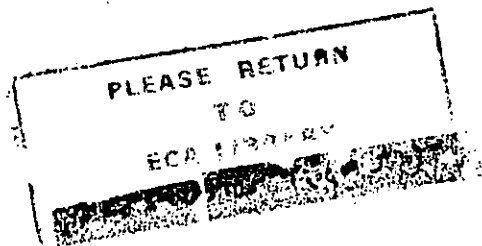


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**REGIONALISM, THE URUGUAY ROUND AGREEMENT AND THEIR IMPLICATIONS
FOR THE ABUJA TREATY ESTABLISHING THE
AFRICAN ECONOMIC COMMUNITY**

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**REGIONALISM, THE URUGUAY ROUND AGREEMENT AND THEIR IMPLICATIONS
FOR THE ABUJA TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY**

INTRODUCTION

On 3 June 1991 the Heads of State and Government of the Organization of African Unity (OAU) signed in Abuja, Nigeria, the Treaty Establishing the African Economic Community. On 15 April 1994 the Final Act Embodying the conclusions of the Uruguay Round of the Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade (GATT) was signed in Marrakesh, Morocco at the Ministerial Meeting of the Trade Negotiations Committee, after it was launched in September 1986 in Punta de Este - Uruguay. Subsequently on 12 May 1994 the Abuja Treaty Establishing the African Economic Community entered into force after 35 OAU Member States, signatories to the Treaty, had deposited their respective instruments of ratification with the General Secretariat of the OAU.

2. During the Sixtieth Ordinary Session of the OAU Council of Ministers held on 6-11 June 1994 in Tunis, Tunisia, Council reviewed the contents of document CM/1839 (LX) entitled "Report of the Secretary General on the Preliminary Evaluation of the Results of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade (GATT)". While welcoming the conclusion of the Uruguay Round Negotiations with the signing of the Final Act by 120 countries out of which 35 were Member States of the African Economic Community, the Ministers expressed serious concern about the "unfair and unequitable nature of the provisions in the package of the Agreements ... and the consequential heavy preferential tariff and financial losses to be sustained by African countries".

3. In the light of the above, Council, inter alia, directed the OAU Secretary General to work in collaboration with the technical and relevant institutions, including the UNECA, UNCTAD, ITC and WTO to further carry-on the evaluation of the Uruguay Round's results, in a more coordinated manner, with a view to adequately prepare for the Extraordinary Session of the OAU Council of Ministers on Africa's Socio-Economic Problems; that Conference later took place in Cairo, Egypt and adopted the Cairo Agenda on Africa's Socio-Economic Problems.

4. In order to make a contribution towards the preparation for that Extraordinary Session, the UN Economic Commission for Africa organised in Tunis - Tunisia, an International Conference on the Uruguay Round Agreement and its Implications for African economies, in accordance with the directives of the 12th session of the Conference of African Ministers of Trade held in Tunis-Tunisia in October 1993.

5. During that International Conference, the General Secretariat of the OAU presented a document entitled "The Uruguay Round Agreement and its Possible Impact on Regional Economic Integration in Africa in the Light of the Abuja Treaty".

6. In that Conference, where the African Ministers of Trade adopted '**A FRAMEWORK FOR ACTION**' on the outcome of the Uruguay Round, participants generally felt that 'Regionalism' has emerged as a major phenomenon in the World Trading System and consequently has a major implication for multilateral trade flows, multilateral trade negotiations and above all is a major factor to take into account in any effort to be deployed for the implementation of the Uruguay Round Agreement.

7. That Conference took that view in the light of the then and current wave of regional integration bilateral/plurilateral trade Agreements that were busily being signed by several countries in all segments of the World Trading System during and after the period of the Uruguay Round Negotiations.

8. Conversely it was also contended that some of the multilateral commitments undertaken by the Member States of the African Economic Community by signing the Uruguay Round Agreement may eventually contradict and even result in clashes with the trade liberalization process of the African Economic Community system, especially at the Customs Union stage, when the AEC is expected to adopt and implement a Common External Tariff (CET) against non-AEC Members (third countries). This would be so, whereas their commitments in the Uruguay Round would require them to lower or bind or eliminate some, if not all of those Tariffs and Non-Tariff Barriers^{1/}.

9. This paper, Regionalism, the Uruguay Round Agreement and their Implications for the Abuja Treaty establishing the African Economic Community is, therefore in response to those concerns of the African Ministers of Trade. The paper is divided into four parts and concludes with recommendations.

10. Part One deals with 'Regionalism'. Here an attempt is made to define 'Regionalism', identify historical types of regionalism, and trace its evolution and link it up with the recent wave of trade/regional integration schemes that have emerged in the World Trading system, especially outside of Africa. The Records of those have been reported to the GATT as well as those that have not been formally reported to the GATT/WTO have been reviewed.

11. Part Two deals with the Uruguay Round Agreement and examines the commitments undertaken by Member States of the OAU/AEC by their having signed the said Agreement.

12. Part Three deals with the Abuja Treaty, its implementation's time frame; commitments undertaken by the OAU/AEC Member States in the said Treaty, particularly in the trade and customs sectors.

^{1/} See para. 97 of OAU doc. EDECO/TD/11/656.94 entitled "The Uruguay Round Agreement and Its Possible Impact on Regional Economic Integration in the Light of the Abuja Treaty".

13. Part Four examines and identifies areas of complementarity and conflict in the events of the implementation of the two Agreements by OAU/AEC Member States. The paper ends with a set of conclusions and recommendations.

PART I : 'REGIONALISM'

Definition of Regionalism

14. In the first place we want to understand what is 'Regionalism', within the context of this paper in order for us to relate the concept to the Uruguay Round Agreement and the Abuja Treaty establishing the African Economic Community, respectively. For the purpose of this paper, therefore, 'regionalism' will be used to mean the trend to establish linkages between and among a group of countries within a given geographical space, driven by common and shared interests to cooperate in the areas of trade and other economic sectors in order to achieve a Free Trade Area and subsequently to establish a Customs Union within the understanding of the Article XXIV of GATT 1947 and the relevant Article of the Uruguay Round Agreement of WTO, 1995. (In practice, as would be observed in some of the recent Arrangements the participating countries may not necessarily be geographically contiguous; some can be characterised as North-South; North-North or South-South).

15. Article XXIV of GATT 1947, inter alia, deals with 'Frontier Traffic', 'Customs Unions and Free Trade Areas'. In its paragraph 1, it is provided that 'each customs territory shall, exclusively for the purposes of the territorial application of the (GATT) Agreement, be treated as though they were a contracting party' ... It is also provided for in para.2 of the same Article, that 'a customs territory shall be understood to mean any territory with respect to which separate tariffs and other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories'.

16. The GATT Agreement's Article XXIV (4) also recognises the commitment of the Contracting Parties to increase freedom of trade through voluntary agreements of closer integration between the economies of the countries, parties to such agreements. Furthermore they recognise that the purpose of a Customs Union or a Free Trade Area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other Contracting Parties within such territories.

17. It may be also be noted that 'Regionalism' in contemporary economic theory and policy debates is a term that is used to connote the concept of 'regional economic integration'. The classical theory of regional economic integration which constitutes the bed-rock of the static and dynamics of regional economic integration with the attendant notions of 'trade creation' and 'trade diversion' are traced back to the work of Prof. Bela Balassa in his treatise "Towards a Theory of Economic Integration", which spells out the following stages of regional economic integration :

- a) The Free Trade Area, which implies the removal of quantitative restrictions and customs tariffs;
- b) The Customs Union, which unifies the tariff of the countries within the area against outsiders;
- c) The Common Market, where all restrictions on factor movements within the area are abolished;
- d) The economic union, where economic, monetary, fiscal, social and counter-cyclical policies are to some extent harmonized;
- e) The supra-national union, where the respective governments abandon completely their sovereignty over the policies listed above and a supra-national authority issues binding decisions.

18. The above sketch should assist us in demarcating the various stages and understand the various levels of technical commitments that Member States of the African Economic Community have undertaken in the Abuja Treaty when we subsequently examine them in Part three of the paper.

Concepts of 'Regionalism' ^{2/}

19. Against the background of the foregoing definitions of 'Regionalism' and the stages of regional economic integration we wish to note the recent reflections on the concept of Regionalism. These include :

'Open Regionalism'

20. It has been suggested by some authors that "regionalisation" is 'market-driven' rather than 'institution-driven'. This has brought into focus the question as to how regions are formed, and then how they develop. The question is also raised as to whether market forces see the need for greater coordination or regulation, or whether they do take into account formal changes in market conditions.

21. "Open regionalism" stresses non-discrimination, but the emphasis here differs between members and non-members, or between members and potential members. The implications are noted to be very different and are identified as the 'Asian model' and the 'ECLAC' model as they both, by implication, limit their non-discrimination to some variable, geographical region.

Asian Open Regionalism

22. The 'Asian Open Regionalism' is said to be based on a principle whereby a group of countries negotiate concessions among themselves, but agree to extend these to any country which offers to reciprocate. This is noted to be in conformity with

^{2/} "The Relationship between Regionalism and the Multilateral Trading system" Unctad, September 1995.

the traditional concept 'region' in terms of Article XXIV of the GATT Agreement. However, others argue that since there is no commitment to a target of full free trade and also that the element of automatic extension means that the group is not fixed, and also since any country could obtain the tariff reductions, it is contended that it is not clear whether that would be in conformity to Article XXIV.

ECLAC Open Regionalism

The 'ECLAC Open Regionalism' is noted to be a comparatively more formal concept. In this case any regional grouping tends to allow any country which is prepared to accept the agreement already reached by the original member states to join membership. In this respect countries join on the basis of a 'negative list' of what is excluded, rather than a 'positive' one of what is included on the grounds that that approach was more likely to lead to integration in conformity with GATT Article XXIV's criterion of 'substantially all' trade.

24. It has also been recognised that the openness to a new member in this type of Regionalism is a more difficult concept. What is said to differentiate 'open regionalism' from trade liberalization and non-discriminatory export promotion is that it includes a preferential element, which is reflected in integration agreements and reinforced by the geographical closeness and cultural affinity of the countries of the region.

'Outward-oriented Regionalism'

25. This type of Regionalism is noted to be a more practical term, in that it accepts that regions, like countries, have 'de-facto' if not 'de jure' external policies, which can be judged on the same criteria. In this context it may be observed that the criteria which are laid down in the WTO Article XXIV are intended to increase the probability that a group would be externally oriented, with the requirement for 'substantially all' trade to be included to avoid the case where a group tries to secure only those goods on which it has an interest in offering special concessions.

History of Regionalism

26. 'Regionalism' or in other words, the desire for given metropolitan territories or countries to prefer to engage in direct reciprocal preferential, commercial and economic relations did not commence in 1947 with the negotiation and the signing of the GATT Agreement in 1947.

