CHANGES IN THE GLOBAL TRADING SYSTEM: FROM GATT TO WTO

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INTRODUCTION

Today's post-Cold War international scenario is characterized by the presence of *three processes:* **globalization** affecting almost every dimension of the human condition, a **new regionalism and** the rise of **fundamentalism.**

These processes are influenced by the promotion and expansion of *two organizational principles* in the political and economic spheres. Thus, **representative democracy** and respect for **human rights, on the one hand,** and the **market economy, on the other,** are requirements imposed by the international environment in such a way that they play the role of articulator of the new consensus on which the configuration of the new international order is based.

In this context, international relations – the arena where the actions and interactions of states, through their governments, and of civil society as a whole converge - acquire differentiated characteristics.

Thus, the priorities of Cold War "high politics" - security in terms of war - have, if not disappeared, at least lost their relative importance. Security is now reframed in economic terms. On the other hand, the collapse of the socialist regimes has had a "demonstration effect", reinforcing the move towards an increasingly broad consensus on the economic field, based on the market economy. Today, expectations of economic growth and development are linked to the free market. These two characteristics, combined with the process of economic globalization and the internationalization of production and trade, which reinforce interdependencies between states and other economic players, explain why contemporary international relations consider economic issues at the highest level.

In this new international scenario, the players are faced with a major challenge: to meet the global demand for a multilateral administration capable of coping with this phase of transition and interdependence, and consolidating a more consensual international economic order. In the field of international trade, it is the international trade system or regime - read GATT - that will have to meet this demand.

Insofar as negotiating rounds are one of the mechanisms provided by the international trading system to prevent the gap between normative and "factual" dynamics from widening - with the consequent emergence of a climate of uncertainty and instability not conducive to world trade - the Uruguay Round appears to be the most recent effort by countries to prevent the normative level from being overtaken by the level of reality. In fact, the Uruguay Round not only provided the appropriate forum for assessing the situation of the GATT in relation to world trade, but also enabled the contracting parties to draw up new agreements aimed at establishing the conditions necessary for the growth of trade at the dawn of the 21st century.

The aim of this article is to outline the changes that took place in the international trade system and regime after the Second World War. This involves reference to the transition from the General Agreement on Tariffs and Trade (GATT), signed in 1947, to the World Trade Organization (WTO), whose constitution was approved last April in Marrakesh, at the conclusion of the Uruguay Round.

In order to give the article some coherence, it will attempt to answer the question: "How is an international trade system or regime structured? The development of the article will answer this question at three levels: (i) the structuring of the international trading system or regime in general from a theoretical point of view; (ii) this structuring at a given historical moment, which materializes in the constitution of the GATT, highlighting also the subsequent changes generated by the inconsistency between rules and facts; (iii) the redefinition of the international trading system in the post-Cold War period, which materializes in the creation of the WTO as one of the main outcomes of the Uruguay Round.

1. THE STRUCTURE OF THE INTERNATIONAL TRADING SYSTEM

From a theoretical point of view, and in general terms, we can say that in the field of international trade, three levels can be distinguished: theories or the epistemological level; "facts" or the ontological level; and the structuring of the international trade system or the level of the practice of states as economic agents.

Economic theories of international trade seek not only to describe and explain economic facts, but also, on the basis of this knowledge, to formulate courses of action or trade policies to achieve certain objectives: economic growth and, consequently, development and well-being.

At the "factual" level, all actions resulting from the implementation of trade policies – whatever their approach - by economic players, whether private companies - from the smallest to transnationals - or national governments, are recorded. These actions are generally studied from the angle of the "international economic context" in general and the "international trade context" in particular.

Let's take a closer look at the structuring of the international trading system, reviewing the concepts of "system", "international system", " international trading system" and "international trade regime".

If we assume with Von Bertalanffy that the system is a "set or complex of interacting elements", and if we consider each political unit as an interacting element on the international scene, we can conclude that the international system is what Chevalier calls the international relational complex, i.e. that "interweaving of relations of all kinds between the various States, knotted in this relational mode of a particular nature...".

The international system, like any system in general, is characterized both by the permanent interrelation of its elements and by the structure that is consolidated within the system as a result of the positioning of each of its elements. Logically, each particular form of positioning of the players will correspond to a specific structure. We must not lose sight of the fact that there are a variety of factors that explain why each state wishes - at a given historical moment - to position itself in a particular way on the international stage. In general, this set of factors of different natures that explain the actions of states on the international scene is called "interest".

This ongoing process of shaping the international system as a result of the interrelation of its constituent states can be called the "dynamics of structuring the international system". If we accept that the "interests" of States are of different kinds, we can say that this dynamic is due to a wide range of factors: social, political, cultural, economic, strategic, military, normative and so on.

