

Review

Analysis of the importance of general agreement on tariffs and trade (GATT) and its contribution to international trade

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The establishment of trade organizations requires a number of provisions. However, the negotiators wanted to create an institution in which trade issues could be analyzed on a multilateral basis. Since its enforcement date on 1st January 1948, GATT has given international trade a new face. The international trade barely regulated before 1947, has since then become well structured and organized through the adoption of a system of work governed by general negotiations. This strategy has led to the reduction of tariffs and non-tariffs and settlement of disputes between the involved parties. There have been conferences at the ministerial level where experts and committee meetings were established to address specific problems. Several negotiations like “Kennedy round”, “Tokyo round” and “Uruguay round” have taken place since the inception of GATT. Some decisions undertaken in trade negotiations have concerned only the developing countries due to their unique problems in their development. However, Article 24 of GATT treaty authorizes regional groupings like European Economic Community (EEC), Economic Community of West African States (ECOWAS), as they are constituted as a free trade area, a customs union or community, provided only that these groups do not impose trade barriers with the rest of the world.

Key words: General agreement on tariffs and trade GATT, international trade, free market, developing countries, tariffs.

INTRODUCTION

International trade rules are not as easy as those governing domestic trade. Indeed the international trade was governed by the laws and regulations in force in the country. The rules of international trade are far more complex. This complexity is due to the urgent need for each country to protect its national economic space. The absence of supranational authority capable of imposing obligations on states with respect to international trade has prevented the evolution of this trade until recently. States which look only to their own self-interests, have always opposed any kind of barriers based on international trade. These barriers are of tariff and non-tariff types such as prohibitions and quantitative

restrictions. After the great economic crisis of 1929 and the Second World War which disrupted the world, some large-economy countries like the United States, Britain and others took care of the reorganization of the postwar world. Thus, the UN was created with its specialized agencies, each branched out for dealing with an activity. Among these agencies, we can distinguish those with a purely economic characteristic, such as the international monetary fund (IMF) and international bank for reconstruction and development (IBRD), now called the World Bank. The Havana Charter which was supposed to lead to the creation of the international trade organization (ITO) has never been ratified. Hence, the general agreement on tariffs and trade (GATT) remained the only multilateral code governing international trade. Based on this framework, this review highlights some of the contributions of the GATT 1947 after throwing light on the

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institution itself.

PRESENTATION, ORIGIN AND THE FOUNDATION OF GATT

The GATT was a specialized institution which has economic and technical features. It is a multilateral treaty that establishes a common code of conduct for international trade and which provides a mechanism to reduce and stabilize tariffs and other trade barriers and to hold consultations on issues related to trade. In the 1930s, when the world was suffering from a serious economic depression, many states tried to find refuge behind various forms of barriers to protect their economies like high protective tariffs, quantitative restrictions on imports, exchange controls. During Second World War, it became clear that these restrictions would weigh constantly on the world unless vigorous attempts are made to dismantle and ban them. Along with the creation of IBRD (currently the World Bank) and the IMF, various governments considered the establishment of an institution designed to regulate trade: the international trade organization (ITO).

Despite the fact that this institution has never emerged, a group of twenty-three countries (eleven for developed countries and twelve for developing countries according to WTO; FOCUS, 1998) began negotiations on tariffs, reaching at an agreement on a set of standards, intended to liberalize their trade. These standards have resulted in the general agreement on tariffs and trade (GATT), which entered into force in January 1948 (Geneva, since 1945). The GATT remained the only multilateral instrument governing international trade until 1995, the time when the world trade organization (WTO) was formed. The GATT was the tangible result of all efforts in this direction, otherwise stated in the resolution of international trade problems. The starting point lies in the Atlantic Charter and other treaties concluded between the Allies themselves during the war to seek together a trading system based on non-discrimination and aiming at achieving high standards through free and fair trade of goods and services. Pursuing this goal, even long before the end of the war, the United States, United Kingdom and other major trading powers of the time discussed the establishment of international organizations to tackle problems of post-war regarding the movement of capital, investment and trade. The foundations of the GATT can be summarized as follows: a) rates should normally be the only instrument used to protect domestic industries; b) quantitative restrictions (prohibitions / limitations) are generally prohibited (GATT Art. xi) ... but may in certain circumstances be permitted; c) tariffs should be transparent, predictable and stable; d) commitments tariffs comprise of a "list of concessions" (Sergio, 2008).

The GATT was originally considered an interim arrangement, pending the entry into force of the Havana

Charter and the establishment of the ITO as a specialized institution of the United Nations. But circumstances have been such that the GATT, since 1948, remained the only international instrument which laid down rules of conduct for international trade and employing a large proportion of world trade. Only originally twenty-three, the number of contracting parties has rapidly grown over the years. In 1988, it is an exhaustive list of these countries. Among real contracting parties, they were (South Africa, Federal Republic of Germany, Antigua and Barbuda, Argentina, Bangladesh, Botswana, Brazil, Burkina Faso, Burundi, Cameroon etc). Tunisia remained the only country which has acceded to the GATT provisionally (Christian, 2006).

As regards to countries applying the GATT right away or immediately, among them they were (Algeria, Angola, Bahamas, Bahrain, Brunei Darussalam, Cape Verde, Dominica, United Arab Emirates, Fiji, Grenada, Guinea Bissau, Equatorial Guinea etc). Most of these countries (real contracting parties, country which has acceded to the GATT provisionally and countries applying the GATT right away or immediately) became members of WTO from 1995 to 1997 while others have remained observers until May 1998 as Algeria, Cape Verde, Seychelles and Tonga (WTO, FOCUS, 1998). The highest decision-making structure in GATT was the session of contracting parties usually held once a year. Decisions were made by consensus and not by vote. But on rare occasions when the vote should take place, each contracting party had one vote. Decisions were then taken by simple majority, except for important issues where the two-thirds majority is required. Between sessions of the contracting parties, the Council of Representatives was responsible for sending current matters and pressing problems. It meets at least six times a year. Committees are established to handle technical problems. The GATT secretariat is the administrative system by excellence. Most of meetings that the GATT organizes were done at its headquarters in Geneva.

Principles of GATT 1947

The GATT 1947 was a multilateral treaty with rights and obligations. It is based on the following fundamental principles: a) Non-discrimination. This principle involves the provision of most favored nation (MFN) under which each contracting party must give any other contracting party the same benefits as those that it gives to another party or country. It also implies prohibition to disadvantage any party to the detriment of other parties. In addition, signatory countries promise not to subject imported products to more severe treatment than national treatment in tax and regulation, b) the obligation on parties to consider tariffs as only permissible means of protecting domestic production. Thus, the use of quantitative restrictions is generally condemned; c) consultation between the contracting parties is a rule that

relates to all the arrangements. It prohibits measures published by surprise without taking into account the interests of others. So there are rules of procedures which notably include information exchange, consultation and dispute settlement.

Exceptions to the principles

Export subsidies are contrary to fundamental principles of GATT. Concessions have historically yet been made in this area, particularly the European community, but it wrapped up its common politics in the 1960s (Jean-Marie Boisson, 1964). The text of the GATT treaty contains provisions which expressly waive some of these principles. Thus, the general agreement authorizes the establishment of regional groupings on the sole condition that these groups do not pose trade barriers with the rest of the world. These clusters can be formed as zones of free trade, customs union and community. The GATT taking account of different levels of development, has installed to the benefit of developing countries special measures to enable them to raise their standard of life. Thus, these countries are allowed to use measures other than tariffs to protect their domestic production. These measures may be quantitative restrictions, quotas and even prohibitions. But as we have already said, these measures should not be unilateral and edited by surprise. They must be taken in agreement with other contracting parties.