27. According to Machlup's work in 1977 on "A History of Thought on Economic Integration" the following reciprocal trade Agreements can be noted.

(i) In Great Britain, as early as 1547-48 there were proposals for a Union between England and Scotland and by 1603 there was established the Union of Crowns. This was followed in 1703 by the Act of Union of England and Scotland which established an entity which was characterised as both was political as well as an economic union.

(ii) In France in 1664 we note the famous Colbert's plan to unite all the provinces of the French Kingdom into a single customs union with internal free trade. It however failed to materialise until the Revolutionary government of 1789-90 did, by decree, abolish all internal trade barriers in France thus unifying France into what it is today as a unitary state.

(iii) In 1850 in Canada, the States of Ontario, Quebec, Nova Scotia, and New Brunswick agreed on free trade in food-stuffs and raw materials. Subsequently as a single union, it concluded a Reciprocity Treaty with the United States of America, thereby eliminating all import tariffs on natural products of both countries in 1854. By 1867 the Confederation of Canada established an internal free trade system.

(iv) In respect of the United States of America, it may be recalled that initially the American colonies did maintain separate tariff systems with a moderate number of duties; but when the States adopted in 1789 the Union Constitution they undertook to refrain from levying against one another's trade any duties.

(v) The integration of the numerous splinter German states into the 'German Zollverein' - a customs union - saw an end to a situation between 1813-15 whereby the states had maintained and imposed customs duties at, as many as, 38 frontiers. The customs union was attained when Prussia abolished internal tariffs in 1818, and through bilateral and plurilateral treaties during 1828, Prussia succeeded in establishing three customs unions; namely,

(a) Wurttemberg - Bavaria, (b) Prussia-Hesse-Darmstadt and (c) Central German Union, (d) By 1833 these three customs unions were integrated into the single German Zollverein which lasted from 1834 to 1871.

28. Examples of other customs unions in Europe included, the one between Austria and its neighbouring countries, which lasted between 1775 and 1879; the Swiss Confederation, established in 1848 with an economic union; Italian states united by a customs union during 1860-66; a customs union established between Sweden and Norway in 1874-75; a customs union formed by Belgium and Luxemburg in 1921 and the Benelux customs union established among Belgium, Netherlands and Luxemburg in 1944, which became effective in 1947 which is widely cited as the one of the nuclei of the original six of the European Union.

Recent Regional Groupings and the Uruguay Round

29. As was earlier noted in this paper, history has been repleat with regional economic integration groupings, albeit based on bilateral and plurilateral trade agreements. To trace the genesis of multilateralism which is the foundation for Regionalism, one may wish to recall that during the 1830s and the 1840s, just as in the 1780s attempts to establish multilateral trade groupings based on the reciprocal reduction of tariffs largely failed. It was only in the nineteenth century when Britain and France signed the bilateral Anglo-French commercial Treaty of 1860 based

on the Most Favoured Nation (MFN) clause, by which it so-facto extended its tariff reductions to benefit all nations; while France adopted a two-tier system as against other countries which faced the 'conventional' tariff rates for their exports to France, that the World Trading System witnessed a renewed impetus for multilateralism and regionalism.

30. The Anglo-French single bilateral agreement attracted other European countries which sought to enjoy equal treatment for their products. This resulted into dozens of bilateral agreements and effectively got transformed into a multilateral arrangement. By this turn of events, Britain had by 1908, 46 MFN agreements; Germany had similar agreements with 30 countries and France with 20.

Regional Integration Agreements Notified to GATT Between 1947 and 1994

31. To discuss 'regionalism' and 'regional trade' in regional economic integration in the world trading system can be the subject of a book or a separate paper. Therefore for our purpose, we have reviewed the regional integration Agreements signed and notified to the policy organs of the General Agreement on tariffs and Trade (GATT) since its inception in 1947 until 1994 after which the world saw the birth on 1st January 1995, of the World Trade Organization (WTO) the successor to the GATT.

32. The Appendix Table 1 titled, "Regional Integration Agreements Notified to GATT from 1947 to 1994" in the WTO publication, 'Regionalism and the World Trade System', lists ninety-eight such Agreements in respect of Article XXIV of the GATT 1947 Agreement and even other Agreements notified for waiver under the provisions of the Enabling Clause of 1979.

33. To quickly recapitulate, we observe that some of the regional Agreements notified are :

- i) the South Africa-Southern Rhodesia Customs Union which was signed in December 1948 and came into force in August 1949, its participating countries have been South Africa and present-day - Zimbabwe; one wonders whether such an Agreement still governs their bilateral trade relations.
- ii) the European Economic Community (EEC) and the European Atomic Energy Community which was signed in June 1958 and entered into force in June 1959. (This has evidently evolved into the European Union as per the Treaty of Rome in 1958 and the Maastricht Treaty of 1993.
- iii) Equatorial Customs Union and Cameroon composed of Central African Republic, Chad, Congo and Gabon came into force in July 1962 and must certainly represent the origins of the UDEAC.

- iv) the European free Trade Area - constituted by Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom, came into force in May 1960; this has practically withered away as almost all the participating countries are now members of the Enlarged European Union.
- v) the Latin American Free Trade Association (LAFTA) with Argentina, Brazil, Chile, Peru and Uruguay came into force in June 1961.
- vi) the Agreement including Nicaragua in the General Treaty for Central American Economic Integration, associating Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, was adopted to lead to a Customs Union and came into effect in June 1961.

34. Apart from the EEC Association Agreement with African and Malagasy State (Yaounde I) which brought together the EEC of the six and Burundi, Cameroon, Central African Republic, Chad, Congo, Cote d'Ivoire, Benin (Dahomey), Burkina Faso (Upper Volta), Gabon, Madagascar (Malagasy Republic), Mali, Mauritania, Niger, Rwanda, Senegal, Somalia and Togo; an Agreement which came into force in January 1964 and subsequently renewed as Yaounde II in 1975, we observe a few interesting Agreements notified to GATT. These include, the Ghana-Upper Volta Trade Agreement between Ghana and Burkina Faso (the then Upper Volta) presented as a Free Trade Agreement, and entered into force on 9 May 1962. It is interesting to note that when it was notified to GATT, the latter established a Working Party of Contacting Parties which later referred the agreement to the Working Party established to examine the African Common Market.

35. Again attention is drawn to an Agreement on the African Common Market linking Algeria, United Arab Republic (Egypt), Ghana, Guinea, Mali and Morocco which was notified to GATT. The Agreement was presented as a Customs Union after its signature on 1 April 1962 and entered into force on 1 July 1963. Upon notification to GATT the latter established a Working Party on the Agreement. (Today one wonders whatever happened to those African initiatives in the mood of the signing of the OAU charter in May 1963).

36. The ACP-EEC Lome Convention signed as Lome I, in 1975 and entered into force on 1 April 1976, subsequently renewed in 1979 as Lome II with entry into force on 1 January 1981; and yet again in 1986 as Lome III; and renewed again in 1990 as Lome IV were presented to GATT as Preferential Agreements with nonreciprocal clauses which guaranteed access to the EEC market for the beneficiary countries. The preferences were founded on Part IV of the GATT Agreement which is expected to ensure development for the latter.

37. Under the terms of the Enabling clause, we note such other agreements as :

- Agreement on ASEAN Preferential Trading Arrangement, linking Indonesia, Malaysia, Philippines, Singapore and Thailand which took effect from 1 January 1978

- Latin American Integration Association (LAIA) linking Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela with its Agreement signed in August 1980 and came into force in March 1981.
- South Pacific Regional Trade and Economic Agreement (SPARTECA) linking Australia, New Zealand, Cook Islands, Fiji, Kiribati, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, and Western Samoa. It came into force on 1 January 1981.
- Unified Economic Agreement, among the States of the Gulf Co-operation Council linking Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates, is a preferential trade arrangement which took effect from 1983.
- the Andean Pact Group which links Bolivia, Colombia, Ecuador, Peru and Venezuela, is presented as a Customs Union which has taken effect on May 1988. Its objective has been to free internal trade by 1992 and establish a Common External Tariff (CET) by 1993 and a Common Market by 1995.
- the Southern Common Market (MERCOSUR) linking Argentina, Brazil, Paraguay and Uruguay presented as an interim agreement for the formation a Customs Union came into force on 9 November 1991.
- Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area linking Brunei, Darusalam, Indonesia, Malaysia, Philippines, Singapore and Thailand has been presented as an Interim Agreement for the formation of a free trade area, and has come into force on 28 January 1991.

OTHER MAJOR REGIONAL INTEGRATION AGREEMENTS

38. We observe that there are several other major recent regional integration/trade Agreements that have been signed during the period of and immediately after the conclusion of the Uruguay Round of Multilateral Trade Negotiations.

A. Recent and Prospective Western Hemisphere Trade/Integration Arrangements

1. U.S. - Canada Free Trade Agreements (CUSTA)

39. The U.S. - Canada Free Trade Agreement (CUSTA) was concluded in October 1987 and came into force on 1st January 1989. All tariffs are to be eliminated by 1 January 1998. Tariff cuts are to be phased out over a ten-year period according to three formulae. Some of the tariff headings are to be reduced at a faster pace. The Agreement has a dispute settlement mechanism which covers a wide range of topics such as investment, energy, agriculture, government procurement, autos, wine and spirits.

2. US - Canada - Mexico (NAFTA)

40. Negotiations were initiated in June 1991 for a North American Free Trade Area Agreement (NAFTA) between the United States, Canada, and Mexico. Negotiations have been divided into six main groups: market access services, trade rules, investment, intellectual property and dispute settlement. Other sub-groups deal with specific topics such as tariffs, rules-of-origin, agriculture, autos, textiles, energy, safeguards, standards, land transportation etc. Labour issues and environmental issues have been under discussion simultaneously.

3. Caribbean Basin Economic Recovery Act (CBERA)

41. The Caribbean Economic Basin Recovery Act (CBERA) was put in place since 1984 and is part of the broader US-Caribbean Basin Initiative. 28 Caribbean and Central American countries are participating in the Caribbean Basin Economic Recovery Act. CBERA is part of the Cross-Border Initiative (CBI) which extends trade preferences to the region. CBERA grants duty-free access to the U.S. market for eligible products, provided at least 35 per cent of the value-added is from any of the Caribbean countries. It is noted that upto 15 per cent of the value may be from the U.S.

4. Central American Common Market (CACM)

42. The Central American Common Market is a customs union between Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica. It was first established in 1960 and broke down during the 1970s. The Treaty was due to expire in 1981, but the members agreed to continue its operations until a new integration scheme could be negotiated. It was recently revived with plans to include Panama.

