



The regulation of World Trading System and Trade Negotiations.¹

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by

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Introduction

The purpose of this communication is to introduce participants to the trade negotiations simulation conference and workshops, to the main regulatory elements of the global trading system (GTS) and the negotiations that take place within its framework. The presentation is divided into three parts. The first introduces the essential principles of GTS. The second summarizes the different rounds of trade negotiations within the framework of the GATT (General Agreement on Tariffs and Trade) and introduces elements of the approaches applied. The third part presents aspects and elements of the trade negotiation process used by negotiators and countries. During the presentation we introduce elements of the main agreements that govern the World Trade Organization (WTO), especially those related to agriculture, the implications, repercussions, and perspectives. The text is aimed at a varied audience and the specialized vocabulary has been reduced.

Keywords: GATT94, trade rounds, tariff formulas, negotiation approaches, alliances, interest groups.

1. Main elements of the commercial regulation system

- ***The beginning of the Most Favored Nation*** (MFN, Art.1 GATT94).

The MFN clause is one of the cornerstones of the SCM. It has emerged at various times in the past in various bilateral treaties in Europe and Asia. It was an essential rule throughout the GATT period and is today a capital element of the World Trade Organization (WTO) and every plurilateral and regional trade agreement. The MFN principle consists of granting the same benefits to all members of the organization. Thus, "any advantage, favor, privilege, or immunity granted by a contracting party to a product originating in or destined for another country, shall be granted immediately and unconditionally to any similar product originating in or destined for the territories of the other contracting parties." " (Art.1, §1 GATT94)

While the MFN principle tends to treat all members equally, there are nevertheless certain exceptions to the MFN principle (Art. 24 of the GATT). This refers to those members that establish specific commercial conditions through customs unions, free trade areas, regional or preferential agreements. Exceptions may also apply in the case of products produced under conditions of unfair trade. In the case of trade in services, there is also an exclusion limited to certain circumstances.

- ***The principle of national treatment*** (Art. 3 GATT 94)

National treatment (NT) establishes as a principle for member countries that all imported products must be treated in the same way as local products once they enter the national market. That is, once the conditions for entry into the country have been met, the product (or service) will be treated without discrimination and will receive the same treatment as its local equivalent. The objective of the TN is to avoid exclusion or to give protection and advantages in national, sub-federal or regional legislation to national products.

Products imported by a member "shall not receive treatment less favorable than that accorded to like products of domestic origin with respect to any law, regulation or requirement affecting the sale, offer for sale, purchase, transportation, distribution and use of these products in the internal market" (Art.3, §4 GATT 94). Such treatment is extended to trademarks, copyrights, patents, as well as to foreign companies and residents established or carrying out commercial operations in a member country.

Both principles, MFN and TN, reject all discrimination between countries and treat all companies from member countries equally. The application of this principle after the creation of the GATT at the end of the Second World War facilitated the liberalization and increase of trade in an important way. Thus, thanks to the creation of similar commercial conditions (MFN and TN), a market opening occurred, which contributed to companies from member countries seeing their market shares increase in various regions.



- ***The principle of Reciprocity*** (Art. 28 bis GATT 94)
Reciprocity is used in every round of negotiations and considers that the parties or countries should tend to reduce tariff and other obstacles to trade on a basis of reciprocity and mutual advantages. The principle emphasizes that members (contracting parties) will conduct negotiations on a basis that provides opportunities for the needs of each party and each industry. "Taking into account the need of less developed countries to resort more flexibly to tariff protection to facilitate their economic development and the special needs of these countries to maintain duties for fiscal purposes" (Art. 28bis §3b GATT 94). That is, in a negotiation each party must bring a package of products and conditions to negotiate and propose in exchange to satisfy the counterparty. This always considers the necessary flexibility according to the development conditions of the adverse party.
- ***The principle of transparency*** (Art.10 GATT 94)
Transparency in the application of agreements negotiated by members is essential for respect for the MFN and NT principles. This principle allows us to evaluate or detect possible protectionist measures introduced by a member in the application of a commitment or agreement.

Respect for this principle is guaranteed by the publication of national regulations related to national and international trade and by their notification to the organization prior to their entry into force, if possible. In the context of the WTO, transparency is especially increased with the acceptance by its members of the creation of 3 information points in the agreements related to technical barriers to trade (TBT), sanitary and phytosanitary measures (SPS), and services. Transparency is also strengthened by the periodic meetings of specialized committees according to the trade agreement and by the mechanism for reviewing trade police (Annex 3, WTO Agreement) which, depending on the level of development of the country, is carried out every 2, 4 or 6 years.