In this respect, each historical structure of the international system appears to be the result of interactions between the priority interests of the states that make up the system. Normally, the states with the most resources to pursue their priority interests play a decisive role in shaping each particular structure.

If, from this universe of possibilities available to states to prioritize their interests and realize them in the international system, we focus on the dynamics explained by the action of states to assert their commercial economic interests in the international arena, we will be dealing with the "structuring of the international trading system". In this field, one of the objectives of common interest is the existence of a stable international trade order, with rules respected by most - if not all - in order to provide a predictable environment in which states can develop economically through trade, a source of wealth and well-being.

Insofar as any structure characterizing a given international system wishes to be permanent over time, it generally takes the form of international legal regulations, which normally reflect the correlation of forces of the actors at the time of its constitution.

In this sense, any *"structuring of the international trading system"* requires the establishment of an *"international legal standard". This is where* the three levels mentioned above come together. Indeed, the characteristics of this international normativity will depend not only on the interests of the players with the greatest bargaining power, but also on the economic and trade theories and policies of these players, as well as on how they assess the current and future situation at the "factual" level.

These theoretical considerations help explain why many authors often refer to the GATT as the "international trading system". Others, however, prefer to call it the "international trade regime", reflecting the influence of S. Krasner's concept of regime: "a set of principles, norms, rules and decision-making procedures, around which the actor's expectations in a given field converge".

2. THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

2.1. Constitution

Having dealt with the general theoretical level, let's now look at how the states action took shape in a particular historical moment with the formation of GATT.

After the Second World War, international economic relations developed in an environment characterized by excessive protectionism, bilateralism in trade transactions, exchange controls, currency inconvertibility, the use of devaluations as a competitive factor, obstacles in payment mechanisms, the almost total absence of credit, chaos and financial instability; in this context, it was easy to foresee an uncertain future and to fear an even greater economic recession.

In this situation, countries were convinced that the international economic space needed a mechanism or organization to guarantee normal financial, commercial and monetary participation.

It was then that the General Agreement on Tariffs and Trade (GATT) was established. What role was GATT to play in this new order? Diana Tussie explains it very well: the International Trade Organization (ITO) (and by extension the GATT) was conceived as one leg of a tripod that was to manage different areas of international economic relations. Thus, the IMF was designed to provide short-term financing to prevent countries from being forced to excessively restrict imports when faced with temporary balance of payments deficits; the IBRD (now the World Bank) was to provide long-term capital assistance; and finally, the ITO was to promote the liberalization of international trade and regulate national trade policies.

The GATT was negotiated as part of the process leading up to the approval and entry into force of the Havana Charter creating the International Trade Organization (ITO). Thus, the history of the creation and the nature of the constitution of the GATT are closely linked to the contingencies that arose during the planned entry into force of the ITO.

What happened to the ITO? While the IMF and IBRD were created at the Bretton Woods conference in July 1944, the ITO was unable to become operational, as the Havana Charter was not ratified. In 1948, the international arena had only a limited instrument at its disposal, with the GATT appearing as a sort of code of commercial ethics focused on tariff issues.

Indeed, issues such as trade and employment, trade and development, commodity agreements, the regulation of restrictive trade practices, the creation of an international body and dispute settlement mechanisms - all provided for in the comprehensive regulations of the Havana Charter - had to be, in one way or another, subsequently incorporated into the remit of the GATT. In some cases, this integration was possible; in others, it gave rise to debate and controversy within the GATT. This particular situation has been described by John Howard Jackson as the "defective constitutional nature of the GATT constitution", and explains the permanent struggle between objectives, means and actions that characterizes the history of the GATT's evolution.

2.2. Features

At this point, it is useful to recall three main features of the GATT, which will help us to better understand the particularities of this international trade regime: its contractual nature, the provisional nature of its application, and its threefold action.

2.2.1 The GATT is contractual in nature, which is underlined by the fact that participants are referred to as "contracting parties" and not "member countries". The relations that these contracting parties maintain with each other and with the GATT as a whole constitute a balanced set of rights, benefits and obligations deriving from the status of contracting party.

However, this agreement did not create an international organization, but merely a contractual framework into which were incorporated the tariff reductions and trade commitments made in Geneva in 1947 by the first 23 member countries of the GATT - in order to fulfill its initial objectives and meet the unmet demand for international management in the field of trade in the face of the failure of the ILO - and which subsequently implemented a structure and mechanisms typical of an international organization. This has led some authors to claim that the GATT is a "de facto international organization".