43. In July 1991, the members agreed to liberalise the regional trade of most agricultural products by 31 December 1991, and of all agricultural products by June 1992. Free trade agreements between members of the CACM were also signed with Mexico and with Venezuela.

5. Enterprise for the Americas Initiative

44. This Initiative which was announced by the US President Bush in 1990 has three key pillars : trade, investment and debt. As part of the trade pillar, the US negotiated several framework agreements with such countries as Chile, Venezuela and the countries of the Mercosur group. The framework instruments covered areas of mutual interest and negotiating principles which should cover such topics as barriers to trade in goods and services, investment and intellectual property.

6. Caribbean Common Market (CARICOM)

45. CARICOM was established in 1973 to replace the Caribbean Free Trade Association which dated from 1965. The CARICOM Agreement provides for the establishment of a common external

tariff and a common commercial policy towards third countries. Participating countries include, Antigua, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent, Trinidad and Tobago. Venezuela recently requested to join the membership of the CARICOM.

B. Latest Regional/Trade Integration Agreements

46. After the signing of the Uruguay Round Agreement and with the birth of the World Trade Organization (WTO) one observes that the trend to create new trade and regional economic integration schemes have not abated. Some of the latest initiatives include :

1. The Asia Pacific Economic Cooperation Forum (APEC)

47. It is to be recalled that in November 1994, 18 Pacific Rim countries and the USA met in Bogor - Indonesia and committed themselves to the goal of free trade and investment in the Pacific by the year 2020. It has been estimated that, if that objective were realised the APEC would outclass the European Union and the NAFTA, as it would constitute 2.2 billion consumers and producers into one trading bloc of countries that already account for 41 per cent of global commerce. In fact observers suggest that "Its half the world deciding to eliminate its trade barriers".^{3/} Soon after the 1994 Bogor Summit Declaration tariff reduction schedules were produced for the 18 participating countries, namely Australia, Brunei, Canada, Chile, Hong Kong, South Korea, Malaysia, USA, Indonesia, Japan, Mexico, New Zealand, Papua New Guinea, Philippines, Singapore, Taiwan and Thailand.

48. When the Ministerial meeting of APEC in Osaka, Japan on 16-17 November 1995 it adopted an "ACTION AGENDA" which reflects three major pillars of the APEC process, namely Liberalization, Facilitation and Development Cooperation with the context of "Partners for Progress". It was said to represent "narrowing economic disparities between APEC economies while supporting trade and investment"^{4/}.

49. Part One of the Action Agenda, when formulated, would comprise trade and investment facilitation. Part Two would deal with economic and technical cooperation. All these, it was agreed, would be WTO consistent. It is expected that each country would submit to its 1996 APEC Ministerial Meeting, scheduled for the Philippines, its national Action Plan which would constitute the building blocks of APEC's long term goal of free and open trade and investment.

^{3/} Fred C. Bergsen Director of Washington's Institute for International Economics and Chairman of the Eminent Persons Group; see No. 48 of Time Magazine, November 28, 1994.

^{4/} See ASIA Wireless File : Press Release of November 21, 1995.

50. Fifteen Areas identified for specific action are : tariffs, non-tariff measures, services, investment, standards, and conformance, customs procedures, intellectual property rights, competition policy, government procurement, deregulation, rules of origin, dispute mediation, mobility of business people, implementation of the Uruguay Round outcomes and information gathering and analysis.

51. Economic and technical cooperation will be undertaken in specific areas of human resource development, industrial science and technology, small and medium enterprises, economic infrastructure, energy, transportation, telecommunications and information, tourism, trade and investment data, trade promotion, marine resource conservation, fisheries and agricultural technology.

52. Attention should be drawn to the input being made to the APEC process by the Pacific Business Forum, the Pacific Economic Cooperation Council (PECC), the Pacific Basin Economic Council (PBEC), and the Asia Pacific Business Network (APB-Net).

53. Canada was reported to have tabled a proposal on "Foreign Direct Investment and APEC Economic Integration". The Osaka meeting, while appreciating the close cooperation between governments and the business/private sector, agreed to establish the APEC Business Advisory Council (ABAC) in 1996.

2. The Barcelona Declaration of the Euro-Mediterranean Conference

54. On 27-28 November 1995 the European Union and a number of countries in the Mediterranean region adopted the Barcelona Declaration which constitutes a framework for a regional cooperation mechanism. On the Mediterranean side three Member States of the African Economic Community were involved. These were Algeria, Egypt and Tunisia.

55. In that Declaration, which inter alia, covers "Economic and Financial Partnership : "Creating an Area of Shared Prosperity" the two regions have committed themselves to regional cooperation and integration; to establish an economic and financial partnership; to progressively establish a Free Trade Area.

56. On the creation of a Euro-Mediterranean Free Trade Area, the parties have set the year 2010 as the target date for its gradual establishment which will cover most of their trade, with due adherence to the obligations of the Uruguay Round of the WTO. In order to establish the Euro-Mediterranean Free Trade Area, the participants have decided to adopt measures in respect of rules of origin, certification industrial property rights; to observe the principles of market economy and the integration of their economies; promote the development of the private sector within a regulatory market economy framework.

57. In the area of economic cooperation the two regions affirm that "regional cooperation on a voluntary basis, particularly with a view to developing trade between the partners themselves, is a key factor in promoting the creation of a Free Trade Area"^{5/}. Action will proceed within the framework of the Barcelona Convention and the Mediterranean Action Plan.

3. The New Trans-Atlantic Agenda

58. Towards the end of 1995, one has observed the adoption, by the United States of America and European Union, the so-called New Trans-Atlantic Agenda. It is an Accord which has a wide spectrum covering, Promotion of Peace, Stability, Democracy and Development. But for our purpose, we wish to draw attention to the Declaration in the Agenda that seeks to create a new Trans-Atlantic Market-place, which would expand trade and investment opportunities and multiply jobs on both sides of the Atlantic, and to contribute to the dynamism of the global economy.

59. The Trans-Atlantic Agenda is based on a Framework for Action with four major goals, which include, inter alia, "Contributing to the Expansion of World Trade and Closer Economic Relations". This economic and trade goal, while committing the US and the EU to the full implementation of the Uruguay Round Agreement, spells out their determination to create the New Trans-Atlantic Market-place by progressively reducing or eliminating barriers that hinder the flow of goods, services and capital between the two regions - US and EU. They also decided on carrying out a joint study on ways facilitating trade in goods and services and further reducing or eliminating tariff and non-tariff barriers.

60. The Trans-Atlantic Agenda further provides that, by the end of 1996, a Customs Cooperation and Mutual Assistance Agreement should be concluded between the European Union and the US. They have also declared their commitment to promote adherence to multilateral trade rules, to strengthen the multilateral trading system, consolidate the WTO and secure the full implementation of the Uruguay Round Agreements by all WTO members. Above all, the two regions want to work for the successful conclusion of a Multilateral Agreement on Investment at the OECD to liberalise and protect investments and carry it further to the WTO.

61. Regarding the unfinished negotiations on issues pending from the Marrakesh Ministerial Meeting which saw the signing of the Uruguay Round Final Act, the EU and the US have declared their commitment to ensure the successful conclusion of the current negotiations in all services sectors and to respect the most immediate deadline of the 30 April 1996 for negotiations on maritime services; and to encourage a successful and substantive outcome for the Singapore WTO Ministerial Meeting in December 1996.

^{5/} See Final Version 2 of the Barcelona Declaration adopted on 28 November, 1995 in Barcelona, Spain, at the Euro-Mediterranean Conference (27-28 November, 1995).

4. European Union and Other Regional Agreements

62. The European Union, by the close of 1995 successfully renegotiated existing framework Agreements with the Andean Pact countries, linking Bolivia, Colombia, Ecuador, Peru and Venezuela.

63. The European Union updated also its existing cooperation Agreement with member countries of South-East Asia linking itself in commercial, economic and development cooperation with the ASEAN region constituted by Indonesia, Malaysia, the Philippines, Singapore and Thailand.

64. Furthermore, the European Union renewed its existing Cooperation Agreement with countries parties to the General Treaty on Central American Economic Integration, linking itself with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and (Panama).

65. Indications are that the European Union is likely to sign similar Trade and Economic Cooperation Agreement with Southern African countries with South Africa serving as an anchor in that configuration of the new wave of regionalism.

PART II : THE URUGUAY ROUND AGREEMENTS : COMMITMENTS UNDERTAKEN BY MEMBER STATES OF THE AFRICAN ECONOMIC COMMUNITY

66. In order to link Regionalism to the Uruguay Round Commitments undertaken by Member States of the African Economic Community we shall now examine (i) The nature of Africa's external trade; (ii) The elements of the Uruguay Round Agreement; and (iii) Commitments made by Africa when its countries signed the Uruguay Round and its implications.

1. The Nature of Africa's External Trade

67. At this stage, it is important to underscore the fact that when one examines Africa's trade within the context of the Uruguay Round and the wave of Regionalism in the contemporary World Trading System and their impacts on Africa's prospects for external markets, one wants to assess the implications of the Final Act of Marrakesh on the latter's access to the European Union (EU) Market and other preference-granting countries and Africa's market access conditions vis-à-vis the countries that have granted the preferences to the AEC Member States under the terms of the Generalised System of Preferences (GSP). Consequently the tariff-cut offers that these two major groups of countries^{6/} did conclude in the Uruguay Round should be one level of concern.

68. Conversely the in terms of the future evolution of the Customs Union of the African Economic Community, it is necessary to examine in detail the tariff cuts and tariff bindings that have been undertaken in the Uruguay Round by Member

^{6/} Please refer to pages 24-25 of OAU document CM/1839 (LX) where this has been discussed at length.

States of the AEC that are concurrently Contracting Parties to the General Agreement on Tariffs and Trade (GATT). This is imperative in view of the fact that after a given period the Common External Tariff (CET) of each of the RECs of the AEC would have to be integrated into a continental Common External Tariff.

69. In order to illustrate the preponderance of Africa's trade with the European Union it is to be noted that most of the African countries depend on the European Union (EU) market for over 50 per cent of their foreign exchange earnings; a few depend on that market for more than 90 percent of their export earnings.

70. In 1993 the African Caribbean and Pacific (ACP) Group derived 20 billion ECUs of their export earning from the EU market. In contrast, 60 per cent of ACP's annual earnings come from their commodity exports to the EU market. This was the tendency despite the dramatic collapse in commodity prices upto nearly 60 per cent on average between 1989 and 1992.

