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THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

(Note by the Secretariat)

INTRODUCTION*

1. A review of the Uruguay Round of Multilateral Trade Negotiations (MTN) within the context of the Ministerial Meetings of the General Agreement on Tariffs and Trade (GATT) in particular, takes account of historical scenarios. This review of the Uruguay Round focuses attention on a few selected areas not because others are not important, rather, it uses these as illustrative examples. Similarly, even the issue of constraints that have stood in the way of early conclusion will be dealt in like manner. In the same way, highlighting some of the issues relate to implications and the needed follow-up action at country and secretariat levels.

2. It is important to point out at the outset that there have only been little changes to the negotiated text of the Uruguay Round itself from what was last reported by the secretariat to the Tenth Session of the Conference of African Ministers of Trade (doc. E/ECA/TRADE/90/17 and Add.1). It will be recalled that that report was issued after the suspension of the Ministerial Meeting of the Trade Negotiating Committee (TNC) that met in Brussels from 3 to 7 December 1990. Second, the lack of consensus on the revised Draft Final Act (DFA) that the Director-General of GATT presented almost one and half years later must have greatly frustrated efforts of those countries that had hoped to see a speedy end to the whole process.

3. It follows from this rather synoptic analysis that the eventual outcome will be decided principally by a handful of economically powerful states: the European Community (EC) on the one hand, and the United States of America on the other hand. Their disagreement over reduction or elimination of farm subsidies, is what has stalled to a greater part the negotiation process. However, this is not to deny that a good deal of mileage has been covered on many other issues under negotiations in the Uruguay Round as pointed out later.

4. The agreements ultimately reached at the end of each of these GATT Round become new commitments by the Contracting Parties to the GATT. They also irrevocably become binding rules and regulations in world trade relations even for the non-Contracting Parties. In other words, such commitments amount to an important step in the evolution of the world trading system. Needless to say, these

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negotiations are of special relevance to Africa given the region's very high dependence on international trade. Over and above, as African countries are most debt burdened, it is external trade that offers for them an avenue for getting back on the road of credit worthiness. Therefore, what is negotiated and agreed on at these negotiations is watched with the keenest of interest. Unfortunately, Africa's participation in the negotiations has been rather weak for a number of reasons highlighted in this short brief itself.

5. Somehow, it was not until 1973, during the Tokyo Round of Multilateral Trade Negotiations that consideration went beyond the traditional area of tariff liberalization. In 1982, in particular, saw the introduction of consideration of trade policy issues covering barriers to agriculture trade, services and obstacles to developing countries' exports.

II. THE NEGOTIATIONS OF THE URUGUAY ROUND

6. The Uruguay Round was launched at Punta del Este in Uruguay in September 1986 and therefore became the eighth in a series of the GATT itself Ministerial Meetings of Trade Negotiations (MTN) since the GATT came into existence in 1947. The current negotiations are on the basis of texts of agreements produced by the GATT secretariat as a best possible approximation of the expressed views of the countries to the negotiations.

7. The Uruguay Round has been described by some analysts as perhaps the most complex and ambitious programme of negotiations ever undertaken by the GATT. It was conceived to bring urgently, more discipline and predictability to world agricultural trade by correcting and preventing restrictions and distortions including those related to structural surpluses so as to reduce uncertainty, imbalances and instability in world agricultural markets. On this score alone, Africa's interest is much greater relative to other trading regions by virtue of its high dependence for its economic survival on trade in agricultural commodities.

(a) Trade in Agriculture

8. It is significant to mention that the Uruguay Round in terms of Africa's trade problems and prospects has several components but none is more important than the inclusion of liberalization measures encompassing agricultural and tropical products. Liberalization measures to be adopted in these areas could lead to an erosion of preferences enjoyed by the region under the ACP-EEC Lome Convention and the Generalized System of Preferences (GSP) unless steps are taken to prevent that from happening. A dark

shadow in this area has been cast among others by the impasse over reduction or elimination of farm subsidies. All because the fundamental mechanism of the Common Agriculture Policy (CAP) of the EC seeks to protect farm incomes in export refunds. Lest it be overlooked, there are also reported differing views on the subject among the EEC member States which to an extent also complicates matters. The United States is strongly opposed to the continuation of this practice which it considers as a most trade warping form of agricultural support. The USA also points to the fact that the CAP system directly harms other non-European suppliers in the same markets with the European Community.