The Anglo-Saxon influence present at the time of its creation explains the *GATT's empiricism.* This characteristic, in addition to enabling it to adapt to changing realities, has led many authors to assert - not without reason, as Alberto Rioseco does - that the GATT "is more an instrument of negotiation than a body that adheres to legal techniques". This is why, when a contracting party fails to comply with its obligations, rather than condemning it or applying sanctions, negotiations are sought between the parties concerned and the alleged offender: the GATT has virtually no effective system of sanctions, and only the mechanism of consultations and reprisals is provided for.

2.2.2 The provisional nature of its application: the General Agreement on Tariffs and Trade was signed in October 1947, before the adoption of the Havana Charter and the ITO, which were signed in March 1948.

Insofar as the full implementation and operation of the GATT was to take place within the framework of the ITO, it was logical that the General

Agreement should only apply after final approval by the ITO. However, special circumstances led to the provisional application of the General Agreement through the controversial *Protocol of Provisional Application,* which allowed the GATT to enter into force in January 1948 and was intended to apply temporarily until the ITO's approval and implementation.

As the ITO did not become operational, the *provisional application protocol* became - in practice - the "definitive" instrument that explains the validity of the GATT as a binding treaty under international law.

The most important consequence is the way in which the rules making up the General Agreement are implemented. According to the provisions of the Protocol of Provisional Application, Part I, which concerns the *most-favored-nation clause* and tariff concessions, and Part III, which mainly governs *procedures,* are fully implemented without exception. On the other hand, as regards the implementation of Part II, which contains the main *substantive trade policy obligations* (including those relating to customs procedures, quotas, safeguards, dumping, subsidies, national treatment, etc.), the Protocol provides for special implementation: *"to the extent not inconsistent with legislation in force" at the* time of GATT accession. This provision is the basis for the much-discussed “grand-father” clause.

This particular provisional application implies a serious limitation of the GATT's operability and effectiveness: Part II will only become fully binding once the GATT has been definitively accepted by the countries party to it, which presupposes prior compatibility between their national rules and the international rules of the GATT. As this has not yet happened, many authors claim that the GATT, in the strict legal sense, has never entered into force: the GATT simply applies.

2.2.3 Its "defective character" and its status as the only multilateral instrument of international trade explain the GATT's threefold role:

- Firstly, since its inception, the GATT has been a set of multilaterally-agreed rules governing the commercial behavior of governments, aimed at liberalizing trade in goods, but not all goods, since there are exceptions for agricultural products, textiles and other sectoral agreements. Nor does it regulate trade in services.

Three types of principle can be distinguished among its rules. The general principles are *"non-discrimination"* (via national treatment and the most-favored-nation clause) and *"reciprocity".* Principles designed to promote fair trade are based on the regulation of *dumping and anti-dumping duties, as well* as *subsidies and countervailing duties.* Finally, the principles in favor of trade liberalization are embodied in the *prohibition of quantitative restrictions* on trade and the conclusion of *multilateral trade negotiations.*

- Secondly, the GATT offers the governments of the contracting parties a forum for settling any disputes that may arise in their trade relations governed by the general agreement. However, I believe it would be an exaggeration to say that the GATT is a kind of "international trade tribunal", as it lacks effective compulsory and coercive means.

-Thirdly, the GATT is a forum for international trade negotiations aimed at liberalizing trade and strengthening, extending and creating rules to regulate international trade between contracting parties. Indeed, the GATT is the only binding multilateral international agreement by which signatory governments establish both agreed rules to regulate international trade and mechanisms to monitor and create new agreements. The aim is to liberalize trade and contribute to economic growth, development and the well-being of the world's population.

2.3. Development

Two factors explain the **evolution of GATT.** On the one hand, the permanent friction between actions, means and objectives arising from its *defective constitutional nature;* on the other, the constant action of States to regulate the market and international trade, which is identified with the *structuring of the international trading system,* and where the difficult *State-market relationship* is evident.

Before the Uruguay Round, the GATT can be divided into four stages: the first three rounds of negotiations, the initial questioning of the GATT, the attempt to harmonize trade with economic development in the 1960s, and the "new GATT" shaped by the crisis of the 1970s.

2.3.1. First stage: the first three rounds of negotiations

The creation of the GATT was inspired by liberal economic theory. According to this theory, free trade was to enable national economies to develop through specialization according to their comparative advantages. At the same time, it was thought that it would foster international economic relations that would strengthen and guarantee world peace through the principles of "non-discrimination" and "reciprocity" within a multilateral framework.

In this first phase, the goal of "trade liberalization" was paramount for the United States - victors of the Second World War and a country with strong industrial potential - but less so for Europeans, and even less so for developing countries, which had less negotiating power. Nevertheless, the Geneva (1947), Annecy (1949) and Torquay (1951) rounds were crowned with success, as the tariff concessions agreed contributed to an astonishing expansion in world trade.