71. At the moment almost all ACP commodity exports enter the EU market free of customs duty and other charges having equivalent effect. While excepting products under the Common Agricultural Policy (CAP) of the EU the agricultural products of ACP African countries are entitled to more favourable treatment compared to third countries which are now to benefit from the MFN Treatment. These countries were hitherto are in the Latin America and Asia regions. Meanwhile, however, the ACP Group has succeeded in securing a temporary waiver regarding the implementation of some of the aspects of the Uruguay Round Agreement.

73. It is regretable to note that in spite of the access provisions, African countries in the ACP Group have since 1975 sustained persistent decline in the share of their exports to the market of the European Union. In 1975, for example, when Lome 1 came into force, the ACP share of extra-EU imports stood at 7 per cent. Over 20 years later in 1995 the ACP share of extra-EU imports had declined to about 3.8 per cent and current projections estimate that their share likely to further decline to about less than 2 per cent.

73. Simultaneously one may wish to note the degree of erosion of preferences between African ACP countries and the European Union. Between 1975 and 1977, the preference margins covered nearly 99.5% of ACP total exports to the EU market. In 1989 prior to the implementation of the EU offer under the Uruguay Round after the Montreal Mid-term Review, the coverage ratio had fallen to 70% of ACP total exports. This percentage had continued to fall till the end of the Uruguay Round Negotiations.

2. The Elements of the Uruguay Round Agreement

74. The African Economic Community, at its various stages, and within the relevant Sectors of the African economic integration process would have to deal with the complementarity, conflict or mutually supportive roles that the commitments that its Member States have undertaken by their signing the Uruguay Round Agreement which included the following Agreements:

1. Agreement Establishing the World Trading Organization with Annex IA which is a package of Agreements on Trade in Goods;
2. Uruguay Round Protocol on GATT 1994;
3. Agreement on Agriculture;
4. Agreement on Sanitary and Phytosanitary Measures
5. Agreement on Textiles and Clothing.
6. Agreement on Technical Barriers to Trade
7. Agreement on Trade-Related investment measures.
8. Agreement on Implementation of Article VI.
9. Agreement on Implementation of Article VII
10. Agreement on Pre-Shipment Inspection
11. Agreement on Rules of Origin.
12. Agreement on Import Licensing Procedures
13. Agreement on subsidies and countervailing measures
14. Agreement on safeguards.

The Annexes to the Final Act Agreements are:

Annex 1 B : General Agreement on trade in services
: Agreement on Trade-Related Aspects of Intellectual Property rights (TRIPS) including Trade in counterfeit Good.

Annex 2 : Understanding on Rules and Procedures Governing the settlement of disputes

Annex 3: Trade Policy Review Mechanism

Annex 4: Plurilateral Trade Agreements.

- a) Agreement on Trade in Civil Aircrafts
- b) Agreement on Government Procurement
- c) International Dairy Arrangement.
- d) Agreement Regarding Bovine Meat.

3. Newest Issues on the Agenda of the WTO

76. The newest issues to be dealt with on the inception of the WTO are:

1. The link between trade and environment
2. The relationship between immigration policies and international trade;
3. The relationship between the trading system and internationally recognized labour standards;
4. The relationship between international trade and competition policy, including rules on export financing and restrictive business practices;
5. The relationship between trade and investment;
6. Regionalism and their implications for Multilateral Trade Agreements;

7. The interaction between trade policies and policies relating to financial and monetary matters, including debt, and commodity markets;
9. The establishment of a mechanism to compensate for the erosion of preferences;
10. The linkage between trade, development and political stability, and poverty alleviation
11. Unilateral and extra-territorial trade measures.

76. The implications of the provisions of the Uruguay Round Agreement and the tariff-cuts by the European Union countries for Member States of the African Economic Community are two folds:

- (i) The tariff cuts offered by Member States of the European Union individually and or as a Group in the Uruguay Round, as a result of which the preferences currently enjoyed by the African ACP Group members are now to be extended to other countries whose products would now ^{7/}enjoy enhanced market access in the European Union.
- (ii) on the other hand until the establishment of the continental Customs Union of the African Economic Community and the attendant continent-wide Common External Tariff (CET) and taking into account the on-going Structural Adjustment Programmes and the massive liberalisation of their trade regimes, it is important to examine the extent to which African countries, Contracting Parties to the GATT, have offered to cut their tariff rates or to bind them in respect of goods and services that would flow into the economic space of the African member States of the African Economic Community. In examining the time-frame one must bear in mind the fact that the new Uruguay Round Agreement entered into force on 1 January 1995. On the other hand by the year 2027 theoretically the continent-wide Common External Tariff of the AEC is expected to be in place.

4. Commitments Undertaken By Africa in the Uruguay Round

77. The following seven product groups constituted the basis for negotiations in the Uruguay Round for the exports of African Countries: a) tropical beverage; (b) spices, flowers and plants (spices and essential oils, cut flowers, plants, vegetable materials, etc; (c) certain oilseeds, vegetable oils and oil cakes; (d) tobacco rice and tropical roots (tobacco and tobacco products, rice, manioc and other tropical roots,

^{7/} This in effect is the erosion of preferences and has the result of sharpening the competition to be faced in the EU market by the lowering of MFN tariffs and the extension of the Union's Generalised System of Trade Preferences to products from Asia and Latin America as well as the granting of privileged access to EU markets to the countries in transition from Central and Eastern

and products thereof; (e) tropical fruits and nuts (bananas and banana products, tropical fruits and nuts and products including fruit juices); tropical wood and rubber (tropical wood and wood products, natural rubber and rubber products; and (g) jute and hard fibres.

78. On the other hand Member States of the AEC show high propensity to import from the industrialised countries temperate agricultural food items such as cereals, dairy products, meat and edible oils.

79. In order to give an idea of the extent of specific contractual commitments undertaken by the Member States of the AEC, which are Contracting Parties to the GATT a review is made here of the tariff offers that were tabled and concluded in the name of three countries. These offers like those of other Contracting Parties that participated in the Round, as concluded, are annexed to the Final Act of Uruguay Round. At this point, it is important to underscore the fact that to have participated in the Round, it was conditional and imperative for an interested country to table, at least, a minimum tariff cut on at least one product of import interest to it.

80. It is important to report here that as of 27 September 1994, according to the records at the GATT Secretariat at least 33 Member States of the African Economic Community did sign the Final Act of Marrakesh. (Please see Annex I which illustrates the "State of Play of African Countries in the World Trading Organisation Process" in terms of scheduled commitments on Goods and Services, the signing of the Final Act of Marrakesh and the State of Ratifications for the World Trading Organisation. To be concise, therefore only the tariff cuts offered by the following countries are reviewed as follows: Egypt, Ghana, Tanzania. (This review has been extremely limited to only three countries simply due to lack of time. The fact that it is not representative of the 33 country offers is deeply regreted).

5. Specific Country offers in the Uruguay Round

81. Egypt; the schedule LXII dated 15 April 1994 which is annexed to the Final Act of Marrakesh covers only some of the items listed below. An attempt is made to point out the percentage tariff cuts introduced and concluded in the negotiations. These items fall under the Most Favoured-Nation Tariff.

Agricultural Products

82. Live Animals the base tariff rate for the various sub-items of the tariff number that were cut to the bound-rate of-duty ranged between 5% to 20%. Meat and Edible Meat offal also ranged between 5% to 20%. It was only in the case of Meat of bovine animals, fresh or chilled was the bound-rate higher than the base-rate by 5% i.e. 25%.

83. Other products whose tariffs were cut to bound rates of-duty similar to the range stated above included Fish and Crustaceans; Dairy Products, Edible Products of animal origin, Products of Animal origin; Edible vegetables, Roots and Tubers, Edible Fruits, Coffee, Tea, and Spices, Cereals; Malt and Starches, Oil Seeds; Industrial or Medical Plants; Animal or Vegetable Fats. Preparations of Meat, of Fish; Sugars, and Sugar Confectionary, Cocoa and Cocoa Preparations; Preparations of Cereals, Flour, Starch or Milk; Pastries; Preparations of Vegetables, Fruit; Nuts; Beverages, Spirits and Vinegar; Tobacco and Manufactured tobacco Substitutes.

84. Regarding these Agricultural items, Egypt committed itself to implement the reductions during a 10 years' period, effective from the date of entry into force of the WTO. On the other hand Egypt had no offers on tariff quotas.

Other Products (Mainly Industrial)

85. In Section II under Other Products tariffs whose base-rates were originally un-bound were now bound upwards in some cases, up to 30%. These products are mainly industrial in nature. A few examples are: Salt, Sulphur, Earths and Stone, Plastering Material, Lime and Cement; Iron Ores; Mineral fuels, Mineral Oils, and Products of their distillation, bituminous substances etc; Inorganic Chemicals; Organic or inorganic compounds of precious Metals, rare earth metals; Radio-active elements; Organic Chemicals; Pharmaceutical Products; Fertilizers; Perfumery, Cosmetic or toilet preparations. Soap, Washing Preparations, Lubricating Preparations, Candles and Dental Preparations; Explosives and Matches range from unbound rates-of-duty to as much as 60%.

86. Others are Raw hides Skins and Leather which are bound at 20% Cinematographic goods, Chemical Products; Plastics and Articles thereof; Rubber and Articles thereof, Pulp of Wood, paper and paper board, Printed books, Newspapers, Silk, Wool and Woven Fabric; Carpets were bound at 60% while knitted or crocheted Fabrics were bound to 30%; Articles of Stones, Plaster, Cement, Asbestors bound between 40% and 60%. Ceramic Products ranged from bound duty-rates of 15% to 50% or even 60%.

87. Iron and Steel and Articles thereof from unbound or 2% duty rates upto about 50 or 60%; Copper and Articles thereof range from 2% to 50 or 60%.

88. Electrical Machinery, and Equipment and parts thereof, Reproducers and Television Image and sound recorders which were originally 2% were Bound at 2% except in the case of a few items where these were bound at 60%. Railway or tramway locomotives, rolling-stock and Parts thereof were bound at rather slight modest rates of 5% or 20%. Whereas Vehicles other than Railway or tramway rolling stock which were with hitherto were unbound were bound to rates ranging between 20% and 100% or even as much as 160% in the case of some sub-items. For example bicycles were bound at 60%.

89. Other major products whose rates of duty were bound at between 10% and 60% are Ships and boats, Musical instruments whose rates were hitherto unbound were now bound at 40%; Featherbeddings and Mattresses, Lamps, illuminated Maps and prefabricated building ranged between 30% to 60%. Toys, games and Sports accessories were bound at rates between 20% and 60%.

90. Egypt offered no Preferential Tariffs, rates but committed itself to eliminate most of the tariffs on the items tabled by 1st January 1998 or by the year 2003.

91. In respect of non-textile industrial items, tariff reductions that start on a base-rate of 10% and above, the final offered rate will be implemented over five years; in five equal stage with effect from the date in 1995 that the World Trade Organization Agreement enters into force. Until the end of the 5 years period, the base rate, (offer rate + ten percentage points) will be bound at the specified levels of reduction.