In summary, It can be concluded that trade negotiations are based on a principle of reciprocity and mutual advantages where the agreements established consider the degree of economic development of one of the parties. The conclusions of such an agreement are valid for all parties under MFN and TN conditions and its application is periodically examined (transparency). Although this is followed in broad lines and the tendency is to fortify it, the reality of the market shows us a series of discrepancies and gaps that have given rise to countless controversies and conflicts typical of the application of trade agreements and the exchange of goods and services in the international market.

2. The Rounds of Trade Negotiations and Market Access

- ***The negotiation rounds. Implications and approaches***
The GATT, created in a post-war context (1947) and in a climate with strong protectionist and nationalist tendencies, quickly became the banner of trade liberalization. Thus, in the first 15 years until the Dillon Round (1960-61) some 63,000 tariff lines were negotiated and reduced. This not only increased trade but also political and cultural ties between its members, which had already increased from 23 to 39.

Such ties were even more reinforced by the context of the Cold War that was being experienced, which led in one way or another to the countries to approach one field or the other. The United States, the United Kingdom and France, winners of the Second World War, became leaders in trade liberalization. Especially the first two who had the closest ties. They met, prepared, and proposed tariff reduction and trade liberalization initiatives based on their own commercial and geopolitical interests. With the entry of the European Economic Community (EEC) into the GATT during the Dillon Round, the balance of decision-making power and negotiation initiatives is slightly modified, but without radically changing it. Throughout the different rounds, the United States, the European Union, Japan and Canada dominate and are the main initiators of trade system reforms. The rest of the countries will adhere to this or that initiative, but without becoming first-rate leaders.



In the 1980s, just before the start of the Uruguay Round (1986), a group of 14 exporting countries (today 19) of agricultural products from developed (DC) and developing (LDC) countries, the Cairns Group (Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Philippines, South Africa, Thailand and Uruguay), will take on more importance in trade liberalization initiatives, especially with regard to the reduction of export subsidies, prices and protection of agricultural production in the main industrialized countries.

Other countries such as Brazil will appear later, especially after the Ministerial meeting in Cancún in 2003; China, India, or groups of countries G20, G33, ACP and others that have positions different from those dominant until that time. They are called to play a key role in the future for a more balanced continuity of the SCM.

- ***The first five rounds of negotiations***

In total, since the founding of the GATT until the creation of the World Trade Organization in 1994, there have been eight rounds of trade negotiations, the most important being those in Geneva (1947), Tokyo (1973-79) and Uruguay (1986-94). the number of reduced customs tariffs, the agreements included and the number of participating countries.

The first rounds 1947-62, Geneva (1947), Annecy (1949, Fr), Torquay (1950-51, UK) and Geneva (1955-56), are essentially under American and English initiative and tended essentially towards a reduction in tariffs. customs and quantitative restrictions. The dominant approach to negotiation was to negotiate tariff line by line between the main producers of a certain product. The conclusion of the tariff reduction agreement (tariff concession in GATT language) was immediately extended to the other participants under the MFN principle.

During the Dillon Round (1960-61) 4,400 tariff lines were negotiated. The European Community (EC) appears as a Customs Union with an average tariff protection of 12.1%. Such a customs union leads the EC to negotiate tariff levels among the first six members, that is, lower the tariffs of the most protectionist members (France, Italy) and increase those of the most liberal ones (Germany and Holland). This at the same time leads the EC to compensate its main trading partners (Art.24§6 GATT 94) by virtue of the changes in tariffs and reduction of the EC market that gave preference to its members.

Against the dominant approach of the time (product by product or line by line), the EC proposes for the first time a linear reduction of 20% of manufactured products (excluding agriculture), which is rejected by the main countries.

The product-by-product (PP) or line-by-line tariff reduction approach was dominant during the first rounds and is still used today at various levels of negotiation. It is simple, fast, and strongly reflects the principle of reciprocity ("giving giving"). The negotiator can ask for a rate reduction of The approach can also take the form of X% reduction in average rates or X% reduction in rate dispersion, which leads to lowering certain rate peaks.