The importance of these rounds lies in the opportunity they offered to implement the provisions of the General Agreement aimed at liberalizing trade through tariff negotiations and multilateralizing it through the application of the "most-favored-nation clause".

This first phase of liberal euphoria, with concrete results in trade expansion, seemed to overcome the limits of the form in which the principle of "trade liberalization" was enshrined. Indeed, the preamble to the General Agreement sets as objectives - among others - both "the substantial reduction of tariffs and other barriers to trade" and "the achievement of full employment". Insofar as one and the other are not necessarily considered compatible, we discover here how difficult it is to harmonize the conditions for optimal market operation with governmental responsibility of pursuing the general well-being.

2.3.2. Second stage: first challenges to the GATT

This stage covers the 1950s. During this period, in 1956, the fourth round of tariff negotiations took place in Geneva. The results were less spectacular than the previous ones; the situation was different because the European countries had improved their manufacturing export potential and, as a result, their bargaining power vis-à-vis the United States had improved considerably. This fact, by making the principle of "reciprocity" more obvious in negotiations, will indirectly convince developing countries of the unfairness of this principle. This in turn led them to advocate the relaxation of certain rules.

Three features of this phase can be identified*:* (i) 1953 was the year in which the ninth session of the contracting parties was held to revise the General Agreement; (ii) 1955 marked the beginning of the process of relaxing the application of the General Agreement, starting with the agricultural question; (iii) the process of economic integration or regionalism began.

i) The "review session" launched in 1953 had two main objectives: to respond to the demands of developing countries, and to institutionalize the GATT for effective action in the absence of the ITO.

Developing countries (DCs) lobbied on several points. The most notable of these were those aimed both at incorporating into the GATT provisions setting as an objective "the promotion of the progressive development of <u>all contracting parties</u>", and at recognizing existing inequality among contracting parties and regulating accordingly.

Generally speaking, the DCs called for greater flexibility in the implementation of GATT commitments, so that international trade would - for them too - be the "engine of development". In this sense, the rewording of Article XVIII, entitled "Aid for Economic Development", adopted in 1955, was a step forward.

On the other hand, the defective constitutional nature of the GATT meant that its features were not ideally suited to effectively meet the demand for international trade administration. Against this background, the proposal to create the Organization for International Cooperation (OIC) was approved, in order to provide the GATT with a stronger, more permanent institutional regime. However, the proposal failed to secure the necessary number of ratifications. Since then, the way forward has been to improve and strengthen the GATT's legal regime. Part of this effort lies in the unsuccessful attempt to implement the General Agreement "on a definitive basis", an attempt which was initiated at this stage in response to the problems which the provisional nature of the GATT's implementation was beginning to cause at the time.

(ii) With the exception of the limited provisions of Article XVI, the GATT makes no distinction between trade in agricultural products and trade in industrial products. Gerard Curzon attributes this to the fact that the two main negotiators - the United States and Great Britain - represented the interests of agricultural exporters.

However, in the early 1950s, two events changed the situation of international agricultural trade. On the one hand, European countries began to recover their agricultural export potential; on the other, the United States became aware of the serious consequences of maintaining high agricultural prices on its domestic market: not only was it difficult to reduce domestic agricultural supply, but it was also difficult to apply the safeguard provided by the GATT to deal with agricultural imports reaching the US market, stimulated by attractive domestic prices. Moreover, no restrictions were foreseen for related sectors such as dairy products, for which the US was already developing protectionist concerns.

In 1955, on the basis of its Agricultural Readjustment Act, the United States decided not to apply GATT rules to its trade in agricultural products. This decision was validated when the contracting parties granted them an exceptionally broad and unlimited waiver, requiring only an annual report in return. On the basis of this waiver, the United States began imposing severe restrictions on imports of agricultural products such as cotton and dairy products.

This process of relaxation in the application of the GATT to agriculture became more marked towards the end of the decade. With the implementation of the European Community's Common Agricultural Policy, a special regime of regulations and subsidies not provided for in the GATT began to be applied. Add to this the fact that Japan also applies exceptional measures in its agricultural trade, and the result is that on the world's main agricultural markets, unilateral protectionist measures prevail over GATT rules, affecting competent agricultural exporting countries and distorting the market.

(iii) Article XXIV.4 of the GATT provides for the formation of free trade areas and customs unions in order to "facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories". To this end, certain conditions must be met to ensure that such zones are complementary to, and do not undermine, the multilateral trading system.

Making use of the option provided by this law, the movement towards economic regionalism began in 1958 with the creation of the European Economic Community. It continued in 1959 with the European Free Trade Association, the Latin American Free Trade Association in February 1960 and the Central American Common Market in December 1960.