92. For textile items, tariff reductions starting on a base of 30 percentage points above the final offer's rate - will be implemented over a 10 years period, in 10 equal Stages, with effect from the date of entry into force of the WTO Agreement. Until the end of the 10 years period, the base rate (the offer rate + thirty percentage points) will be bound at the specified levels of reduction.

93. Furthermore within Egypt's rights and obligations under the GATT, Egypt has undertaken to remove its conditional prohibition on the importation of fabrics not later than, 1st January 1998; and on Apparel and Make-ups, not later than 1st January 2002.

94. Regarding Agricultural items Egypt will implement the reductions during 10 years period effective the date of entry force WTO.

GHANA

95. Unlike Egypt, Ghana's offers were not as extensive as we earlier observed. Under the Most-Favoured-Nation Tariff (MFN) Preference scheme, the Agricultural Products, annexed to the Uruguay Round Agreement as Schedule CXI with a few exceptions, have had reduced duties from the base-rate-of-duty of 125% to a bound rate of 99%. This is to be implemented over a period of 1995-2004. The other agricultural products, listed as exceptions, have their bound-rates-of-duty varying between 40% and 45% to be implemented by 1995, (i.e. as soon as the new GATT Agreement comes into force).

96. Some of these exceptional products are: Live Fowls, and live poultry; Bird's eggs for hatching; Milk and Concentrates, Green tea, Black tea, Malt, Maize, oil-cake from extraction of Cotton seed. etc.

97. Under other Products also within the MFN, which are mainly industrial in nature or character, it is noted that the duties have been bound at rates between 30% to 40% with only a few ranging up to 50%. Some the items listed are: Animal and Vegetable fertilizers, Amonium nitrate, Amonium sulphate, superphosphates, Polassium Chloride, Mineral or Chemical Fertilisers. Others are newsprint, printed books, dictionaries and encyclopadias; jute yarn, ploughs, harrows, machinery for preparation of animal feeding stuffs.

98. Other aspects of Ghana's offer cover Measures Exempt from the Reduction Commitments. These relate to the Greenbox measures such as Agricultural Research and Extension Services, Verterinary Services applied to Beef and production, Fisheries and Crop services as well as plant protection.

SERVICES

99. In the Services sector, areas that Ghana offered to liberalise in order to conform to the demands of the General Agreement on Services (GATs) included Tourism, Education Construction etc...

100. In the other areas of the Services sector such as Life, Accident and Health Insurance Services, except in the case of personal effects, every insurance effected in respect of any goods imported into Ghana shall be placed with an insurer registered in Ghana. Furthermore in respect of limitations put on foreign access to the Ghanaian market, it is required that at least 20 per cent of the capital or other proprietary interest in the said business must be owned by the Government of Ghana, and at least 40 per cent of capital or proprietary interest must be owned by Ghanaian national(s).

TANZANIA

101. Within Schedule CXXIV concluded by Tanzania and annexed to the Uruguay Round Agreement an attempt was made by this country, in its initial offer to bind tariffs of other duties and charges at a ceiling of 120% of duty applicable in 1995 to all items that were included in Annex I of the Agreement on Agriculture. This falls under the MFN Tariff. However this offer was subsequently amended by the time that the Uruguay Round was concluded.

102. As its initial offer, Tanzania had fixed, under the MFN Section II covering Other Products, the bound rate of duty for such items at not less than 120%. The other duties and charges were concluded in the listed products in their schedule as follows :

- i) Silk fabric 84 per cent;
- ii) Woven fabric of coarse animal hair 84 per cent;
- iii) Dummies and other lay figures 58 per cent.

Part III : THE ABUJA TREATY : COMMITMENTS OF SIGNATORY STATES

103. Africa has had its share of the trend of regionalism as a wave of economic integration and disintegration. As earlier pointed out in this paper there have been various regional economic groupings in Africa during the pre-independence era and subsequently after independence. These groupings and regroupings have (LPA) continued until the adoption of the Lagos Plan of Action and the Final Act of Lagos (FAL) by the Heads of State and Government of the OAU in 1980.

104. In this paper we wish to limit the review of the integration schemes in Africa to the period spanning from 1975 with the establishment of the Economic Community of West African States (ECOWAS), the establishment of the Preferential Trade Area for Eastern and Southern African States (PTA) in 1982 and now evolved into the Common Market of Eastern and Southern African States (COMESA) in 1994; the establishment of the Economic Community of Central African States (ECCAS) in 1985 and the establishment of the Arab Maghreb Union in 1989 and the transformation in 1992 of the (former) Southern African Development Coordination Conference (SADCC) into the Southern African Development Community (SADC).

105. By the decision of the Heads of State and Government of the OAU the Regional Economic Communities (RECs) listed above would constitute the building blocs of the African Economic Community.

106. It is to be recalled that the Final Act of Lagos committed Member States of the OAU to set up regional structures and strengthen those already in existence in order to eventually establish an African Common Market as a first step towards the creation of an African Economic Community. In that regard the FAL called for a number of actions to be undertaken in the 1980s and the 1990s respectively.

107. In the 1980's African Governments agreed, inter alia, to strengthen the existing regional economic communities and establish other economic groupings in the other regions of Africa, so as to cover the continent as a whole, (Central Africa, Eastern Africa, Southern Africa, Northern Africa).

108. During the decade of the 1990s African governments were to, inter alia, take steps for further sectoral integration and to effect the establishment of an African Common Market and other measures that would lead to the attainment of the aims and objectives of the African Economic Community.

109. When the Abuja Treaty was signed on 3 June 1993, after a long period of consultation and negotiation the historical step was taken by the African Governments to establish an African Economic Community.

I. The Abuja Time-frame for the establishment of the African Economic Community

110. Article 6 of the Treaty provides for the modalities and the time-frame for the establishment of the African Economic Community. It is stipulated that the AEC would be established in six (6) stages of variable duration over a transitional period not exceeding thirty-four (34) years.

111. In principle, therefore, with effect from 12 May 1994 the time-frame can be sketched and various activities assigned for concurrent implementation in the following stages:

(i) First Stage: 1994 - 1999 (STRENGTHEN RECS)

112. During this stage, which is expected to last for five years, Member States of the African Economic Community have undertaken to strengthen existing regional economic communities (RECS). They are to establish in any of the regions in Africa new communities where they do not already exist.

(ii) Second Stage: 1999 - 2007 (SECTORAL INTEGRATION)

113. Upon the entry into the second stage of the economic integration process of Africa, each of the regional economic communities will be expected within eight years to stabilise tariff barriers and non-tariff barriers, customs duties and internal taxes existing as of 12 May 1994 when the Treaty entered into force. During this stage, studies are to be carried out with a view to determining a schedule for the gradual elimination of those tariffs and non-tariff barriers to regional and intra-African Economic Community trade. Steps are also to be taken to gradually harmonise customs duties of Member States in the RECS in relation to non-Members of given RECS i.e. of non-Members of PTA or non-Members of ECOWAS, as the case might be.

114. Simultaneously, Member States of the African regional economic communities are to intensify activities aimed at strengthening sectoral integration at both regional and continental African levels. Sectoral activities are to be undertaken in the fields of trade, agriculture, industry, money and finance, transport and communications and energy.

115. The third level of activity during the second stage is to coordinate and harmonise activities among existing and future African regional economic communities.

(iii) Third stage: 2007 - 2017 (FREE TRADE AREA & CUSTOMS UNION)

116. Once the conditions have been fulfilled for the entry into force of the third stage, which is expected to last for ten years, Member States of the African Economic Community are expected, at the levels of their respective regional economic communities to establish Free Trade Areas through the observance of a time-table for the gradual removal

of tariffs and non-tariff barriers which discourage intra-community trade. They have also undertaken to establish Customs Unions at their respective regional economic communities, by the adoption of a Common External Tariff enforceable against products and services of countries not participating in their REC.

(iv) Fourth Stage: 2017 - 2019 (INTER-REC COORDINATION FOR CONTINENTAL CUSTOMS UNION)

117. During the fourth stage, lasting for only two years, Member States are to be assisted to coordinate and harmonise tariff and non-tariff systems among the various regional economic communities so as to establish an African continent-wide Customs Union. This implies the adoption of an African Economic Community's Single Common External Tariff against goods and services of countries not participating in the African Economic Community (Third countries).

(v) Fifth Stage : 2019 - 2023 (CONTINENTAL AFRICAN COMMON MARKET)

118. Within four years after the attainment of the fifth stage, Member States of the African Economic Community, undertake to establish an African Common Market. In this connection they would harmonise their activities so as to adopt and implement a common policy in such areas as agriculture, transport and communications, industry, energy and scientific research. They would also harmonise their policies in monetary, financial and fiscal policies. They would apply the principle of the free movement of persons, their right of residence and establishment within the territories of the African Economic Community.

(vi) Sixth Stage: 2023 - 2028 (AFRICAN ECONOMIC COMMUNITY)

119. During the five years of the sixth stage, Member States of the African Economic Community would ensure the:

- (a) consolidation and strengthening of the structure of the African Common Market through, inter alia, the free movement of persons, right of residence and establishment; the free movement of goods, capital and services;
- b) integration of all the sectors of human activity such as economic, political, social and cultural;
- c) establishment of a single domestic market of Africa;
- d) establishment of a Pan-African Economic and Monetary Union;
- e) establishment of a single African Central Bank
- f) creation of a single African Currency;
- g) Setting up of the Pan-African Parliament and election of its members by a system of continental universal suffrage;
- h) setting up African multi-national enterprises in all sectors;
- i) setting up structures of the executive organs of the African Economic Community.

Abuja Commitments in the Areas of Trade and Customs

120. Transport and Communications infrastructure are a sine-qua-none in the realisation of any regional economic integration venture. Its overriding importance in the economic integration of Africa cannot be over-emphasized. However apart from that sector and assuming that goods and services would be generated in the regional economic integration system being created, the motor of the process would be the implementation of the commitments undertaken by Member States in the Trade and Customs Sector of the Abuja Treaty.

121. The trade and customs undertakings and commitments of Member States in the light of the Abuja Treaty are essentially covered under Chapter V. Like in all Trade Agreements the Abuja Treaty is anchored on the Most Favoured Nation treatment (MFN) under its Article 37 whereby Member States of the AEC have undertaken to accord to one another in relation to intra-AEC trade, the most-favoured-nation treatment. In this regard it is stipulated that in no circumstance should tariff concessions granted to a third state (non-AEC country) in another Agreement be more favourable than the terms of the Abuja Treaty. Furthermore Article 37(3) stipulates that no agreement between a Member State and a third state (non-AEC country) under which tariff concessions are granted, should be incompatible with the obligations arising from the Abuja Treaty.