9. Lowering and/or eliminating CAP would affect food deficit African countries due to higher prices for non-concessional food imports. In the absence of import duties and quotas also, freer agricultural trade can lead to higher prices for and larger exports of traditional agricultural products, assuming Africa is able to produce and market them efficiently. Higher prices for farm output would imply better terms of trade for agriculture and could provide production incentives where domestic price policy does not distort rural-urban price relationships. On the other hand, lowering of tariff and non-tariff barriers on tropical products could adversely affect African countries that enjoy preferences under the Lome Convention.

(b) Market Access and Dispute Settlement

10. Market access cuts across many other areas under negotiation even though the tendency is to view them as limited to visible exports. Substantive progress is possible in terms of bilateral and plurilateral negotiations on tariffs and non-tariff measures. Some complications arose when the negotiations extended the coverage to the new areas of services including obtaining initial commitments from the negotiating parties. Similarly complications arose with regard to bridging the substantial disagreement that emerged between developed and developing countries on issues of intellectual property and investment.

(c) Textiles and Clothing

11. It is possible to point to some of the substantial progress achieved in the area of textiles and clothing even if there are not many beneficiary African countries. Progress has been achieved on reaching some broad agreement on the so called "phased-out" of the Multifibre Arrangement and the "phased-in" of the GATT disciplines. A process that is closely linked to the market access areas relates to pre-shipment inspection and rules of origin. This is also connected with certain GATT articles like Article XVII (State trading enterprises), Article II(i)(b) (other duties and charges),

Article XXVIII (renegotiation of tariff commitments) and Article XXXV (non-application of the General Agreements).

12. To the above may be added certain institutional reforms that have been agreed upon and are being implemented as part of the Uruguay Round package since the Mid-term Review in 1989. For example, new procedures for settlement of disputes have been introduced and a new trade policy review mechanism (TPRM) of member countries has been established in GATT.

(d) New Areas

13. It is principally with regard to new elements or areas in the negotiations that the developed countries are most dominant and most insistent in demanding to safeguard their interest: (i) services; (ii) TRIMs (trade-related investment measures); and (iii) TRIPs (trade-related aspects of intellectual property rights). Developing countries' concern over these areas was very forcefully put forward during the Seventh Ministerial Meeting of the Group of 77 in Teheran in November 1991 when they met to prepare for UNCTAD VIII. On the contrary and because of the demise of the G.77 solidarity, this element was not carried with equal vigour during UNCTAD VIII itself.

14. Needless to say, payment for services principally, banking, insurance, freights costs, debt servicing and consultancy fees account for a large component of developing Africa's import bill. Therefore one positive element of lowering borrowing costs, cheaper shipping and insurance rates would reduce the Africa's import bill. Similarly, the lifting of restrictive conditions on foreign investment could encourage greater use of local materials and the export of a fixed proportion of output. On the other hand however, some of the concessions being advocated are fraught with negative consequences like a number of African countries losing control over their national financial sector.

15. Some adverse effects will become much clearer when the negotiated package is put in place, notwithstanding the Draft Final Act (DAF) of 20 December 1991. Other negative trends likely to arise from the envisaged liberalization may be rather difficult to correct. Determining what steps Africa should take to ensure the lifting of controls and the strict application of GATT rules regulating TRIMs, especially affording national treatment to multinationals (MNCs) do not give foreign companies due dominance in the weak domestic economies or create difficulties for struggling infant industries is difficult.

16. The setting of the Uruguay Round negotiations does not make room for most African countries to be able to safeguard their individual and collective interests. At this late hour it is

doubtful whether the joint OAU/ECA/ADB secretariat can really help. The most it can do is to bring pressure to bear on donor agencies for continued technical assistance connected with implementation of new areas (Trips and Services) that will prove extremely challenging to African countries.