In practice, this trend meant breaking the "principle of non-discrimination" in its "most-favored-nation clause" aspect, since the preferential tariffs agreed between the countries making up the system were preferential precisely insofar as they were not extended to third countries that were GATT contracting parties.

However, this is an exception authorized by the General Agreement. The problem has arisen in its implementation: GATT approval and control measures have not been fully respected. This GATT tolerance of economic regionalism may explain the various complaints that have been lodged to date about integration programs "allegedly contrary to the GATT".

2.3.3. Third stage: the 1960s and the attempt to harmonize trade with economic development

While it's true that statistics from the 1950s show world trade growing by 8% a year, doubling the volume of trade, they also show that the share of developing countries (DCs) in world trade - over the same period - fell from one-third to just over one-fifth by the end of the decade. The expectations of developing countries in terms of economic development did not seem compatible with the international trading system in place at the time.

Against this backdrop, the *Haberler Report* was produced in 1958, concluding that the trade policies of developed countries were responsible for much of the difficulties experienced by developing countries in terms of export performance. In 1959, 15 developing countries presented a *Note on the Expansion of World Trade* in which, for the first time and collectively, they questioned the basic principles of the GATT: *reciprocity* and *non-discrimination.* They proposed granting them "concessions without compensation", and called into question the "principal supplier" rule for negotiations. In short, developing countries were calling for a relaxation or reform of GATT principles.

In parallel with this movement within the GATT, the 1960s were declared the "Development Decade" within the United Nations, with the aim of achieving a minimum annual growth rate of 5% and a 25% share of world industrial production for developing countries. It was against this backdrop that the United Nations Conference on Trade and Development – UNCTAD - was launched on March 24 1964 in Geneva, the international community recognizing the need to project trade policy in the perspective of economic development. Some authors - such as Patricio Leiva Lavalle - go so far as to assert that it was here that, for the first time, an "international consensus for development" took shape.

As a result, it was decided in 1965 to incorporate the three articles of the famous "Part IV: Trade and Development" into the text of the General Agreement. These included the distinction between "developed" and "less-developed" countries, which gave rise to the duality of principles and rules within the GATT, the programmatic rather than prescriptive nature of its provisions, and the enshrinement of "relative reciprocity". In other words, the demands of developing countries were incorporated into the General Agreement – although some of them were partially modified; similarly, the establishment of the Generalized System of Preferences (GSP) in favor of developing country exports, agreed in 1968 within the framework of UNCTAD I, also represented a new step forward. Despite this, the results of the Kennedy Round (1963-1968) - which took place within the framework of the "Consensus on Trade and Development" - were not entirely satisfactory for developing countries, as in their case the benefits of international trade remained elusive.

2.3.4. Fourth stage: the crisis of the 1970s and the "new GATT".

This stage is characterized by the crisis in the international monetary system, the repercussions of the crisis on the international trading system, and the Tokyo Round as a means of responding to these challenges.

The monetary system, by linking finance to trade, is the backbone of the global economic system. As such, any thriving international economy needs a solid monetary system, as a failure of the latter can lead to a major international crisis. The 1930s illustrate this close link. It was repeated when, in 1973, against a background of simultaneous demands for USD $10 billion in convertibility, inflationary pressures, the first budget deficit since 1893, attacks on the dollar and fears of financial collapse, R. Nixon declared the US dollar inconvertible into gold.

The crisis in the international financial system obviously affected the international trading system. However, the latter had its own dynamic that explains the crisis, independently of events in the monetary sphere.

According to Joan Edelman Spero, after the Kennedy Round, the forces driving change in international trade were: (i) the deepening of interdependence, which made countries more sensitive to change; (ii) changes in the structures of national economies due to shifts in production behavior and comparative advantages, which led to demands for protectionism in the sectors concerned, (iii) the fragmentation and challenging of economic power and leadership, (iv) the period of inflation and recession that brought to an end the long period when international trade operated in an environment of stable and sustained growth.

In addition to the oil crisis, the loss of trade dynamism, balance-of-payments imbalances in certain developed countries, rising unemployment, inflation and sector-specific trade problems within developed countries, there were also failures in the monetary system. All this has led many developed countries to implement protectionist and trade-restricting measures in a climate of uncertainty and mistrust.

As a result, unilateral measures or forced bilateral agreements began to proliferate in national trade policies that ran counter to GATT provisions or constituted the so-called "grey zone" of the GATT. In this context, the measures adopted in favor of trade and development - preferential and differential treatment for developing countries - were not being implemented as intended. Even products of primary interest to developing countries (leather, agriculture, textiles, clothing, mining and agricultural products) have not only been subject to restrictive trade measures at national policy level, but the GATT itself has validated - in the case of textiles - special regulations that were exceptional in relation to the general scope of the agreement.