122. Against the background of the MFN clause the African Economic Community is to evolve a continental African Customs Union through a system of intra-Community trade liberalisation. To that end Article 33 provides that, at the end of the third stage in the trade liberalisation process of the AEC, no Member State of any of the African regional economic communities would impose customs duties on goods originating in one Member State and imported into another Member State. They are to refrain from similar acts in respect of goods originating from third states (non-AEC countries) which would be in free circulation in Member States and are imported from one Member State into another.

123. Meanwhile however during the second stage and in accordance with Article 30 of the Abuja Treaty, Member States of each regional economic community should refrain from imposing upon themselves new customs duties and to desist from increasing duties on goods and services that enter into their mutual trade. Simultaneously during the third stage, Member States of the RECs should progressively reduce and eliminate totally among themselves, customs duties in accordance with such programme and modalities to be adopted by the policy organs of each REC.

124. Article 31 of the Abuja Treaty requires each Member State of any African regional economic community to progressively relax and ultimately remove quota restrictions, and all other non-tariff barriers and prohibitions which apply to exports to that State, of goods originating in the other Member States.

Article 31(a) provides that each REC should adopt a programme for the progressive relaxation and ultimate elimination, at least by the end of the third stage, of all quota restrictions and prohibitions and all other non-tariff barriers that apply in a Member State, to imports originating in other Member States.

125. Article 29 provides for Member States of each REC to progressively establish among themselves a Customs Union through the elimination, at the level of each REC, of customs duties, quota restrictions, prohibitions, administrative trade barriers as well as all other non-tariff barriers and to adopt for implementation at the level of each individual REC a Common External Customs Tariff (CET), towards third states (non-members of each given REC). In effect until the integration of each of the Customs Union of the various RECS into an African Continental Customs Union, the goods and services of a Member State of (ECOWAS) could end up being treated in the P.T.A./COMESA market like goods and services from Europe and America.

Trade and Customs Commitments in the RECs of the African Economic Community

ECOWAS

126. The Trade and Customs commitments of Member States of ECOWAS, concurrently signatories to the Abuja Treaty establishing the African Economic Community derive from Article 12 of the ECOWAS Treaty which stipulates that within the transitional period of fifteen years from the definitive entry into force of the Treaty, effective 28 May 1979, Member States should have progressively established a Customs Union. The first two years of that process was to be declared a standstill (consolidation) period during which Member States were not obliged to reduce or eliminate import duties.

127. In order to achieve the ECOWAS Customs Union, Article 13(c) calls on all Member States to progressively reduce and ultimately eliminate import duties in accordance with a schedule to be established. Article 14 envisages the gradual establishment of a common customs external tariff in respect of goods from non-ECOWAS countries.

128. Subsequently in order to operationalise the above, the Decision A/DEC.1/5/83 of the ECOWAS Summit relating to the and implementation of a SINGLE TRADE LIBERALISATION SCHEME FOR INDUSTRIAL PRODUCTS originating from Member States of the Community was adopted. The other commitments of the ECOWAS Member States in terms of their internal inter-State trade liberalisation are contained in the following decisions:

- (i) Decision adopted in June 1978 of the ECOWAS Authority to grant an across-the-board, zero-tariff elimination on the flow of trade in agricultural products and handicrafts;

- (ii) Decison C/Dec.6/12/88 relating to the list of Industrial Enterprises and Products Eligible to benefit from the Trade Liberalisation Scheme of ECOWAS Member States; and
- (iii) Decision A/Dec. 6/6/89 which amended Decison A/Dec. 1/5/83 as the effective implementation date of the trade liberalisation scheme for industrial products originating from Member States of ECOWAS.

129. The ECOWAS Trade Liberalisation Scheme for industrial products which was launched effective 1st January 1990 established 10% annual reduction of tariffs for Group I countries (low income) over a period of 10 years. The rate of 12.5% annual reduction was adopted for Group II countries (middle-income) and 16-20% annual reduction for over a period of 6 years for the Group III countries (high income).

130. On the other hand un-processed products such as live animals and beaf, fish, vegetables and roots (yam/cassava), etc, were totally exempt from customs duties. The same total exemption from customs duties is enjoyed by handicrafts etc.

PTA/COMESA

131. The commitments undertaken by Member States of the PTA/COMESA in the Trade and Customs sector which ensure market access to themselves within their region are stipulated, inter-alia, in Articles 13(3) and 16(2) of the PTA Treaty. Subsequent programme of trade liberalisation adopted by the PTA Council of Ministers provide for the progressive reduction and eventual elimination of customs duties and non-tariff barriers to intra-PTA trade within ten years from the entry into force of the Treaty (September 1982). It was, therefore expected that by September 1992, tariff and non-tariff barriers to intra-PTA trade should have been fully eliminated.

132. In December 1984 the PTA Council approved a formula by which customs duties and other charges of equivalent effect would be reduced to zero by 1992. In July 1985 the Council adopted a programme for the relaxation and elimination of non-tariff barriers effective January 1986.

133. Consequently PTA Member States committed themselves, to progressively reduce tariffs and other charges of equivalent effect, after the initial tariff cuts, by applying 10% every two years starting from October 1988 until 1996. Thereafter, it was agreed, 20% would be reduced in 1998 and 30% in the year 2000. This implies that by the year 2000, instead of September 1992, the PTA Member States would have attained zero percent tariff level and there should be no tariffs and other charges of equivalent effect on goods produced within the PTA. As at December 1992 the PTA had recorded an average reduction of about 60% in tariffs within the region for goods on the Common List. In respect of non-tariff barriers, the PTA Member States did abolish advance import deposits, tax on foreign exchange, quotas and prohibitions for intra-PTA trade.

134. It is important to mention here that on 5 November 1993, the Treaty establishing the Common Market of Eastern and Southern African States (COMESA) was signed. The required number of ratifications have been secured and have the Treaty has now entered into force. The COMESA would provide a market protected within a common regional external tariff and provide opportunities and incentives for foreign, domestic and cross-border investments. Trade will be conducted under a customs union and accordingly all barriers to trade would be eliminated and a common external tariff would be established and enforced against products of non-COMESA origin.

SADC/SACU

135. In September 1992 the countries of the (former) Southern African Development Coordination Conference (SADCC) signed a Treaty to transform SADCC into what is now Southern African Development Community (SADC). Until the SADC Treaty develops its Protocols, and for the purpose of this study, one would need to concentrate on the fact that since the membership of the PTA overlaps with that of SADC,^{1/} the PTA/COMESA trade liberalisation scheme will legally remain in force. There are 5 Member States of SADC which belong to SACU namely Botswana, Lesotho, Swaziland, South Africa and Namibia. Eight of the SADC Member States are concurrently members of PTA/COMESA - namely Tanzania, Malawi, Zambia, Zimbabwe, Mozambique, Angola, Lesotho, Mauritius and Swaziland.

136. On the other hand, it must be fully borne in mind that, even though South Africa, signed the SADC Treaty in September 1994 but has not yet signed the Abuja Treaty establishing the African Economic Community, it is already linked up since 1910 to Botswana, Swaziland, Lesotho and Namibia in the SOUTH AFRICAN CUSTOMS UNION (SACU) Agreement. The terms of the SACU were even renegotiated in 1969 and are still in force. Under this Agreement the countries under reference have long ago instituted a Common External Tariff against non-SACU countries and established their own uniform excise and consumption taxes.

137. The SACU being a Customs Union, all tariff and non-tariff barriers have been eliminated in terms of intra-SACU trade. It must be noted that there exist a wide diversity in the tariff regimes in force.

138. Apart from the trade liberalisation schemes of PTA/COMESA and SACU, there exist in the region numerous bilateral trade Agreements involving tariff/non-tariff reduction on elimination which have also been entered into and which remain in force.

^{1/} The only exceptions are Botswana, Namibia and South Africa which belong to only SADC and not to PTA/COMESA.

139. In order to create an integrated regional market, in the light of the Abuja Treaty, it is recognised that some harmonization and rationalisation of tariff regimes and progressive elimination of tariff duties have to be addressed.

Arab Mahgreb Union (UMA)

140. The Declaration establishing the Arab Mahgreb Union (UMA) was signed on 17 February 1989 in Marrakash-Morocco. Member States are Tunisia, Algeria, Libya, Mauritania and Morocco ^{8/}. It is to be noted that Egypt and Sudan are not in UMA).

141. The objective of the UMA, inter-alia, is to create a Common Market for the north African region. To that end the Union Treaty provides for a process of progressive economic integration which would ensure the free movement of goods and services, persons and capital.

142. The draft agreements lay the ground-work for a Customs Union whose target is 1995 and the elimination of double taxation and guarantees for inter-Mahgreb investment.

143. The Union Treaty allows that any Member State could conclude bilateral Agreements among themselves or with other countries or grouping provided that those Agreements do not contravene the terms of the Mahgreb Union Treaty. The Union is open to all Arab and African countries that may wish to adhere to it.

144. Within the broad spectrum of the Mahgreb Union Agreement the following bilateral Agreements are in force in the region:

(i) Tunisia had signed in January 1981 a Trade and Customs Agreement with Algeria. This was amended by an additional Protocol signed on 17 May 1984; a similar Trade Agreement was signed between Tunisia and Mauritania on 12 July 1988. Another Trade and Customs Agreement was concluded between Tunisia and Libya on 30 December 1984. Tunisia maintains with Egypt a Trade Agreement which they signed on 8 December 1989.

(ii) Algeria has signed Trade and Customs Agreements with Mauritania, Libya and Egypt. These were signed on 12 November 1973, 1st January 1987 and 15 December 1991 respectively.

145. The Mahgreb Union envisaged the following stages of economic integration. Free Trade Area to be established before 1992. To this end the Trade and Customs Agreement signed in Ras Lanouf (Libya) on 10 March 1991 is aimed at

^{8/} Morocco is not signatory to Abuja Treaty; while Egypt being in North Africa is signatory to Abuja Treaty and yet it is not member of UMA.

implementing the first stage. In principle, the Customs Union of the Mahgreb should be established before the end of 1995 and the creation of the Mahgreb Common Market is envisaged before the end of the year 2000.

146. It is to be noted that beyond the Mahgreb region Tunisia maintains bilateral trade and tariff preferential Agreements with Guinea, Côte d'Ivoire, Benin, Cameroon, Senegal, Togo, Zaire, Nigeria, Niger, Mali, Liberia, Gabon and Ethiopia. Algeria has also concluded bilateral trade and preferential tariff Agreements with Niger, Mali and Senegal. On the other hand it has signed similar Agreements, with Angola, Benin, Cameroon, Congo, Côte d'Ivoire, Ethiopia, Gabon, Gambia, Ghana, Guinea, GuineaBissau, Burkina Fasso, Liberia, Madagascar, Mozambique, Nigeria, Uganda, Tanzania, Togo, Zaire, Zambia, Sao-Tome and Principe and Burundi.