The sub-regional groupings listed are subject to the provisions of Article 24 of the GATT treaty. Indeed, this article highlights the interest of closer integration of national economies to achieve the establishment of free trade. Therefore, it allows these groups to derogate from the principle of most favored nation, provided it meets strict criteria under which the arrangements must facilitate trade between countries without creating barriers against other countries. It is in order to achieve fixed goals that, the GATT has laid down the principles which we have discussed above.

OBJECTIVES OF THE GATT

In general terms, the goals and objectives of a treaty have always been considered of special relevance given that they express the common wishes and aspirations of those who reach a formal agreement at an international level (Reuter, 1970). The aims and objectives of general agreement have played a vital role as the only reference for limiting the reach and jurisdiction of such an Organization. These objectives and goals not only limit its contents but also decide on the directives to follow during its development. The central objective of the general agreement is therefore progressive trade liberalization (Cobb, 1994).

The objectives of the general agreement are set forth in the preamble, where the contracting parties recognize that "... their relations in the commercial and economic matters should be directed towards raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, the full utilization of global resources and increased production and trade of products and to the progressive development of the economies of all contracting parties." This sentence of the preamble of the GATT treaty, is sufficient in itself to demonstrate how ambitious the mission that the general agreement has set. Let us examine in detail some of these objectives.

RAISING OF STANDARDS OF LIVING

The basic objectives of the GATT are to have higher standards of living and progressive development of all contracting parties (Part IV of GATT). Therefore, from the initiative of UNCTAD, the Generalized System of Preferences (GSP) has been brought on to take account of imbalances in development between countries (Jacques, 2006). The general agreement aims, through trade liberalization, at providing access to all productions worldwide. The removal of tariff and non-tariff barriers allows any producer, wherever it is, to export its products as it sees fit. It also allows any consumer to supply his needs from any market.

Unimpeded exports and imports can only contribute to raising standards of living of individuals. But it should be noted that this only benefits countries with high export capacity. Developed countries that have large unbeatable industries are the only masters. So a basic factor in setting the objectives and goals of GATT and which therefore should always be borne in mind when mention is made of them is that, this agreement forms part of a body of treaties which emerged between 1945 and 1950 which looked to design a new economic order for post-war international society.

ACHIEVING FULL EMPLOYMENT

The achievement of full employment being closely linked to that of the full use of world resources cannot be achieved, unless there is a further trade liberalization. Indeed the situation is hurting autarkic development, in that the capacities and potentials of each producing countries are constrained by its boundaries. This also implies that, every country should have every possible variety of industries. But the reality is that, no country has all the factors of production. Some countries, rich in raw agricultural and mining, do not have trained manpower and appropriate technology.

On the contrary, a country that possess advanced technology is lacking (or almost) of raw materials. The

implementation of full use of global resources must necessarily pass through the liberalization of trade. This liberalization is hampered by national or regional considerations. Indeed all states have the duty to protect their national economic space. It is this desire to protect the national economic space which prevents the development of trade. Therefore, this is why the GATT was established as a key objective of trade liberalization for reducing or removing tariffs and non-tariff barriers.

PROGRESSIVE DEVELOPMENT OF ECONOMIES OF CONTRACTING PARTIES

Since the contracting parties agree to exchange among themselves their products, their capabilities and producing potential will therefore be developed. There will thus be a large global market in which all countries can freely sell their products. Countries can increase their production, if they want because they will have no more problems from lack of opportunities. It should be noted that the development of trade arrangements only benefits countries with a high production capacity. Countries which do not have large capacities are relegated to the last place because they are forced to export only raw materials whose prices fluctuate, according to the willingness of the developed countries. Therefore, the parties have taken special measures to develop the economy and trade in developing countries.

MULTILATERAL TRADE NEGOTIATIONS

Since its inception, the GATT has organized several multilateral negotiations. According to WTO (WTO, FOCUS, 1998), the first meeting took place in Geneva, Switzerland in 1947, the second at Annecy in France in 1949 where the contracting parties exchanged some 5,000 tariff concessions, the third in Torquay, England, in 1950 during which the contracting parties exchanged some 8,700 tariff concessions, which have reduced by 25% the tariff levels of 1948, the fourth in Geneva between 1955 and 1956 (this round was completed in May 1956 and resulted in tariff cuts representing about 2.5 billion U.S. dollars), the fifth round of GATT negotiations has been so named in honor of Deputy U.S. Secretary of State who proposed the opening: Douglas Dillon. Launched in 1960 and completed in 1962, they led to tariff concessions on international trade worth 4.9 billion dollars and have also included negotiations related to the creation of the EEC, the sixth in Geneva 1964 to 1967 (Kennedy round), the seventh in Tokyo in 1973 to 1979 (Tokyo round), eighth in Uruguay from 1984 to recent (Uruguay round). Among all these negotiations, the last three are the most important. So our study here would focus on the last three negotiations.

KENNEDY ROUND (1964-1967)

Named in honor of U.S. President, the sixth round of GATT negotiations began in 1964 and ended in 1967 with tariff reductions on international trade worth 40 billion dollars (WTO, FOCUS, 1998). The experience gained during the tariff negotiations of 1960 to 1961, which, like all previous negotiations had been conducted on the principle of negotiating a product, led contracting parties to the conclusion that traditional techniques of tariff negotiations were no more adapted to changing conditions of world trade and the possibility of adopting new techniques including that of the general linear reduction could be envisaged. When trade ministers launched the "Kennedy round" trade negotiations in May 1963, they were able to ask directions aiming at the reduction of tariff and non-tariff trade barriers on a large scale and with a broader scope. The ministers agreed, among other things: i) the overall negotiations were to take place starting in 1964 with the widest possible participation; ii) negotiations should cover all kinds of products, including agricultural products and raw materials; iii) negotiations should cover both tariff barriers and non-tariff barriers; iv) the negotiations should provide acceptable conditions of access for agricultural products to world markets; v) for most industrialized countries, the tariff negotiations in the industry sector should be based on a plan for substantial reductions linear with minimal exceptions that are prone to confrontation and justification. But where the differences between tariff levels are significant, the reductions will be based on the special rule of general and automatic application; vi) efforts should be made to reduce barriers on exports from developing countries.

The Ministers also agreed that negotiations between the developed countries are based on the principle of reciprocity and that developed countries should not expect such reciprocity from developing countries. When negotiations opened in May 1964, the rate of 50% was accepted as a hypothesis for the working of determining the overall rate of linear reduction. They were fifty states to take part in the work which constituted the majority of developing countries. The EEC, now EU, attended the conference and negotiated as a single entity. In mid-May 1967, the Director General was able to announce that the essential elements have been negotiated successfully. The final conclusion was reached June 30, 1967 when the participants had signed the Final Act, authenticating legal instruments arising from the conference. These legal instruments specified the international obligations that the participating governments committed themselves to respect. Apart from tariff concessions, separate agreements were negotiated (agreements on grain, chemicals and the anti-plumping). Protocols which were signed, authorizing the accession of four new countries to GATT, they were: Argentina, Ireland, Iceland and Poland. Like the case study: Promoting trade interests through

GATT/WTO negotiations; the “Kennedy round” of trade negotiations marked the beginning of defensive strategies orchestrated by many developing countries.