In a climate where multilateralism was weakening and neo-protectionism seemed to be winning out over free trade, the Tokyo Round was launched in 1973. Unlike previous rounds, this one was not only aimed at deepening tariff concessions, but, forced by circumstances, attacked other mechanisms then in force in world trade.

In 1979, the Tokyo Round resulted in a series of agreements covering such important issues as subsidies and countervailing duties, anti-dumping measures, import licensing, customs valuation, technical barriers to trade and government procurement. Three sectoral agreements on meat, civil aviation and dairy products were also approved. However, by binding only those countries that expressly adhere to them, without automatically extending to the other contracting parties, those sectoral agreements call into question the most-favored-nation (MFN) clause and the principle of "non-discrimination", the pillars of the traditional General Agreement, so adjectivized to distinguish it from what was then called the "new GATT".

From the developing countries' point of view, what was remarkable about the results was the "enabling clause" allowing developing countries to receive, or grant themselves, non-extensive preferential treatment. Paradoxically, on the basis of this express declaration, the industrialized countries established the "practice of graduation". According to this particular interpretation, the preferential treatment granted by industrialized countries to developing countries can vary according to the specific conditions of each developing country.

3. THE URUGUAY ROUND

Let us move on to the third level of our response: redefining the international trading system today.

3.1. Background to the launch and development of negotiations

According to our theoretical approach described in the first level of response, we can consider this context at two levels: the "reality level" or the global trade landscape, and the "normative regulation level" or the international trade regime.

Broadly speaking, the global trading landscape that forms the backdrop to the Uruguay Round is characterized by the following elements:

a) Universalization of production and trade due to technological development and the behavior of investment flows in the context of economic globalization.

b) The growing interdependence between economic players calls for appropriate management of international trade, which tends to be based on the greatest possible harmonization of national economic policies with an impact on trade, going beyond simple tariff negotiations.

c) Presence of blocs segmenting economic trade relations in anticipation of the reconfiguration and consolidation of the multilateral trade system, with possible risks of marginalization in relation to third countries.

d) The composition of trade is changing, with new, complex products and the growing importance of services; in this context, price competition is not always decisive.

e) European Union and Japan challenge American economic hegemony.

f) A process in which the gap between developed and some developing countries is narrowing, while the gap between some developing countries and other developing countries is widening. Thus, we see: strong economic growth and spectacular trade expansion in the Asia-Pacific region, with its first and second generations of "newly industrializing countries" and the great prospects of the Chinese economy; a decline in Africa's share of world trade; some growth prospects in the Latin American economies, today the standard-bearers of free trade; a declining importance of "transition economies" in world trade.

This whole panorama of international trade is taking place in a world that is tending to homogenize - economically speaking - under the principle of the market economy.

On the other hand, the **situation of the international regime is** characterized by a weakening of the validity of its basic principles, which means that its normative postulates aimed at increasing *free trade* are confronted with a commercial practice of *administered trade,* with more elaborate, complex and even "agreed" restrictive measures. This erosion of GATT principles can be attributed to the following facts:

a) Trade preferences granted to "zones of influence" in developing countries. These are the specific cases of the EU and ACP countries via the Lomé Convention, and of the United States in favor of Caribbean basin countries.

b) The "sectoralization" process underway within the GATT. By removing products such as textiles and agriculture from the scope of the GATT, and even by drawing up codes applicable only between signatory countries, this sectoralization process runs counter to the GATT's natural vocation to "universalize" in order to cover all international trade.

c) The use of bilateral approach to solve trade problems. Under this term we include "voluntary export restraint agreements", "market organization" agreements and the dubious compensation practices of the GATT "grey zone".

d) “Aggressive unilateralism" is another factor eroding the GATT regime. Section 301 of the US General Trade Act of 1988 is a case in point. Its consequences are obvious: an approach in which one country unilaterally defines practices it considers unfair and forces other countries into bilateral negotiations under threat of retaliation is the opposite of the GATT, which is based instead on reciprocal, negotiated reductions in tariff barriers on a multilateral basis.

e) Finally, another factor undermining the GATT regime is that exceptions to its principles to allow differentiated and more favorable treatment for developing countries are not fully respected. On the contrary, in practice, sectors of great interest to developing countries (textiles, clothing, footwear, tropical products, agriculture) have seen their markets restricted instead of benefiting from preferential access. This discouragement has led some authors to say that the GSP seems to be granted according to the criterion of "access for those who have no offer, and not access for those who have an offer".

3.2. The negotiations

The agenda set at the 1986 Ministerial Declaration in Punta del Este (Uruguay) included 15 topics: tariffs, non-tariff measures, resource-based products, textiles and clothing, agriculture, tropical products, GATT articles, safeguards, subsidies and countervailing measures, trade-related aspects of intellectual property, including trade in counterfeit goods (TRIPS), trade-related investment measures (TRIMs), dispute settlement, functioning of the GATT system (FOGS), NCM agreements (Tokyo), services (GATS).