ECCAS

147. The Economic Community of Central African States (ECCAS) was established in 1983. The objectives of the ECCAS in the Trade and Customs Sector is to establish a Customs Union through the elimination between their Member States of duties, quota restrictions, other restrictions and prohibitions as well as administrative trade barriers; and the adoption of a common external customs tariff.

148. The Customs Union objective is to be pursued in three stages, as follows :

Stage 1 : stabilization of fiscal and customs regimes existing at the date of entry into force of the Treaty and the adoption of a time-table for the progressive elimination of tariff and non-tariff barriers to intra-Community trade; setting a time-table for the raising or lowering of customs tariffs in Member States on specific goods with a view to establishing a common external tariff.

Stage 2 : creation of a free trade area (application of a time-table for the progressive elimination of tariff and non-tariff barriers to intra-Community trade);

Stage 3 : establishment of a Customs Union (adoption of a common external tariff).

149. The activities relating to the above were to be undertaken in a flexible and concurrent manner to last for not more than twenty years, from the entry into force of the Treaty.

150. As regards treatment of intra-Community trade, Article 30 stipulates that at the end of the second stage no Member State should levy customs duties on goods originating in one Member State and transferred to another Member State. The same treatment is to be enjoyed by goods from non-Member States which enter a given Member State and are in free circulation. The products originating from Member States are to be determined on the basis of the criteria established

151. As regards non-tariff barriers to intra-Community trade, each Member State is expected to progressively relax and ultimately remove, at least by the end of the second stage and in accordance with the relevant programme to be established, quota restrictions, other restrictions and prohibitions which apply to the transfer to a given state of goods originating in other Member States. The details of the operational provisions are covered in the Protocol on non-tariff barriers.

152. It must be pointed out that due to financial constraints being experienced by the Secretariat of ECCAS several of its activities have been on hold for several months. This issue may have to be addressed by this meeting.

PART IV: THE ABUJA TREATY AND THE URUGUAY ROUND AGREEMENT: IDENTIFICATION OF AREAS OF COMPLEMENTARITY AND CONFLICT.

The Most Favoured-Nation-Clause : the Foundations of the Uruguay Round and Abuja Treaty

153. As earlier pointed out in the introduction of this paper whereas the Final Act of Marrakesh Embodying the Results of the Uruguay Round of the Multilateral Trade Negotiations of GATT was signed on 15 April 1994, the Abuja Treaty establishing the African Economic Community came into force on 12 May 1994.

154. Both the Uruguay Round Agreement of GATT (1947 and 1994) seek to expand multilateral trade and are anchored on the Most Favoured Nation (MFN) clause as stipulated in Article 1 of GATT and Article 37 of the Abuja Treaty, respectively.

155. The MFN clause - which provides, inter-alia, that in any bilateral or multilateral trade Agreements, if any party to the said Agreement or Treaty should enter into another trade agreement with a third party, if the trade preferences accorded to this third party were more favourable than what was provided for in the first Agreement, the other party or parties involved in the first Agreement should automatically and, ipso-facto, be entitled to the new favourable conditions now accorded in the new Agreement.

156. The concept of the MFN clause which aims at non-discrimination of countries and not necessarily non-discrimination against their products; apparently has a least seven hundred years' history in trade Agreements. However its significance as a major innovation of GATT (1947) was that it incorporated unconditional MFN into a multilateral framework Agreement.

157. But for Article XXIV of the GATT (1947), which is now reformulated in the Uruguay Round Agreement on the one hand and the Enabling Clause which was adopted in the Tokyo Round of the MTN of GATT, the developing countries,

including Member States of the African Economic Community, would have been constrained from establishing regional economic integration schemes among themselves for mutual reduction and elimination of tariffs and non-tariff barriers among themselves.

158. The Enabling Clause of GATT, inter-alia, provides that Regional Economic Integration Schemes (i.e. Free Trade Areas and Customs Unions):

- (i) shall be designed to facilitate and promote the trade of developing countries and not raise barriers to or create undue difficulties for the trade of any other contracting parties;
- (ii) shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis;
- (iii) shall, in the case of such treatment accorded to developing contracting parties, be designed and, if necessary, modified, to respond positively to the development, financial and trade needs of developing countries.

The objective of GATT/Uruguay Round Agreement vis-à-vis those of the Abuja Treaty

159. In the light of the above, when one compares and contrasts the objectives of GATT and the Abuja Treaty respectively, one observes that:

- (i) The GATT's objective, inter-alia, as provided for in the preamble to the Agreement are "the raising of income, ensuring full employment, developing the full use of resources, and increasing the production and exchange of goods; the means to attain these objectives are the LIBERALISATION OF TRADE AND ELIMINATION OF DISCRIMINATION"
- (ii) The objectives of the African Economic Community as enunciated in Article 4 of the Abuja Treaty is, inter-alia, to promote economic, social and cultural development and the integration of African economies in order to achieve an endogenous and self-sufficient development; create a system at the African continental level, to facilitate the mobilisation and utilisation of human and material resources; promote inter-state cooperation in all fields of human activities in order to raise the standard of living of the African people. These are to be achieved through, inter-alia, the LIBERALISATION OF TRADE BY THE ELIMINATION OF IMPORT TARIFFS AND ABOLITION OF NON-TARIFF BARRIERS AMONG THE MEMBER STATES in order to create a Free Trade Area at each regional level; promote joint investment projects in the areas of production and the trade of these products; harmonise national sectoral policies in order to create eventually an African Common Market.

160. In the light of the foregoing the Member States of the African Economic Community are fully covered by the provisions of the GATT Agreement (1947) and GATT (1994) of the Uruguay Round of MTN in particular by the provisions of the "Understanding on the Interpretation of Article XXIV on Free Trade Areas and Customs Unions."

161. In order, therefore, for the African Economic Community to enjoy the status of a Customs territory in the terms of the GATT it would have to fulfill certain basic conditions in order to be exempted from the full force of the Law, obliging it to implement the MFN undertakings that its Member States, contracting parties to the GATT have signed.

Conditions for Member States of the AEC to be Exempt from MFN of GATT

162. Bearing in mind the time-frame and the economic integration stages for the establishment of the African Economic Community, to be exempt from the full force of the MFN of GATT on the basis of derogation, it would be necessary during the first stages of the AEC, for the Member States of the African Regional Economic Communities (RECS) to fulfill certain conditions first. The conditions include:

- (i) the evolution of existing RECS into Free Trade Areas; then to Customs Unions (See Abuja Treaty's Third Stage to be attained 'theoretically' during the years 2007 - 2017).
- (ii) the further evolution of the Customs Unions of the RECS into the African Continental Customs Union with a single Common External Tariff (CET) against goods and services of non-AEC countries (See Abuja Treaty's Fourth Stage in the Economic integration process of Africa).
- (iii) that 'theoretically' those two conditions would be fulfilled between the years 2017 - 2019. Strictly speaking it would be at those advanced stages in the evolution of the African economic integration process that the major and likely CLASHES AND CONFLICTUAL COMMITMENTS between the African Economic Community system and the multilateral trading system formulated under the Uruguay Round would begin to emerge. For, at those two critical stages the question of which tariff liberalisation commitments undertaken at the level at the GATT/WTO or in the Abuja scheme would then come to hold pre-eminence over the other. Because, while the AEC is evolving into Free Trade Areas and Customs Unions at the level of the RECs and into a continental Customs Union, Member States of the AEC which are concurrently Contracting Parties to the GATT have to, simultaneously, proceed with tariff reduction and elimination as committed to under the Uruguay Round. It is within

this context that the time-frame for the tariff liberalization adopted within the GATT/WTO becomes an issue. Furthermore the Dispute Settlement Mechanism would become most useful for consultation on and resolution of potential and actual trade disputes between the AEC and the WTO.

- (iv) Once the Customs Union Stage is attained the GATT has to be officially notified so that the countries could be dealt with and treated as a specific customs territory, in its own right. In this connection the need for the OAU/AEC to be admitted as Observer into the meetings of the policy organs of the World Trading Organization cannot be over-emphasised. (Meanwhile the WTO should be notified by the OAU/AEC Secretariat about the Abuja Treaty so that it can be listed at least as an Interim Customs Union Agreement).

Possible Impact of the Uruguay Round commitments on the Implementation of the Abuja Treaty

163. The long-term impact of the Uruguay Round is that while the African Economic Community is trying to evolve a Customs Union by erecting eventually 'a Common External Tariff wall to protect the future nascent African Common Market, the Uruguay Round commitments require Member States of the AEC, contracting parties to the Uruguay Round Final Act to reduce their tariff barriers in-tandem with their commitments under the Abuja Treaty.

164. A quick reference to the cases of bound tariffs and tariff cuts examined in Part II of this paper points to that fact, at least in the area of agricultural products. Under other products, which are mainly industrial inputs and industrial products, one notes that countries of the African Economic Community being aware of the need to protect their markets have made only token commitments which would enable them to enter the new emerging trading system of the WTO.

165. In the article published under the title "How to avoid losing GATT Rights through Regional Integration Agreements (RIA)", it is stated, inter-alia, that RIAs undermine the basic aims of the multilateral trade order only by adding preferential market access to the market access rights accorded multilaterally. The view of this paper is that it could be argued that the reverse is true. In this respect it is the multilateral market access commitments granted, if not very carefully weighed and their impact analysed in advance, that could result in undermining the regional market access commitments mutually granted within the African regional economic communities and eventually in respect of the African Continental Customs Union/Common Market.

166. On domestic support and export subsidies, it is noted that commitments have been made in the Final Act of the Uruguay Round for food aid, basic food-stuffs, to be assured access to the markets of Member States of the AEC, from industrialised countries, ostensibly to guarantee and protect the netfood importing countries from feared-spiralling import food prices. It must be stated that sometimes such commitments tend to be inimical to the interests of the indigenous local industry as subsidised food items cripple the remunerative economic activities of the domestic economic operators. In Mali, for example, it has been noted in the recent past that the dumping of subsidised meat from the European Union adversely affected the indigenous livestock industry. These in effect are sign-posts of concern on the likely impact, on the future implementation of the Abuja Treaty, of such commitments entered into within the context of the Uruguay Round. In this regard the AEC should endeavour to protect the indigenous production base.