The Round, which began in 1964 and ended in 1967, eschewed the item by item approach of the previous five rounds, preferring instead to adopt, for the first time, across the board percentage tariff reductions. This approach was perceived by many developing countries, the Caribbean among them, as a direct threat to their protected, assured market. This perception among the Caribbean countries - later to become the “C” in the African, Caribbean and Pacific (ACP) countries - was to exert an overwhelming influence on all future negotiations where success meant defending turf to avoid further erosion of preferences. After the closing of the “Kennedy round” in 1967, it was only in 1973 that the new negotiations will begin in Tokyo, Japan. It was the “Tokyo round”.

TOKYO ROUND (1973-1979)

The multilateral trade negotiations under the auspices of GATT was opened in September 1973 at a meeting of Ministers held in Tokyo. The seventh round, launched in the Japanese capital, saw the GATT addressing not only tariffs but also non-tariff barriers. One hundred participants have exchanged concessions in the form of tariff reductions on international trade in excess of 300 billion dollars. Agreements have been concluded, inter alia, in the fields of subsidies, import licensing, the valuation and the fight against dumping. Ninety-nine countries, whose levels of development and economic systems are very different and who are not all GATT members, have participated in these negotiations. These are the industrialized countries of Western Europe and North America, the relatively less industrialized countries like Australia and New Zealand, countries of Eastern Europe and the entire range of developing countries, from least developed to more developed ones.

These negotiations, called “Tokyo round” were more extensive and detailed than any that preceded them. They were designed not only to reduce or eliminate tariffs and non-tariff barriers to trade, but also to shape the multilateral trading system and international trade relations during a period that would spill well into the next decade. Other differences also distinguish the “Tokyo round” negotiations: the relative weight of major powerful economic in international trade have indeed significantly changed. The European Communities became the main business entity in the world, and economic progress of Japan was such that it became one of the top three trading nations. Also, the “Tokyo round” negotiations saw three economic powers, namely the U.S., the European Community and Japan, take the lead in negotiations and largely determine the direction, pace and content.

The big difference compared to earlier negotiations

concerned developing countries. For the first time in multilateral negotiations of GATT, the problems of these countries played a prominent role commensurate with their growing economic and political international affairs, as well as their own importance and weight of participation in the negotiations. Participants focused on issues such as agriculture, tropical products, tariff, non-tariff measures, subsidies and countervailing duties, technical barriers to trade, technical assistance to developing countries and others. The “Tokyo round” was preferentially treating tariffs and non-tariffs, which may be granted to developing countries so that they can agree between themselves a legal permanent element of the system of international trade. The “Tokyo round” negotiations had the credit for having proposed a new definition of customs value. Since long, every country had their conception of the customs value. This was detrimental to international trade because all these countries do not have the same idea. Therefore, the GATT gave itself the duty to harmonize the concept of value. After the “Tokyo round”, the “Uruguay round” occurred in 1984.

URUGUAY ROUND (1984)

The trade ministers of member countries of GATT launched the eighth round of multilateral negotiations in Punta del Este (Uruguay); negotiations have never ever covered such an important amount of themes. The successful negotiation of the “Uruguay round” in December 15, 1993 and the opening of markets resulting from this latest round of GATT negotiations, which is also the most ambitious, were expected to boost global income by \$ 500 billion up in the year 2005 (WTO, FOCUS, 1998). Begun in 1984, trade negotiations called the “Uruguay round” are moving now to the final conclusions. Mr. Arthur Dunkel (Director General of GATT) recognized during the month of April 1990 that, it is difficult at this stage to find points of convergence on the actual substance of trade negotiations under the “Uruguay round” in eight months prior to their conclusion. But he tempered his verdict by two findings: one hundred countries, parties transacting worldwide, have pledged to negotiate seriously, and the activities of each other showed that, there was now a very good collection of parameters that govern the negotiations. “There is therefore no place neither for satisfaction or pessimism,” Mr. Dunkel said during a press conference after a two-day meeting of the Trade Negotiations Committee (TNC) which oversees the two strands of the “Uruguay round” goods and new sectors (services, intellectual property, investments).

The Director General of GATT has confirmed that the two most difficult issues of bargaining were those of textiles and agriculture, areas where he was ironic about trading nations of the world “sinning for 35 and 40 years”

and where the stakes were enormous. Agriculture opposes supporters of the abolition of all production support and export, including the United States and those who consider this approach unrealistic as the current EU/EEC. Washington and Brussels swallow in those supports sums estimated globally at some 60 million dollars a year. As for textiles, some producers in the Third World call for the early repeal of the agreement of the protectionist MFA (multi-fiber arrangement), which strictly governs the past 16 years, half of world trade. To Mr. Dunkel, another point is vital for the survival and strengthening of multilateralism: the development of a "system on certain and solid dispute resolution". It is obvious that the vulnerabilities that exist in this area are often the pretext for the use of reprisals of unilateral measures or attempts for bilateral regulations.

In his approach, the Director General of the GATT has had at least two reasons to be encouraged: i) there is "total Agreement" between the negotiators to sketch before July 1990, which he called "the profile of the overall package". The remaining time should be devoted to refine the details and translate the acquired in clear and legal texts. He did not rule out that in case of deadlock on certain points, the trade negotiations committee would be convened in special session; ii) the significant economic changes occurring in the world, both in the East as that in some Latin America and Africa, accentuate the need for a strong multilateral system and give more depth to the "Uruguay round". Mr. Dunkel said that at least forty countries around the world consider that, the strengthening of this system is essential to their growth and development (Statement by the Director General of GATT reported by AFP, April 12, 1990). The goal pursued by the GATT negotiations is to foster the emergence of international trade through the reduction or elimination of tariff and non-tariff barriers.

Agriculture has played a decisive role in the initiation and the extension of the "Uruguay round" beyond the deadlines originally set (Jean-Marie Boisson, 1994). After the failure of negotiations in Montreal (1990), then in Brussels (December 1991), while the theoretical maturity of the "Uruguay round" is fast approaching, the Secretary General of GATT, Arthur Dunkel, proposed a draft of an agreement on agriculture made up of twenty items, which should serve as a basis for final negotiations of the "Uruguay round" (Dunkel, 1991).

CONSOLIDATION AND REDUCTION OF TARIFFS

One of the main activities of the GATT, which is laid down in Article 28 bis of the agreement, was to organize conferences in order to negotiate the reduction and stabilization of tariffs. These conferences are intended to promote international trade by substantially reducing the level of tariff protection and allowing some trade organization with the assurance that the rights trading will

not suddenly be increased. They have resulted in a reduction or consolidation of duties applied by most developed countries on industrial products (including many of particular interest to developing countries). While many developing countries have agreed during the negotiations on tariffs to reduce or consolidate some of their costs, most of the concessions have been, as it was in the nature of things, granted by developed countries. The clause of most-favored nation enshrined in Article I of the general agreement, however, has the effect of extending the benefits of these concessions to all contracting parties. Negotiations between the developed countries were formerly based on the principle of full reciprocity of concessions. Developing countries were granted on a reciprocal basis a number of concessions, particularly in the initial tariff conferences. However, it is also widely accepted that the principle of reciprocity as applied between developed countries is not appropriate in respect of developing countries and at the meeting at the ministerial level of May 1963 which launched the idea of the "Kennedy round", it was formally recognized that "no effort be spared to reduce barriers to exports from developing countries but developed countries cannot expect to receive reciprocity from the developing countries".