Three comments are in order here. Firstly, the goal of "greater universalization" is reflected in the agenda: expansion of the GATT to "new issues" (services, investment, intellectual property protection) and reincorporation into the GATT of "old issues enjoying exceptional treatment" (textiles, agricultural products). Secondly, going beyond the traditional tariff and non-tariff vision of international trade liberalization and regulation, the GATT aims at greater coordination of trade and economic policies for better development-related trade performance: a recognition of what is required by the new demand for international trade management, driven by growing economic interdependence. Thirdly, there is a concern for strengthening the multilateral international trade regime, which implies greater institutionalization and the rejection of unilateral practices. Here, the creation of an international trade organization is inserted as an implicit objective, the original idea that gave rise to the GATT.

If we consider that the agenda fits the circumstances, that the industrialized countries are advocating free trade - albeit with more insistence than actual practice - and that the developing countries have become the "de facto" standard-bearers of free trade, we can assume that the conditions for the consolidation of liberalism as the organizing principle of the new international economic order have been met.

However, the Uruguay Round launched in 1986 did not lead to the signing of the Marrakesh agreements until 1994. The obstacles that prevented a rapid and fruitful conclusion must be attributed to the difficult decisions that States had to make on each item on the agenda. At every point, they were faced with a choice between defending narrow national interests – measured by short-term criteria - and moving towards agreements aimed at maximizing global well-being, with longer-term criteria. This was particularly evident in the areas of agriculture, textiles and clothing, services, intellectual property and institution-building.

In general, agriculture, textiles and clothing are areas in which liberalization is of great interest to developing countries; however, it is a difficult political decision for industrialized countries, as it involves exposing their industries to international competition, where the greater competitive capacity achieved by other countries - particularly developing countries - would mean that developed countries would have to make structural adjustment in these sectors, with the resulting domestic social unrest in the short term.

On the other hand, and broadly speaking, the issues of trade in services and intellectual property rights are of great interest to industrialized countries. For the United States, the liberalization of trade in services is a major priority, as it depends on them both to regain its leading position in the global economy and to restructure its national economy and productive base. On the other hand, given that trade and economic growth are increasingly based on innovation and technological development - areas in which industrialized countries dominate - it is in the interests of developed countries to ensure that intellectual property rights are adequately protected. The question is not whether or not to liberalize trade in services or to regulate IPR protection, but rather to determine the scope of initial commitments to liberalize services and to draw up rules governing both issues. The struggle of certain developing countries to have their development expectations taken into account in such regulation also plays a role.

The question of institutional strengthening was also important, insofar as the debated WTO would provide adequate means for processing, implementing and monitoring the Uruguay Round agreements. Strengthening the multilateral trading system is of great interest to countries with little capacity for retaliation or reprisals, and whose relative weight in world trade is low.

On the other hand, one wonders whether the big countries are ready to cede some of their autonomy to the WTO and abandon the unilateral trade practices and "grey zone" measures to which they seem inclined as defensive and protectionist measures.

3.3. Result: the Marrakesh Agreements and the WTO

At their 49th session in Geneva on December 15th, the contracting parties concluded the most ambitious round of trade negotiations ever. In April, to ratify the agreements reached, the Final Act was signed in Marrakesh, whose 5,000-plus pages enshrine the biggest-ever commitment to tariff reductions that will enable international trade to achieve an estimated increase of $213 billion a year from 2002, according to the most cautious studies; and $235 billion (1% of world GDP) according to the most optimistic studies.

Qualitative results are just as important as quantitative ones. Indeed, the successful conclusion of the Uruguay Round appears to be the system's appropriate response to the demand for international management stimulated by the current process of globalization and economic interdependence, since its agreements allow us to assert that it has gained in terms of efficiency and credibility for the management of current interdependence. The collateral results of the Uruguay Round are - in theory - important: the conditions of clear rules and predictability would enable long-term development projections; a climate of confidence conducive to investment and job creation; an adequate framework for the economic growth of all economies in absolute terms; and international competition whose results should benefit everyone, whether workers, entrepreneurs, traders, investors or consumers.

The expected quantitative and qualitative results are based on the adoption of several sectoral agreements that form an indissociable whole. The main agreements include

- *Reduction of customs duties* calculated globally at 38% by developed countries on industrial products. Average rates fall from 6.3% to 3.9%. Developed countries commit to increasing the value of their duty-free imports of industrial products from 20% to 43%. They will also reduce their imports subject to "tariff peaks" of over 15% from 7% to 5%. Finally, by applying the "enabling clause", certain concessions are granted to developing countries, although the marginal benefit is certainly reduced.