17. A number of solutions proposed to deal with counterfeiting and piracy of ideas could result into African countries paying relatively more for copyrights, patents, intellectual property rights, and state-of-the-art technology. On the basis of available information, developing countries are averse to any cross linkages, realisation and cross-retaliation provisions in particular where they may not be able to fully comply with new GATT service sector regulations, TRIMs and TRIPs. In the case of TRIPs, to take as one example, there is a likelihood of enhancing the MNCs' monopolistic position in the economies of developing countries. Perhaps it is against that background that developing countries have insisted on the principle of national discretion in cases of patentability, its time frame and conditions of patent protection. Hence also, why the industrialized countries have been urged not to retaliate against the former's primary commodity exports, including their fledgling industrial exports.

18. While on this subject, it is important to point out that countries like the US have been seeking through these negotiations to lift restrictive conditions on foreign investment. No one can doubt that the issue of direct foreign investment is quite critical for Africa. Therefore any measures or negotiated strategies have to be from an angle where they lead to positive results for the African economies in the short, medium and long run. Africa has embarked on the road to realization of its Industrial Development Decade and every effort is focused on developing the region's own resources. This is a process where possible contribution of direct foreign investment is expected, while at the same time discouraging highly import-dependent industrialization patterns.

19. Yet another inescapable significance of the Uruguay Round, although not restricted to Africa alone lies in the way it has affected decisions taken in other forums. For instance at UNCTAD VIII, a number of issues which would have normally been decided upon were left pending to await the outcome of the Uruguay Round. So was the future role of UNCTAD, especially with regard to trade issues. Neither could be conclusively debated since some delegations, especially the industrialized countries towed with the idea of establishing a multilateral trade organization (MTO) that could possibly bring the present GATT and UNCTAD structures under one umbrella.

20. Lest it be forgotten, one of the objectives of the Punta del Este Declaration concerns itself with the functioning of the GATT system. It stressed the need to "develop understandings and

arrangements" by enhancing surveillance in the GATT, and facilitating regular monitoring of trade policies of Contracting Parties and their impact on the functioning of the multilateral trading system. Furthermore, to increase the contribution of the GATT in achieving greater concerns in global economic policy-making through strengthening its relationship with other international organizations responsible for monetary and financial matters. Partly against this kind of background the negotiations include bringing the GATT and UNCTAD closer together in order to avoid duplication, in dealing with trade matters.

III. CONCLUDING OBSERVATIONS

21. At the time of writing this brief summary, the Uruguay Round of multilateral trade negotiations were still continuing. A new deadline for the conclusion of the negotiations was June 1992, perhaps because of impending elections in the major contending countries. Under the circumstances, assessment of many of the likely implications must await the conclusion of the negotiations themselves.

22. It is however, clear that the time span of four years (1986 to 1990) was unrealistic. Second, some of the objectives of the Punta del Este Declarations may never be attained due in part to changed circumstances. The principle of transparency for instance, seems to have been grossly tempered within some of the positions adopted at the start of the negotiations. There is enough evidence to show how some worked in the opposite direction of a world that wished to urgently bring discipline and predictability to world agricultural trade. Over and above, some principal negotiators indicated little signs wishing to correct and prevent distortions and restrictions relating to structural adjustment in the several other areas. Neither are they in a hurry going by the deadlock to reduce uncertainty, imbalances and instability in world agricultural markets?

23. The same difficulties have been experienced with regard to finding common ground to issues of market access for exports of developing countries, especially regarding textiles and for most other new areas that form a package of the Uruguay Round.

24. The absence of an agreed package makes it difficult to be categorical as to what the Uruguay Round will add or subtract from the current state of world trade relations. However a likely positive end result could bring about further liberalization and expansion of world trade to the benefit of all countries, but not to the same extent for the less developed contracting African countries if the suggested MTO structure were to be adopted. What is also not definite is that improvement in access to markets

through the reduction and elimination of tariffs, quantitative restrictions and other non-tariff measures and obstacles will only

minimally benefit Africa which has yet to achieve comparable high levels of industrial progress.

25. On 13 April 1992, three months since the launching by the Trade Negotiating Committee (TNC) of a four-track work programme to steer the Round, the Heads of delegations concluded that there was no substantive progress and in fact in track one (negotiations of market access) and track two (negotiations on initial commitment on services) there had been some setback.