Until now, the technical basis for tariff conferences was mainly product by product trading. But there is reason to believe that the performance of this method will diminish. Accordingly, ministers agreed, when they launched the "Kennedy round", that their appearance in tariff negotiations would be based on a method for reducing general linear rights with limited exceptions and special rules where there is significant disparity in tariff levels. To prepare a plan for tariff negotiations that meets these conditions, it was agreed to take as a working hypothesis, a rule of linear reduction of 50%. Its application would lead to halving the rights of the majority of tariffs in industrialized countries, the reduction of which would benefit the developing countries. It should be noted that this would be a futile effort to try to reduce the tariff rights, if there is no consensus on the concept of value. Also the GATT gave a definition of customs value to allow international trade to speak the same language. Article 7, which was the starting point, states that "the customs value of imported goods must be real, that is, the value at which they are sold". A declaration of intent was signed in 1973. In this statement, it was stated that the new value not to be based on arbitrary or fictitious values, but on criteria consistent with commercial practices. Finally, the agreement was signed in 1979, during the trade negotiations of the "Tokyo round" and implemented in June 1980, in the countries of the EEC under the current reference EEC Regulation 1224/80. Currently, the regulation is signed by most trading partners of the current EU/EEC. For developing countries, a number of safeguards are provided and a transitional period of development adjusted. One of the main objectives of the

Cotonou Agreement signed between the EEC/EU and African, Caribbean and Pacific is to achieve the progressive harmonious integration of these (EU-UN).

However, the ECOWAS countries, meeting in Cotonou in 1983, did not accept the new definition because it remained in favor of developed countries, suppliers in most cases, having at their disposal large industries (production series) capable of giving unbeatable prices. Customs in developing countries would not recognize the customs value of the transaction value without having thoroughly and before analyzed their effects on their economies and finances. The new definition of value has remained unheeded in the ECOWAS countries which still use the value defined by Regulation 803/68. For the general agreement, the customs value of imported goods is the transaction value, that is, the price actually paid or payable by the buyer to the seller. This price is only increased by some elements listed in Article 8 of Regulation namely: commissions, brokerage fees, transportation costs, license fees etc¹. Only after the harmonization of the definition of customs value, that the GATT may claim to act positively on tariffs. Otherwise, it would purely and simply fall on deaf ears.

REMOVAL OF NON-BARRIER TARIFFS

One of the fundamental provisions of general agreement is the general prohibition of quantitative restrictions under Article 11. It is clear from the provisions of Article 11 that, quantitative restrictions are in principle prohibited. It should be noted however that this prohibition is not absolute. The rule has some exceptions. The main exceptions to this rule are those that allow countries, under well defined conditions (and more rigorous in developed countries), to resort to restrictions on imports to protect their reserves in case of difficulties relating to their balance of payments. In addition, for example when it is impractical to use tariff measures, developing countries can make use of quantitative restrictions to protect developing industries. The provisions applicable to the case (Article 18 section C) stipulate that any developing country, that has notified its intention to apply such restrictions to products that are not subject to tariff concessions, has the faculty to apply within thirty days of notification, unless the contracting parties invite it to enter into consultations with them. In this case, they will give their approval in the proposed measure, if it is established that there is no further action consistent with the normal rules of the general agreement for achieving the development goal target.

Countries that apply import restrictions for balance of payments reasons are required under the agreement to enter into consultations with the contracting parties (each year in the case of the developed countries and every two years in the developing countries) about the nature of

the difficulties associated with their balance of payments, alternative corrective measures among which they can choose and the potential impact of these restrictions on the economies of other contracting parties. These import restrictions, widespread in the aftermath of the Second World War, are today less and less used. The GATT has worked hard to get rid, from the contracting parties, all discriminatory measures which hindered international trade.

FAVORABLE MEASURES FOR DEVELOPING COUNTRIES BY THE GATT

The increasingly urgent character of problems relating to economic development and trade in developing countries, which has been highlighted in the Haberler report prepared at the request of the GATT, had been recognized by trade ministers at the meetings held in 1957 and 1958. An emphasis was made to examine these problems in the program for the expansion of international trade, that contracting parties had launched immediately after the ministerial meeting of 1958. Three committees were established to implement the program. They had to deal with, first, the issue of new multilateral negotiations, the second, of the problems of agricultural trade and finally, the third, of the increase in export earnings of developing countries.

Among these three committees is the third committee that comes to exclusively look after the problems of developing countries on a systematic and increasingly open method with the key milestones being: i) identification of barriers to trade by processing product by product; ii) continuing efforts to remove these barriers; iii) parallel extension of the product by product approach to the general study of development plans and potential export; iv) consideration of other measures to increase exports (e.g., preferences, business information services and trade promotion). Many people rejoice the initiatives taken by Europe in international trade. As the Secretary General of UN, Kofi Annan has welcomed the EU's initiative "Everything but Arms", which proves to him that Europe is really a system of international trade fair in which poor countries are given a real possibility to export to get out of poverty². Total imports from all beneficiary countries increased by 8.9%, since the entry into force of the initiative (from 12.9 to 14.1 billion Euros). The commercial benefits that Commonwealth developing countries obtain from "imperial preferences" vary according to their economic structure and composition of their trade flows. These benefits, which one tends to undervalue the importance, were brutally illustrated during the first attempts by Britain to join the European Economic Community (EEC). It is thus, for example, the preferences agreed by Great Britain - and to a large extent by Canada on imports of sugar, bananas, citrus

¹ FC Course of Customs procedures

² Article by General Secretary Kofi Annan in the Financial Times March 5,2001

and rum which are important to the Caribbean, those of cocoa for Ghana and Nigeria, those of tobacco for the Malawi, those products of light industry, including textiles, for India and Pakistan. Also Ghana, India, Pakistan and Nigeria have experienced serious concerns for their exports, due to the possibility that Great Britain eliminates Commonwealth preferences to adopt the common external tariff of the EEC (Common Market, 1961).

Under the pressure of events, however, such as the accession of many Third World countries (over 70) to the GATT and the creation of the United Nations conference on trade and development (UNCTAD), which for a time seemed to become the latter's great rival, Western countries have accepted the principle of non-reciprocity in their trade relations with the Third World. Thus one of the rules for the conduct of the "Kennedy round" (1964 to 1967) took the form of a special effort of developed countries to reduce tariffs on products of particular interest to exporters from developing countries without waiting for an equivalence in reciprocal concessions (Basic instruments and Miscellaneous Documents, 13th supplement). These tariff reductions were, however, to be extended on a non-discriminatory basis with all countries benefiting from the treatment of the most favored nation. Significant progress has been made in this direction during the "Kennedy round", especially as regards to tropical products and industrial raw materials. Preferences should be granted, within the possible extent, without discrimination for all countries in developing items for all semi-finished and manufactured goods. As for existing preferences, they should be removed gradually, as other international measures would provide beneficiary countries with at least equivalent benefits (General principle No. 8, UNCTAD, 1964). The objectives of the new preferential arrangements as set by Resolution 21 (JOHNSON, H.G.) and adopted at the second UNCTAD Conference in New Delhi in 1968, are increased export earnings, industrial promotion and the acceleration of economic growth of developing countries.

