailand and Uruguay. See Oxley (1990), pp. 156-7 for a description of its action in the GATT Montreal meeting in 1990.

³² See Marconini (1990), pp. 19-21.

³³ See for the Montreal text, MTN.TNC/7(MIN), 9.12.88, *News of the Uruguay Round*, 23, 14.12.88, pp. 40-43.

³⁴ Idem, pp. 26-39.

³⁵ See MTN.TNC/11, 21.4.89, *News of the Uruguay Round*, 27, 24.4.89, pp. 8 and 21.

³⁶ See Preeg (1995), p. 115 for Rubens Ricupero's speech on behalf of all developing countries venting their dissatisfaction with the lack of substantive results.

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- ³⁷ See Preeg (1995), p.120.
- ³⁸ GATT, The Draft Final Act of the Uruguay Round: Press Summary, *News of the Uruguay Round*, 55, 3.12.1992.
- ³⁹ See Aide Mémoire, Associação Brasileira das Indústrias de Óleos Vegetais, "Rodada Uruguai do GATT - Proposta da CEE", September 1990.
- ⁴⁰ See UNCTAD (1990).
- ⁴¹ See Lopes (1992a) e (1992b).
- ⁴² See Anderson (1993), pp.14-15.
- ⁴³ *Gazeta Mercantil*, 21.9.93, "Brasil prefere Blair House a fracasso da Rodada".
- ⁴⁴ *Boletim de Negociações Multilaterais*, 9, p.37 and Hoekman (1993), p. 13. The Brazilian offer was later expanded to include a qualified standstill undertaking in relation to banking services and securities.
- ⁴⁵ See Tarragô (1993), pp. 145-6.
- ⁴⁶ *Financial Times*, 30.9.93.
- ⁴⁷ *Le Monde*, 15.10.93, "Washington à contre-pied".
- ⁴⁸ Among the many peculiarities involving taxonomies applied to the Uruguay Round negotiations was the frequent use in the press, and even in scholarly work, of the expression hard-liners exclusively for Brazil and India in relation to the new issues. This was in spite of the extreme lack of flexibility shown by developed countries in relation to issues such as agriculture (EC) or certain services (US).
- ⁴⁹ See Abreu (1996) for the contrasts in tariff cuts in different markets for different groups of suppliers.
- ⁵⁰ See Harrison, Rutherford and Tarr (1996). This article also includes a discussion of other results and explanations for discrepancies. See, for an earlier attempt, Goldin, Knudsen and van der Mensbrugge (1993). The criticisms of Allais (1993) to the computable general equilibrium approach were, to large extent, answered, by Waelbroeck (1993).
- ⁵¹ See Raffaelli (1992), pp. 32-33 and Abreu (1996), pp. 68-72.
- ⁵² Spain had subdivided its coffee classification and applied a higher tariff on types of coffee imported from Brazil. The panel's ruling was that all coffees were "like products". See Jackson (1997), p. 163.
- ⁵³ Information included in the following paragraphs is from GATT, *Activities*, several years.
- ⁵⁴ See intervention by the Brazilian Ambassador, Rubens Ricupero, in the GATT Council, 22.9.1988.
- ⁵⁵ This follows Bevilaqua and Loyo (1998). The schedule of commitments is in GATS/SC/13/Suppl. 3, 26.2.98.
- ⁵⁶ See *WTO Annual Report*, several years.
- ⁵⁷ See Abreu (1995), section 1.
- ⁵⁸ See Abreu (1989).
- ⁵⁹ See "Aposta em consenso no GATT", *Gazeta Mercantil*, 30.8.85 on what was expected by Brazilian diplomats to result from the segregation of negotiations. This position changed drastically: see, for instance, "País define táticas de atuação nas negociações da Rodada Uruguai", *Gazeta Mercantil*, 25.10.90, which reports the admission that cross concessions were indeed to be welcomed. In 1993 in Geneva Brazil unsuccessfully offered to the US improved access to the Brazilian market for financial and telecommunications services in exchange for increased access for exports of orange juice, textiles, footwear, pottery and capital goods, see "GATT: Pressão do Brasil", *Gazeta Mercantil*, 10.12.93.
- ⁶⁰ See Abdenur (1992), pp. 15-16.
- ⁶¹ Oxley (1990), p.112, mentions the initial Brazilian reluctance on joining the initial core of the Cairns group (Argentina, Australia, Brazil, New Zealand and Uruguay) and its insistence that the objective should be to coordinate positions rather than agree on a joint position. Brazilian agreement with the first Cairns proposal in 1987 required a previous assurance by Australia that provisions on special and differential treatment for developing countries would be preserved in the liberalization process.
- ⁶² See Ricupero (1993), p.30.
- ⁶³ At least initially mainly for political reasons.
- ⁶⁴ See GATT, *Trade Policy Review. Brazil 1992*, Geneva.
- ⁶⁵ See Ricupero (1993), p. 30.
- ⁶⁶ According to others, however, in Brussels, Brazil fell in line with the US, in particular in the agricultural controversy with the EC, "in which we have no great interest [and] we would end up by acting as supporting cast for the US delegation, playing the role of mouthpiece of procedural moves against the EC generally reserved to countries of secondary importance or with limited interests at stake.", Batista (1993), pp. 114-115.
- ⁶⁷ See Batista (1993), p.120.

⁶⁸ This is also reflected in the increase in the average tariff since 1995 as shown by the data collected by the Secretaria de Receita Federal. Average ad valorem nominal tariffs increased from 13.6% in 1996 to 16.7% in the first semester of 1998, *Gazeta Mercantil*, 10.9.98.

⁶⁹ See, for instance, Minister Lampreia's speech in the Escola Superior de Guerra, 'País evitará "exposição precoce" de sua economia', *Gazeta Mercantil*, 4.7.96.

⁷⁰ See, 'País sem interesse em aderir ao ITA', *Gazeta Mercantil*, 10.1.97 and 'Brasil recebe crítica por ficar fora do ITA', *Gazeta Mercantil*, 29.4.97.

⁷¹ See Abreu and Fritsch (1992) and Lafer (1993).

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