167. On new issues like Trade-Related-Intellectual-Property Rights (TRIPs) one notes that this is a new commitment beyond the scope of the Abuja Treaty and certainly, it is not meant to promote the protection of indigenous African innovation but the reverse is the case. Its full operation may unduly increase the payment of royalties which would result in the increase in the consumer price of domestic products generated from imported technology - be they scientific inventions or are bio-technological in nature.

168. In the light of the attention drawn to the likely erosion of preferences both within the contexts of the Generalised System of Preferences (GSP) and the ACP-EU Lome Convention, it is strongly believed that the time has now come, for the AEC to capture the opportunity to stimulate the DIVERSIFICATION of the economies of its Member States, through market and product diversification. With the scope to be provided in the eventual Customs Unions/Common market of the AEC it should be necessary to press for more processing of African commodities into manufactures. This will, hopefully, diversify Africa's over-concentration on primary commodities, to manufactured goods which currently account for less than one-fifth of Africa's merchandise exports.

169. In this regard in order to consolidate whatever has been gained in terms macro-economic reforms of the economic structural adjustment programmes currently being undertaken by almost all Member States of the African Economic Community and to further enhance the competitiveness of goods and services to be produced in the AEC, deliberate efforts have to be made to attract Foreign Direct Investment and the required technology.

170. With the above in mind one may wish to assess the impact on the AEC of the Trade-Related Investment Measures (TRIMS). Accordingly Member States of the AEC, while required by the Uruguay Round Commitments to adapt their national

investment codes to conform, these adaptations must also take into account commitments undertaken in the African regional economic communities (RECS) and the AEC Treaty under their respective Protocols on the criteria for Rules of Origin that the AEC Member States must fulfill for their goods and services to eventually enjoy the AEC preferences within the AEC Customs Union.

171. The General Agreement on Trade in Services (GATTs), as concluded in the Uruguay Round is equally anchored on the MFN principle and, inter-alia, calls for the progressive liberalisation in the services sector through successive rounds of negotiations and the development of national schedules.

172. This is an Area which does not depart too much from the various services sector undertakings of the Abuja Treaty. But here again the approach is different. Whereas in the AEC, the system envisaged is to develop an autonomous and self-sufficient export services sector, the Uruguay Round commitments seek to multilateralise these; be it banking and financial services, maritime/airline services or telecommunication services.

173. In these areas the AEC would do well in approaching such multilateral services sectors as a negotiating block to be able to bargain favourable terms on the global market. In this particular case the status of Member States of the AEC in the maritime transport sector vis-à-vis the Liner Conferences should be cited as a case in point.

Newest issues

174. The AEC should almost immediately develop a work programme, in concert with UNECA, UNCTAD, GATT, ITC and the relevant U.N. technical agencies and institutions, on the newest issues as listed in Part II of this paper that now constitute the Agenda of the World Trading Organization. This is urgent as we have seen that some of the recent regional trade/economic arrangements, like the APEC and the Trans-Atlantic Agenda, have all slated the new issues in their various Agenda and have committed themselves to formulate their positions.

PART V: CONCLUSION AND RECOMMENDATIONS

175. In view of the multi-facted ramifications and impact that the Uruguay Round Agreement are likely to have on the implementation of the Abuja Treaty establishing the African Economic Community, in particular bearing in mind the conflictual time-frames for tariff liberalisation, as discussed above; and given the fact that Regionalism has always characterised international trade and that the current wave is likely to continue long into the twenty-first century within the contexts of the Uruguay Round, its WTO and the Abuja Treaty this paper wishes to make a few recommendations :

- (i) The World Trade Organization, while taking cognizance of Regionalism as a major factor in the World Trading System should devise a mechanism that would ensure that regional trade economic groupings complement the multilateral system of the Uruguay Round trading environment - in this connection the interests of the regional groupings should be safeguarded while possible transforming 'inward looking stumbling blocs' into 'building blocs'; (accordingly the WTO should improve the functioning of the Working Party process as it obtains now).
- (ii) Article XXIV of GATT should be revisited and the interests of African regional groups re-negotiated in order to safeguard them when the African RECs are to attain their regional customs union stages and subsequently the continental African Customs Union stage, respectively, as envisaged in the Abuja Treaty establishing the African Economic Community; (in that connection not only should the Abuja Treaty be notified to the WTO initially as an Interim Customs Union Agreement but also the other Treaties of the RECs should be notified);
- (iii) the OAU/AEC Secretariat to apply to GATT/WTO for Observer status within the required fora in order to safeguard the interests of the Member States of the AEC, as this is long over-due when one refers to the list of organizations/institutions that have Observer Status with the WTO, as annexed to this paper based on the latest records of the WTO;
- (iv) The WTO should establish a Common Forum, within its system for the examination of all individual regional trade/integration Agreements; hold special sessions of its members in order to provide periodic structured debates based on a calendar of biennial reports to be submitted by members of regional Agreements in order to ensure a harmonious and complementary interaction between and among all regional Integration Initiatives and the new World Trading System; this would not only guarantee improvement in the ex-post surveillance of Agreements, but would also reveal the simultaneous status of most WTO members as both parties to regional integration Agreements and being third countries to other Agreements;
- (v) The joint OAU/ECA Secretariat should, in collaboration with UNCTAD, GATT, ITC and other relevant institutions implement the Framework Action Programme on the Uruguay Round adopted by the African Ministers at the International Conference on Uruguay Round and its implications held in Tunis, Tunisia in October 1994;

(vi) to that end seminars should be organised to target African business communities, economic operators, in particular small and medium-scale entrepreneurs (SMEs) and civil servants in order to :

- ensure a better understanding of the substance and the complexity of the numerous Agreements that constitute the Uruguay Round package so that their entrepreneurial activities would help their countries to maximise benefits take advantage of opportunities if any, and minimize the negative effects;
- vigorously continue to assist African countries to identify and strengthen national capacity requirements for the implementation of the Uruguay Round Agreement and the Abuja Treaty;
- develop a consultation mechanism between the OAU/AEC Secretariat and African regional Economic Communities, respectively and collectively so as to monitor the impact and recommend solutions whenever there should occur conflictual trends in the implementation of the Abuja Treaty vis-à-vis the Uruguay Round Agreements. In this connection the Consultation Mechanism envisaged in the Protocol on the Relations between the AEC and its RECS should be put in place as soon as possible in order to deal with this issue at regional and sub-regional levels, among others;
- advise Member States on the adaptation of their national legislations to conform not only to the provisions of the Abuja Treaty but concurrently with the Uruguay Round Agreement;
- undertake a comprehensive study on the implications of the Uruguay Round on land-locked semi-landlocked and island African countries with special emphasis on the erosion of their preference margins in the Round.
- organise advisory missions and training programmes on marketing and procedures for accession to the GATT/WTO;
- similarly assist Member States of the AEC, to acquire the know-how on the use of the Dispute Settlement Mechanism;
- develop adequate trade information networks and trade-points at the subregional/regional and continental levels;

(vii) OAU/AEC Secretariat should develop working contacts with existing, especially the newly-created, regional economic groupings in other parts of the World especially the North-American Free Trade Area (NAFTA)

MEMBER STATES OF THE OAU/AEC WHICH ARE MEMBER
STATES OF THE WORLD TRADE ORGANIZATION
(as at October 1995)

1. Botswana
2. Burkina Faso
3. Central African Republic
4. Cote d'Ivoire
5. Djibouti
6. Egypt (signed Abuja Treaty but does not belong any of the
RECs constituting the building blocs of the AEC)
7. Gabon
8. Ghana
9. Guinea Bissau
10. Kenya
11. Lesotho
12. Malawi
13. Mali
14. Mauritania
15. Mauritius
16. Namibia
17. Nigeria
18. Senegal
19. Sierra Leone
20. South Africa (not yet signed the Abuja Treaty but is a
member of SADC)
21. Swaziland
22. Tanzania
23. Togo
24. Tunisia
25. Uganda
26. Zambia
27. Zimbabwe

OAU/AEC GATT MEMBERS WHICH ARE NOT YET WTO MEMBERS

1. Angola
2. Benin
3. Burundi
4. Cameroon
5. Chad
6. Congo
7. Gambia
8. Guinea
9. Madagascar
10. Mozambique
11. Niger
12. Rwanda
13. Zaire

OAU/AEC MEMBERS WITH ACCESSION APPLICATIONS
PENDING AT THE WTO

1. Algeria
2. Seychelles
3. Sudan

OAU/AEC MEMBER OF GATT LISTED INACTIVE MEMBERS
(Situation as at 15 September 1995)

1. Burundi
2. Cameroon
3. Central African Republic
4. Chad
5. Congo
6. Gambia
7. Ghana
8. Kenya
9. Madagascar
10. Mauritania
11. Niger
12. Rwanda
13. Sierra Leone
14. Togo
15. Uganda
16. Zaire
17. Zambia

INTERNATIONAL ORGANIZATIONS HAVING OBSERVER
STATUS IN GATT

(As at 1 November, 1995)

1. United Nations
2. UN bodies and specialised agencies :
 - i) Economic Commission for Africa (ECA)
 - ii) Economic Commission for Europe (ECE)
 - iii) Economic Commission for Latin America and the Caribbean (ECLAC)
 - iv) Economic and Social Commission for Asia and the Pacific (ESCAP)
 - v) Food and Agriculture Organization (FAO)
 - vi) International Monetary Fund (IMF)
 - vii) United Nations Conference on Trade and Development (UNCTAD).
 - viii) World Bank
 - ix) World Intellectual Property organization.
3. Other Organizations :
 - i) African, Caribbean and Pacific Group of States (ACP Group)
 - ii) Andean Group Secretariat
 - iii) Arab Monetary Fund
 - iv) Caribbean Community Secretariat
 - v) Central African Customs and Economic Union (UDEAC)
 - vi) Commonwealth Secretariat
 - vii) Cooperation Council for the Arab States of the Gulf (CCG)
 - viii) Council of Europe
 - ix) World Customs Organization
 - x) European Bank for Reconstruction and Development (EBRD)
 - xi) European Free Trade Association (EFTA)
 - xii) Inter-American Development Bank (IDB)
 - xiii) Latin American Integration Association (ALADI)
 - xiv) Latin American Economic Association (SELA)
 - xv) League of Arab States
 - xvi) Organization for Economic Cooperation and Development (OECD)
 - xvii) Organization of American States (OAS)
 - xviii) Organization of the Islamic Conference
 - xix) Secretariat of the General Treaty on Central American Economic Integration (SIECA)
 - xx) West African Economic Community (CEAO)

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25. Regionalism in the Post-Uruguay Round Trading System : Is there A Future in it? Paper presented at UNCTAD Seminar on Trade Prospects for Developing Countries up to the year 2000 and beyond", September 1994, by NASARUDIN ARSHAD, Malaysian Institute of Economic Research, Kuala Lumpur, Malaysia.