In fact, since the developed countries agreed to enforce their national systems, despite their persistent disagreements on the basic elements of a generalized, issue of preferences is becoming an integral component of business strategy of major economic powers. Thus, the U.S. administration hoped to apply its tariff proposals, to forget somewhat the growing protectionism at home. Unfortunately, these same protectionist pressures in the Congress are likely to seriously delay the implementation of, or otherwise just jeopardize, the existence (Journal of Commerce (March 29, 1971)). For its part, the EEC decided to take this paralysis of the American administration to create the image of a liberal business entity, outward looking and aware of its responsibilities towards the Third World (Europe, 1971 and The Journal of Commerce, 1971). Thus, it seems that the preferential generalized community offer can be put into effect in July,

1971 without requiring parallelism from the United States. It would be same in Japan.

The GATT rules recognize that the governments of developing countries, in implementing their programs and economic development policies, may be required to provide assistance to new industries and emerging or expanding existing industries and, that this can take the form of safeguard measures temporarily restricting imports. Because the application of such restrictions could have a negative effect on the interests of exporting countries, it is subject to strict conditions (GATT, 1994, Article XVIII: Section C). Some preferential arrangements exist between Spain, Portugal and its overseas territories as well as between the United States and the Philippines (whose phase is planned for 1974), the Canal Zone and Panama Trust Territories in the Pacific. Australia, meanwhile, implemented a system of limited preferential tariff quotas for developing countries in 1965 (GATT, Basic Instruments Miscellaneous Documents, 14th Supp.).

REMOVING OBSTACLES OF TRADE

The third panel focused its main efforts on increasing the export earnings of developing countries. In doing so, it has accumulated an extensive literature on trade barriers and trade flows and, incidentally, helped to identify areas where export potential is being formed in developing countries. The approach of the Third Committee was to examine the products in groups. The committee examines a particular group of products, makes recommendations and then tries to remove barriers to trade that have been identified. It then proceeds to another group. In this way, products that are of interest to developing countries are come in and come in still more numerous amount in the field of examination of the third committee which was able to study the obstacles to trade affecting a range of more broader articles. The Committee's investigation is now spread to hundreds of tariff of the Brussels Nomenclature.

The two parties have discussed the first report of the Third Committee at the meeting they held in Tokyo in November 1959 and recommended that, "the contracting parties, especially developed countries, review customs duties, fiscal duties and the charges, quantitative restrictions and other measures they are applied to, in order to facilitate a rapid expansion of export earnings of developing countries; this expansion would allow developing countries to be less dependent on foreign aid, strengthen their economies and accelerate their development". The Third Committee has continued to direct its attention to trade barriers and has added new products to the list of those it examines. At the same time, it began to broaden its scope, to introduce other issues such as trade promotion and study of development plans. Towards the end of 1961, it

presented to the contracting parties a special report which was submitted to Ministers when they met in November 1961. The most important outcome of the meeting of Ministers is the declaration concerning the promotion of trade in developing countries. The contracting parties agreed that their governments would commit themselves to observe the extent possible the principles underlying the Declaration, to reduce in the near future barriers to exports from developing countries. These principles and certain facts relating to tariff and non-tariff barriers affecting access to markets are set forth in the Declaration under the following headings: quantitative restrictions, tariffs, tax law nature, trade commodities.

Remember that, it is difficult to assess the effects of generalized tariff preferences on the export earnings of countries in the developing world. These effects depend largely on the psychological and economic impact on the volume of investments in those countries. Some economists have calculated that these exports could increase by about \$ 1 billion per year (John PINCUS, 1968). The implementation of decisions of the contracting parties and the search for practical measures to that end have led to the establishment, towards the end of 1962, of a program of action in eight points that the Ministers adopted in general, subject to certain points in their meeting in May 1963.

EIGHT-POINT PROGRAM ESTABLISHED BY THE GATT

The first major concerted efforts by member countries of GATT to promote, on a multilateral basis, the expansion of trade in country development, led to the adoption by the Ministerial meeting in May 1963 of a «Program of action» in eight points. The main recommendations relating to tariffs aimed: duty-free tropical products, the elimination of tariffs on primary products, the reduction and elimination of tariff barriers that hinder exports of semi-products and products manufactures from less developed countries. The results of this « program action » have largely disappointed the hopes it had created (GATT, 1963).

The agenda has significantly contributed to enhancing trade liberalization. It revolves around eight points which are: i) Developed countries should not introduce any new tariff or non-tariff barrier to trade export of developing countries for products which it is established that they are of interest particularly for those countries ; ii) Quantitative restrictions on imports of products from developing countries that are contrary to the provisions of the general agreement will be abolished within one year; iii) Admission free of tropical products in developed countries must occur before December 31, 1963 ; iv) The developed countries which must eliminate tariffs on primary products occupy an important place in the trade of developing countries; v) The industrialized countries

must also adopt an urgent timeline for reduction and elimination of tariff barriers to exports of semi-finished manufactured products from developing countries, providing that current tariffs will be reduced by at least 50% within three years to come ; vi) Developed countries should gradually reduce import duties and internal taxation on products derived wholly or mainly in developing countries, in order to be removed by December 31, 1965; vii) Developed countries that maintain the above obstacles will have to report to the GATT Secretariat in July of each year, on the measures they have taken the previous year, to implement these decisions and measures they intend to take over the next twelve months to expand access to markets for developing countries; viii) The contracting parties should also, urgently consider adopting other measures to facilitate the efforts of developing countries to diversify their economies, strengthen their capacity export and increase revenue from their sales abroad.

For developing countries, the first seven points of the program only provide a minimum program and the eighth point demands, to achieve the common objective which is the strongest and fastest increase in export earnings of all developing countries, affirmative action other than removing barriers to trade (The Role of GATT in the Field of Trade and Development, Geneva, March 1964, p. 26). The GATT has also taken action on some tropical products, especially cotton.

TROPICAL PRODUCTS

Tropical products hold a predominant place on the list of products studied by the Third Committee. The committee conducted a detailed examination of the obstacles facing the expansion of exports of these products and it has highlighted in this regard, the adverse effects of high tariffs and heavy internal taxes which are levied in the importing country. Since then, the GATT has paid particular attention to the study of trade in tropical products. To this end and following the proposed duty-free tropical products that Nigeria was presented at the Ministerial Meeting in November 1961, it established a panel in early 1962. The group's mandate was: "Given all the factors relating to current problems and future international trade in tropical products, it is necessary to consider ways of overcoming the difficulties faced by least developed country exporters of these products and of making appropriate proposals" (The Role of GATT in the Field of Trade and Development, Geneva, March 1964, p. 27).

The task of the panel reflects the way the GATT considers issues that trade in commodities in general poses to developing countries. Its approach to these problems is broad, and takes into account all relevant factors relating to trade and economic development. The panel discussed these issues in their broader aspects,

linking the price considerations and conditions of access to considerations relating to production and consumption, future prospects, the obstacles to trade, the effects of the abolition of preferential agreements on the countries that are currently enjoying it and the opportunity to offset the adverse impact, such a measure would lead to those countries, such as providing financial assistance and encouraging other types of production for export. The GATT has studied very carefully the issues relating to certain tropical products like cocoa, coffee, bananas, oil-seeds and vegetable oils, tea, tropical timber.