- In the field of *textiles,* progressive liberalization has been agreed over a 10-year period through the simultaneous implementation of two mechanisms: *integration* and *liberalization*. The *integration* process provides for four stages, during which a certain percentage of textile imports must be incorporated into the general rules of the GATT, so that by 2005, all textile imports will be governed by the general principles of the GATT, putting an end to the exceptional treatment validated in the Multi-Fiber Agreement (MFA). *Liberalization* aims to progressively ease current restrictions by increasing quota growth rates in three stages. In principle, trade in textiles should be fully integrated into the GATT without discriminatory quotas by 2005.

- In *agriculture*, the Uruguay Round agreement marks the beginning of trade liberalization in this sector. It establishes a transition period for liberalization of 6 years for developed countries and 10 years for developing countries. The commitments to be met during these periods vary according to the subject of the agreement. For example, with regard to *market access,* developed countries must reduce their tariffs by 36%, while developing countries must reduce their tariffs by 24%. As for *domestic support* *measures,* developed countries will have to reduce them by 20%, while developing countries will have to reduce them by 13.3%. Finally, with regard to export subsidies, developed countries are committed to reducing 36% of the value of subsidies, and of the 21% volume of subsidized exports, developing countries must achieve 2/3 of the target set for developed countries.

-In the area of *services,* not only was the General Agreement on Trade in Services adopted, but schedules of national commitments were also negotiated in a number of areas. These two results far exceed the expectations formulated at the start of the round.

- *Intellectual property* mainly comprises proposals from developed countries for its protection, although a 10-year period has been set aside to allow developing countries to harmonize their national legislation with international provisions.

- *The* most spectacular agreement, however, was in the area of *institutional strengthening*, since in addition to measures adopted in the fields of *subsidies, anti-dumping, dispute settlement and safeguards, the* World Trade Organization (WTO) was created. The importance of the WTO lies not only in the fact that it completes the tripod envisaged at Bretton Woods for regulating international economic relations, but also in the fact that, with its creation, one area of these relations - trade relations - manages to overcome the environment of relative provisionality and ambiguity in which they operate, both because of the flawed nature of the regulatory body - read GATT - and because of the difficult relations between GATT and the contracting parties, fuelled by the dubious binding force of the agreements and their consequent enforceability.

Indeed, according to the agreements, from 1995 onwards the WTO will administer: the traditional GATT (hence the claim by some that the WTO will "replace the GATT"), the sectoral agreements of the Tokyo Round and the Uruguay Round agreements, including those on services, intellectual property, dispute settlement and the trade policy review mechanism.

This implies that the Uruguay Round agreements have the status of international treaties, and as such, multilaterally agreed rules will prevail over national legislation. The practice of unilateral measures will - in theory - be controlled by the WTO.

In addition, the WTO will maintain close coordination with the World Bank and the International Monetary Fund as part of a mechanism that should attempt to effectively manage an increasingly complicated economic world in the light of growing interdependence and the process of globalization. In this respect, the issues that will form part of the international debate in the coming years are already taking shape, as are the possible positions and emphases that countries will adopt in those debates.

Relatively recent events show that trade seems to be the issue on which other global issues can converge to become more "tangible" and generate disputes because of their immediate and far-reaching effects ("favorable" or "unfavorable" depending on the judge). Global issues such as *environmental protection, respect for human rights, labor rights, the fight against poverty,* are strongly reinforced and become more controversial if they are associated with the issue of *free trade* or simply *trade.*

In this sense, it is likely that, in the immediate future, the WTO will have to debate seriously: the impact of the environmental variable on trade; the regulation of trade in goods and services in such a way that the principles of respect for human rights or respect for labor rights are not used as conditions or arguments to restrict trade, to the detriment of equitable expectations of growth and development; the relationship between investment, trade and the fight against poverty, and so on. It is also possible to predict that the discourse of developing countries in the years to come will emphasize the link between finance-trade-poverty eradication, while, on the other hand, the neo-mercantilism that seems to be emerging in industrialized countries will base its discourse on the link between trade-environment, trade-human rights and trade-labor rights.

Finally, it seems that the more competitive the exports of developing countries become, the more frequent expressions such as *"social dumping"* or *"environmental protection" will become.* The consolidation of liberalism as the ordering principle of the economic sphere in the so-called *new international order of the post-Cold War era* is not yet complete. The establishment of limits to liberalism and free markets, so difficult to set in the relationship between the State and the market, will surely generate the most arduous debates in international economic relations in the coming years. The Uruguay Round has set the initial agenda, and the WTO already appears to be the ideal forum for dealing with that agenda.

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