26. The basic assumption behind the four track work programme was that the Draft Final Act (DFA) of 20 December 1991 represented an acceptable basis for an agreement in all the negotiated areas embodied in it. However tacit acceptance of DFA did not imply exclusion of the importance of continuing with negotiations on market access and initial commitment on services. In other words, the final package of results has to strike a balance among and between all the three key areas viz market opening, rule-making and institutional aspects. The work foreseen under track four namely, adjustment to the package in certain specific places, has not been attempted for fear of unravelling the whole package. Nonetheless, consultations between the two major participants (USA and EEC) in agriculture suggest a sort of adjustment in text of agriculture in the DFA. If this trend is allowed to continue it could trigger other participants to seek similar treatment of other texts in DFA including that of agriculture.

27. Immense work remains and unlikely to be consolidated by June 1992 even if they were to be an agreement in principle to wrap up the package. There is a need to complete the schedules on reduction of commitments in agriculture, negotiations on tariff concessions, initial commitments in services and legal drafting of the final texts of the various agreements including the Multilateral Trade Organization (MTO). A new area of major concern relates to provisions of the draft text on MTO that appear to alter the balance of rights and obligations currently enshrined in the GATT. From an African point of view, accepting the current proposal on MTO would require, as a condition for original membership of the MTO, a schedule of tariff concessions and a schedule of initial commitment on services. Needless to say, it would create a major technical burden for a number of African countries and particularly LDCs who do not yet have tariff schedules. These countries have already experienced great difficulties in submitting schedules on initial commitments on services.

28. Some of these features can be summarized as follows:

(a) Through the ECA/OAU secretariat activities, with the endorsement of the 1985 Conference of African Ministers of Trade, a project to assist African delegations was instituted, supported by funds provided by UNDP. The African MTN Project (RAF/87/157) located within UNCTAD undertook several activities aimed at strengthening and enhancing the negotiating capacity of the African countries. Somehow, not all countries took full advantage of the facility. Some African countries mistook it as a substitute for their own direct effective actual participation. This may be because some among them did not realize that the MTN are negotiated by countries on the basis of requests and offers involving Contracting Parties. Perhaps most unsettling of the training provided to the African countries through the project in this area was the tendency in most African countries not to retain the trained personnel in those areas where they would have made their effective contribution;

(b) Regrettably also, many African legislatures seem not to have realized that their national laws were in danger of being superseded by international agreements like the Uruguay Round that their diplomats and trade representatives are negotiating;

(c) A major concern regarding the issue of market access for Africa like other developing countries includes the need for substantial concessions on products of export interest covering tropical, natural resource-based products and manufactures;

(d) The evaluation of the Uruguay Round results foreseen in Part I.G of the Punta del Este Declaration has to be undertaken in order to ensure effective application of differential and more favourable treatment. This task needs to be carried out at the final GNG meeting prior to the TNC Ministerial meeting;

(e) The Uruguay Round is rather complex and has been conducted in many committees. This element has compounded Africa's problems. African countries have weak delegations in terms of numbers as well as expertise and therefore unable to have followed all the negotiations in Geneva whilst at the same time covering such agencies as UNCTAD, WHO, ILO, UNHCR, UPU. Worse still, many African capitals' interest groups and citizens did not seem to fully realize the implications of the Uruguay Round on the future of their economies.

29. Ultimately, this Round will have to be seen not only as a balance of gains, at least for those with greater economic muscle but also by the likely losers in terms of sacrifices, including to a large extent, the African themselves. Transparency one of the main objectives in the negotiations has been side-stepped judging by the way certain countries have been conducting themselves.

Under normal circumstances those that have not been fully associated with the discussions, as is the case for most African countries, the agreed conclusions could hardly be binding on them. On the contrary, for most African countries this can hardly apply since they have little alternative but to abide by the GATT rules. This is why it is important to emphasise the need for the secretariats consisting of ECA, OAU and ADB to find means and ways of helping the African economies to balance the sacrifices that may have been made by themselves or on their behalf.