TRADE IN COTTON TEXTILES

Given the evolution of international trade in cotton textiles, this sector of world trade has been the subject of special attention. A long-term agreement came out on international trade in cotton textiles. This agreement aims at allowing the growth of international trade in cotton textiles while avoiding the effects of disruption in a vital sector of the economy of developed and developing countries. The importing and exporting countries have welcomed the idea of a long-term agreement and have considered it preferable to any alternative. The agreement provides opportunities when there is disruption of market or threat of market disruption, according to the definition given in an annex to the agreement. The mitigation measures must include some annual growth of imports. All current restrictions in importing countries must be phased out. Developing countries attaching greater importance to the provisions of the agreement, including those concerning the disruption of markets, are strictly observed. When in December 1963, the committee of cotton textiles has conducted its first comprehensive review of the implementation of the agreement; it adopted conclusions on this and other issues relating to the interpretation and the implementation of the agreement.

In the case of GATT and textiles, the first thing to bear in mind is that these legal systems mainly obey the interests of those states which bring about such regulations and which in a given moment had sufficient strength to achieve their proposals without hardly adjusting them. These states as can be seen from both the negotiations and the texts themselves, did not have the application of economic theories such as the interests of the free market as their goal in furthering the development of international society. This can be seen not only from the GATT text but also from the maintenance and in some cases the improvement of privileged positions in the sphere of international trade with the ideological function of law used as a useful sub-product. In the case of textiles where developed countries had lost their competitiveness in the majority of products, the objective was exactly the reverse: to cancel the effects that a policy based in these comparative advantages

could produce, given that they would bring about an end to its non-competitive industries in that sector. On this point, Robertson correctly states that:

“experience since the 1950s has shown that, any developing country that achieves success in exporting to industrial countries must expect to find that access to these markets will be restricted” (Patterson, 1966; Kojima, 1977).

REGIONAL GROUPINGS FAVORED BY THE GATT

In Article 24 the text of the general agreement recognizes the need for the integration of national economies to better yields. These groups promoted by the GATT may take the form of a zone of free trade, a customs union or a community. Since the inception of the GATT, these groupings were formed here and there, meeting the aspirations of each region. These groups are now in large numbers. They are not very detailed and have different legal characteristics. For clarity and brevity, we shall not discuss all these programs. Rather we will focus only on the study of some examples.

EUROPEAN ECONOMIC COMMUNITY: EEC

After the Second World War, the American Secretary of State for Foreign Affairs George Marshall, launched a vast program of recovery in European countries ruined by war. The plan known as the Marshall plan was the source of the EEC. But the Soviet Union and other popular democracies had refused that American aid.

The treaty establishing the European Economic Community was signed in Rome in 1957 and thus, became known as the Treaty of Rome. Initially, only six states, members of the community increased to twelve. They are Belgium, Luxembourg, France, Netherlands, the Federal Republic of Germany, Italy, United Kingdom, Portugal, Greece, Spain, Ireland and Denmark. The treaty came into force on 1 January 1958 and was submitted for consideration by the contracting parties at the twelfth session, which was to decide on the conformity of the treaty to the provisions of Article 24 of the general agreement. It is recognized that the details of many important features of the Treaty of Rome are to be decided by the institutions of the community and it is impossible at this stage to consider the terms in relation to the provisions of the general agreement.

The contracting parties have therefore agreed that multilateral consults could be of necessity between the community and the contracting parties who feel aggrieved by the specific measures taken by the community. A working committee was established to study problems that may arise from the combination of overseas territories with the EEC, which such problems

would hinder the trade of other contracting parties of the GATT. At each session of the contracting parties, the representative of the community commission shall report on the development of community activities and decisions taken in trade. It was also noted that all future arrangements between the EEC and other states were subject to the review of the contracting parties.

Objectives and functioning of the EEC

By establishing the EEC, the signatory countries of the treaty were intended to promote harmonious development of economic activities throughout the community. The treaty of the EEC aims to create a homogeneous economic entity - it was planned to create a common market and the gradual approximation of economic policies of member states. Regarding the customs legislation in particular, the constitution of the community based on the formation of a customs union comprising: i) Elimination between member states of customs duties and quantitative restrictions; ii) The establishment of a common customs tariff; iii) The establishment of a common agricultural policy; iv) the establishment of a common commercial policy; v) The approximation of national legislation and the creation of a community law; vi) The approximation of tax laws.

In the years that followed the creation of the common market, the community has entered into various association agreements with many countries, mostly European. These association agreements have resulted in the implementation of new very important custom regulations. In the same vein, the establishment from 1st July 1971 of the system of tariff preferences for developing countries has changed to considerably trade relations between these countries and the EEC, and leads the implementation of a new regulation. There are areas in which the common market has brought profound changes in the laws and custom regulations. Without going into details, we will only see the legal acts issued by the council and commission of the community which are the resources available to those bodies to achieve the objectives set in particular by the Treaty of Rome.

To achieve the progressive harmonization of laws, regulations and administrative provisions, member states of the council and commission of the community, shall adopt regulations and guidelines. Regarding regulations, they are of legal community by excellence. The regulations which supplement the provisions laid down by the treaties are directly applicable throughout the territory of the community without any intervention by national authorities. In each of the member states, utilities and individuals are subject to two legal systems: national legislation and regulatory community. The most important rules are made by the Council of Ministers proposed by the commission. The latter in turn adopts the regulations. As regards to the guidelines, they pose no directly

applicable rules. They define the goals and commit the members to amend their national legislation in the direction indicated, but leaving to them the choice of means. Other categories of legal acts less important than the preceding can also apply the customs. They are decisions, recommendations and opinions, judgments and resolutions: i) the decisions are sent to a government, a company or an individual. They fulfill a very specific situation and have the force of law; ii) advice and recommendations: these acts give a solemn character to the steps taken by the council or the commission, but they are not legally binding on member states; iii) judgments of the court of justice ensure compliance with the law. The court interprets and applies the treaty provisions, regulations and guidelines; iv) resolutions of the council are the views of the council on a given problem. They are not binding on member states and these can only be inspired from.

The community has concluded with many countries of the association, agreements to promote trade by reducing tariffs on imports in each contracting party. These agreements may establish between the community and the states concerned either a customs union or a free trade agreement. Yet some large power countries worry about preferential arrangements negotiated by the EEC with a large number of African and Mediterranean countries. The trend towards regionalization of trade among Third World countries and industrialized countries has contributed to increased feelings of frustration and protectionist forces in the United States who have not hidden on some occasions their intention to have resort to trade retaliation against the EEC (The Journal of Commerce, 1969; Duty, 1970). For its part, Canada is becoming more worried about the prospects of increased isolation and the risk of being drawn completely into the American orbit. In November 1970, the Minister of Industry and Commerce, Jean-Luc Pepin, said: "we are concerned about the proliferation of preferential arrangements negotiated by the EEC with a large number of African and Mediterranean countries. There is a serious risk that the eventual accession of the United Kingdom to the EEC will give rise to similar discriminatory arrangements with many developing Commonwealth countries. A discrimination on the hemispheric basis would lead to a concentration of economic activity that would benefit only a few blocks in extending their sphere of economic influence" (Minister of Industry and Commerce, Canada, 1970). In some measures, industrialized countries have not benefited from their proposals to the Third World to settle their old scores as noted by Jeune (1969).

For some superpowers, it is actually the use of an instrument of generalized trade discrimination to limit or eliminate selective and regional trade discrimination. This, however, does not question the legal basis of relations between Western countries and the Third World, since it is an autonomous act with no contractual

obligation, even if the legal framework of the GATT should be adapted because of an exception to the principle of non-discrimination. The Director-General of the GATT considers that this development will lead to a multilateral trading system at two levels: "I see a situation now developing where, for some time; a kind of two-stage system of non-discriminatory treatment may exist in the trading world. As a foundation would remain the generalized most favored-nation tariff treatment for ailing GATT countries and, built upon this as a kind of temporary superstructure, basically non-discriminatory tariff preferences by developed for developing countries measures of this sort, represent an important new element in international trading relationships which the multilateral system of trade must accommodate in a positive and realistic way. They should help the phasing out of discriminatory preferential arrangements between developed and one of a few developing countries. Such arrangements run counter to the purposes of the generalized scheme of preferences. They provide a potent source of friction and disharmony among developing countries" (Olivier, 1970). Like the countries of Western Europe, the West African states have created a common market as large and ambitious as the EEC: the ECOWAS.

ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

The phenomenon of regional integration is nowadays widespread. All states of the world, are aware that solitary actions are always doomed to failure in this world of economic turmoil, seek refuge behind regional groupings. Africa is not an exception. It was established in Africa several regional groupings that met the wishes of leaders in order to prevent an extreme balkanization of the continent to be an obstacle to economic expansion. These groups include the ECOWAS, ECCAS and others. We will put special emphasis on ECOWAS, not only because it has the largest number of States but also because it presents itself to all the diversities of the continent (it includes small and large Francophone, Anglophone and Lusophone states).

The ECOWAS with Mauritania, this group has 243 million inhabitants in 2003 (UN, 2004) and represents 35% of the population of Sub-Saharan Africa. The treaty establishing ECOWAS was signed in May 28, 1975 in Lagos at the initiative of Togo and Nigeria. Member states, at first sixteen in number, which went to fifteen today. These are: Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea Bevel, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Among them Nigeria played an important role. Nigeria contributed in every way to assist the ECOWAS to realize its objective of integrating West African Countries, in order to consolidate the regional peace and security and

to free the people of the Community from poverty and marginalization (Olusegun, 2007). The member states have decided to overcome their linguistic distinctions by addressing geographic, economic and political barriers, which exist and which complicate the problem of the ECOWAS, which is yet intended to be a privileged instrument of economic cooperation by creating a vast market more than 150 million consumers. The administration of ECOWAS is ensured by the Executive Secretariat and the Presidency by one of the heads of state for a period of two years.

Objectives and functioning of the ECOWAS

West Africa has to take up significant challenges "to contribute in a sustainable way to satisfying the food needs of the population, to economic and social development and to reducing poverty in the member states and the inequalities between territories, areas and countries" (ECOWAP and ECOWAS, 2005). ECOWAS has set a goal to "promote cooperation and development in all areas of economic activity, particularly in the fields of industry, transport, telecommunications, agriculture, natural resources, trade, monetary and financial issues, as well as social and cultural context in order to improve the standard of living, increase and maintain economic stability, to promote the reinforcement of the relations between member states and contribute to the progress and development of Africa".

To achieve these objectives, the action of ECOWAS is done in stages: i) elimination between member states of customs duties and other charges having equivalent effect ; ii) the abolition of quantitative restrictions and administrative trade between member states; iii) the establishment of a common customs tariff and a common commercial policy towards third countries; iv) the abolition among member states of barriers to the free movement of people, services and capital ; v) harmonization of agricultural policies and promotion of community projects including member states in the field of marketing research and that in the agro-industrial vi) harmonization of the system on the proper functioning of the monetary policies of member states.

At the same time, especially nowadays, we must admit that the functioning of an agreement requires a long-term stability to guarantee individual economic partnerships and foreign direct investment. The operation to maturity of a preferential agreement comes after a period of investment or running in routines of operating providers. For example, European importers argue that the introduction of the generalized system of preferences for specific countries fighting against drug trafficking had taken 4 to 5 years (Gallezot and Bureau, 2005). In other words, to take the path of an incompatible agreement (and which can be appealed to the DSB) poses a significant threat to the viability of the project and

business. ECOWAS is now faced with problems such as: i) commercial food-deficit and food addiction. The degradation of the food trade balance corresponds to increases in imports (Gallezot, 2006) which were even stronger in volume since import prices have fallen. This situation is quite paradoxical in view of the place of agriculture in the ECOWAS; ii) a difficult regional integration. A too strong opening of foreign markets could destabilize the trade relations of proximity and have serious consequences on the coherence and stability of the regional union. A recent study emphasized the correlation between the rise of conflicts being associated with the degradation of local exchanges, and vice versa, of stability when trade relations are important (Martin et al., 2006). The presence of similar products is highlighted in the literature to explain the structural reasons for failure of regional integration (Cadot et al., 2005); iii) the weak border protection of ECOWAS. The weak protection of markets of ECOWAS in the framework of the implementation of EPAs must be put into perspective with the cycles of multilateral negotiations. Although the timing of the Doha Round is being compromised, a resumption of multilateral liberalization will lead to a mechanism of erosion of preferential margins (Bouët et al., 2005).

ECOWAS appears to be an organization with multiple dimensions. The elimination of tariffs and quantitative restrictions in intra-community relations is one of the cornerstones of the treaty of Lagos. ECOWAS, despite some difficulties in applying the legislation and decisions taken by different bodies, is the only economic grouping of hope for West African States. It is now a well established truth that, the development of any country must necessarily go through a consolidation at the regional level. Thus, every country in the world is struggling to form regional groupings.

Other regional groupings favored by the GATT

We do not intend to attempt studying all regional groupings around the world. Indeed, some of these groups comprise a very small number of countries and therefore, have a negligible importance. Some instead grouping a large number of states weigh all their weight in international trade relations. We will discuss some of them.

ACP-EEC

The African, Caribbean and Pacific countries associated with the EEC through agreements known as the ACP-EEC Convention. These agreements are intended to focus on trade between the ACP and the EEC. Under the agreements, products originating in ACP countries and transported directly to the ECE countries, subject to production of certificate of exemption, benefit from

customs duties and abolition of quantitative restrictions (except agricultural products which are the common organization of markets). In contrast, the ACP states retain the right to receive, during the import of EU products on their territory, customs duties to promote the development of their economy. Agreements with ACP countries impose no obligation of reciprocity. The EU products have nevertheless benefit from the provision of most favored nation.

Begun with the Arusha Conference and Yaoundé, the ACP-EEC reached its full development phase at the Lomé agreements. Among the Lomé agreements are included those of Lomé signed in February 1975, the Lomé II signed October 31, 1979, the Lomé III signed December 8, 1984, the Lomé IV, signed December 15, 1989. Measures are taken to compensate the losses suffered by the ACP because of the trade with the EEC. That is what justifies the agreement of the financial envelopes. Special provisions are taken for stabilizing the prices of certain products (e.g. STABEX). These agreements, despite some difficulties, remain a privileged part of the North-South dialogue.

EFTA

On November 20, 1959, seven European countries signed a convention of the Stockholm Convention establishing the association of European free trade association (EFTA). These countries are Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom. The objective of the convention, which would enter into force on 1 July 1961, is to establish a free trade by phasing out tariffs on key industrial products and reduction of quantitative restrictions.

LAFTA

The Montevideo Treaty which created the Latin American Free Trade Association was signed on February 18, 1960 by Brazil, Chile, Peru and Uruguay. Argentina, Mexico and Paraguay have subsequently acceded to this Treaty and in 1961 Colombia and Ecuador have made their entry into the association. At the seventeenth session of the GATT in 1960 that the Treaty of Montevideo had a deep consideration by the contracting parties to ensure compliance with the treaty provisions of Article 24 of the general agreement.

However, when periods of recession come along, the very same states who were theoretically interested in respecting the trade system which they had set up in 1945 turned without fail to protectionist measures and moved away from the main objectives of GATT (SAPIR, op.cit., p. 423). Thus the GATT was replaced in January 1995 by the world trade organization (WTO) in order to

respond to the insufficiency of this institution (GATT). In order to solve specific problems of developing countries, UNCTAD was created in 1962 with the aim of improving the conditions of trade between developing countries in establishing a new world economic order. The problem of preferential treatment was always in the study of UNCTAD, as well as in the context of multilateral trade negotiations which are held under the GATT (Document: A/CN.4/L.268, 1978).

Organization and functions of WTO

It has a permanent administrative structure which gives it great stability and institutional continuity. It has three major bodies: i) the Ministerial Conference: This is the body which brings together members of the WTO. It meets at least every two years, sets the general policy of the WTO and decides all issues related to multilateral trade agreements; ii) the General Council: It is the permanent body to exercise the powers of the Ministerial Conference when it is not sitting in plenary iii) Dispute Settlement System (DSS): it is the great innovation compared to the GATT.

Indeed, the litigation is characterized by its non-judicial nature. The WTO implements mechanisms of law. The DSS will review disputes by panels, shall have the power to adopt the reports of these groups and the appellate body and finally will be responsible for overseeing the implementation of the decisions. The WTO must fulfill three essential functions: i) monitor compliance with the agreements between members; ii) organize the settlement of trade disputes between members; iii) continuity of negotiations with the aim of further liberalizing trade especially services.

Progress of WTO compared to the GATT

The progress of the WTO compared to the GATT are enormous and are without any doubt to be at the credit of the WTO: i) the WTO is a truly international organization, responsible for ensuring compliance with standards accepted by its members; ii) the WTO is responsible for arbitrating commercial disputes that oppose the countries. For this, it has structures to achieve this arbitration (DSS); iii) the WTO is the blueprint of a genuine international trade law; iv) in theory, countries are on an equal footing. The WTO gives smaller countries the opportunity to turn against the majority; v) the rich countries have a means to require from the South to open their markets; vi) the powers of the WTO have expanded to new areas: services, intellectual property right. Free trade promotes the GATT by the successive elimination of trade barriers which had originally no universal vocation. However, the collapse of the Soviet

system, the globalization of the economy and the creation of the WTO now seem to create a global free trade (Sandrine, 2002/2003).

It is essential to note that, it finds the limits of current WTO namely: i) the bilateral practice did not disappear; ii) the United States continues to use the threat of the famous sections 301 and super 301 of U.S. trade law to deal with trade practices deemed unfair and continues to threaten a sanction of companies that do business with Cuba, Iran, Libya and Iraq. It can also wonder whether the DSS has really the means to enforce its recommendations. The WTO is now an institution in crisis: the Doha Round which began in 2001 is still not completed in 2009. The crisis of this institution stems from conflicts between major developed powers, including on agriculture, but also with developing countries on the role of services (GATT, 1947 to 1995). Finally, the DSS has a misleading name: it facilitates the settlement of disputes rather than the rule itself. It is therefore an administrative, not judicial, assistance in implementing the obligations of members³ (Julien, 2005).

Conclusion

When highlighting the achievements of the GATT, the first aspect to be pointed out is the fact that, the system has managed to survive up until its recent substitution by the WTO. In its regulatory role of international trade (Jackson and Winhan) it has, at least in theory, controlled more than 80% of world trade (MAGRO MAS, op.cit., p. 200) and has also settled multiple economic conflicts by coercing those contracting parties which wanted to adopt certain measures contrary to the established rules, through consulting and even through tolerating conduct of dubious legality (such as GATT's position). A second and undeniable achievement has been the continuous expansion of international trade, which began to take place from the moment that the arrangement was applied (especially among the developed countries) (Jaenicke, 1983) thanks to tariff reductions in those manufacturing sectors not considered as "sensitive" and with considerable access in these areas especially from the incorporation in the "Kennedy round", of the lineal system (Jackson, 1967: p. 137) in substitution for the product by product system. From then on and until the "Uruguay round", such a system has been used with notable success. The GATT is both a collection of agreements and negotiations center (Olivier, 1976).

The GATT had probably played a predominant role in the international trade. This idea is corroborated by Olivier Long, who said "in this world full of uncertainty and innovation, the GATT is one of the oldest and most known institutions. Therefore, it must be prepared to

³ On this point Santulli, supra note 102 at P. 82

comply with a critical analysis and to provide adequate follow-up. This analysis is now underway. It might well reveal flaws that should be corrected. But I firmly believe that the GATT has altogether proved its great value for all trading countries, both developed, in developing or socialist. As a code of agreed principles of international trade, live and in constant evolution, it is the essential feature in which members operate and develop their trade and commercial relations. As a place of meeting, it gives way to solve trade problems as at when they arise, to prevent any relapse into protectionism that all nations would suffer greatly, and develop the international trading system as given necessities. Finally, today, where countries require development of imaginative measures to meet their needs of trade, the GATT is the effective tool with which governments seek to make agreement on measures to meet these needs”.

The GATT remained since the end of the Second World War as the only multilateral code governing international trade and for more than 40 years, several changes were made in trade relations between the different nations of the world. The GATT has, during this period, risen concrete positive actions; but in some areas, it remains to be done.

This conclusion will be a somewhat hasty review of the GATT at the period of its evolution. In the assets of the GATT, it must include the multilateral negotiations which allow several nations to express their views on issues of international trade. The GATT has devoted special attention to the problems of developing countries and has established a special procedure for resolving disputes between contracting parties. Enormous efforts are made to facilitate access for developing countries to markets of industrialized countries. Some measures are taken regarding the trade of some products of strategic interest to developing countries. The GATT has prevented the international trade in the fall of bilateralism and the pre-war period, and has released several tariff and non-tariff barriers.

It should be noted that one of the main objectives of the GATT is to promote development, and raise living standards in developing countries which is far from being achieved. There is, however, the opposite phenomenon. GATT is responsible for the deterioration of terms of trade of developing countries. The GATT Agreement shall, to maintain its credibility, address the critical issue of deteriorating terms of trade. The recommendations must have the force of law and become directly enforceable in member states. Given these shortcomings of the known role of GATT (entered into force in 1948) in international trade, it was replaced by the WTO in January 1995. Despite the significant progress of the WTO in resolving problems of international trade, this new organization is currently experiencing limitations. Since the gap in many economic areas in general, and particularly in international trade, is very wide between the developed and developing countries, problems will not be lacking in

the management of commercial disputes.

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