In its most advanced version, the PP method gives rise to negotiation under the rule of the main producer or supplier. In such a case it is only the main (largest) producer of a product (Country A) that asks for better commercial conditions ("concessions").², reduction of tariffs, elimination of quotas,

²Concession, a term frequently used in negotiations, denotes a mercantilist or protectionist mentality. The country will make a concession, a sacrifice, an effort by reducing the protection of a sector that it considers normal and fair. They are national companies and employees to protect. However, he leaves out most of his population, the national consumers of the protected product. They pay higher prices for the product, finance the owners of the factories in the sector in a certain way and have a smaller variety of products to choose from according to their tastes and income. During recent years, the consumer has seen its role increase in the negotiations of certain countries, however, its importance is still weak in negotiations in general.



etc.) to an importing country (Country B). He in turn negotiates similar conditions ("concessions") for a product of importance to him. When negotiating the conditions, he considers that he is negotiating with the main producer market which can give him better opportunities than a small producer.

By giving new commercial conditions ("concessions") to the main producer, it also gives this initial negotiation right (DNI), that is, any change that country B wishes to establish with another country on the commercial conditions agreed to the main producer, must be informed to him, who has an ID. Such type of negotiation gives priority to large markets and minimizes the participation of inactive countries or those that have not made "concessions" in the negotiations but that take advantage of opportunities through the MFN principle.

Another method used by negotiators during the first rounds and still used today is that of the commercial opening of the product (ACP), which refers to the reduction of a tariff line multiplied by the volume of imports of the product. Thus, if imports of steel tubes are 100 million dollars (ml\$) with a tariff that is reduced thanks to negotiation from 60% to 35%, (-25%) the commercial opening of tubes will be $0.25 \times 100 = 25$ ml\$ or $(60-35/100) \times 100 = 25$ ml\$.

This can be summarized with the following formula: **ACP= PRT x VImp.**

*ACP= commercial opening of the product (25 ml\$)

*PRT=Percentage of rate reduction (25%)

*VImp=Value of imports (100 ml\$)

In this case, the negotiator considers that he has gained \$25 million from opening the tube market that can be beneficial for exporters in his country. Of course, he must also consider the position of other exporters from other countries that will also benefit from the opening thanks to the MFN principle. In this case, it is necessary to know the situation of competition so as not to make negotiation efforts in vain and to work and open markets for competition.

Another method is the tariff reduction of the weighted average (RTMP) of the negotiated product. Suppose a country imports silk shirts for \$20 ml and silk pajamas for \$40 ml. During the negotiations, an agreement was reached to reduce 6% on shirts and 15% on pajamas. The weighted reduction will be 12%. That is to say:

$12 = (20 \text{ ml\$} \times 0.06 + 40 \text{ ml\$} \times 0.15) \times 100\% / (20+40)$ which, keeping the same meaning of the previous formula, will be reflected in the following formula:

$$(VImp.A \times PRT.A + VImp.B \times PRT.B) \times 100 / (VImp.A + VImp.B)$$

where A and B are the respective products.

Although this method facilitates negotiation, the negotiating team must pay attention to the use of the weighted method, where excessively high tariffs do not encourage importation. In such a case there are practically no imports and there is nothing to weigh or reference point, therefore, the result presents a deformation. To counterbalance this problem, the negotiators have introduced a weighting with respect to the domestic consumption or production of the product, or to weight the overall commercial value of it. This requires a more statistical information and takes more time.



- ***The Kennedy Round***

The Kennedy Round (1963-67), lasts four years, a rate reduction of 35% of all rate lines is negotiated during the period and around 33,000 of them are consolidated. The round also integrates an anti-dumping code, a set of customs valuation procedures based on the American system and preferential treatment for developing countries. The round also sees a strong disagreement between the United States and the EC over their tariff structures. This proposed a significant reduction in tariff dispersion. It presented an "almost uniform" pricing of its products with important tariff peaks in agriculture, while the US presented selective protectionism with a greater tariff dispersion and with peaks in well-determined sectors.

Essentially three methods are used in this round for rate reduction. The product by product, the orders and proposals used in the previous rounds and the linear reduction formula applied to "everything that is on the negotiating table." In this case, the same tariff reduction is applied to all products that are on the negotiating table.

Thus, an initial rate (TI) of 50% multiplied by a coefficient (C) of 0.20 will be equal to a final rate (TF) of 10% or $TF=C \times TI$. If we consider a higher coefficient (0.80) the final rate will be only 40%. That is, the lower the coefficient, the greater the reduction.

Such a linear formula was agreed to be used among industrial countries in order to reduce tariffs on manufactured products by 50%, with the exception of sensitive products that were reduced by a smaller percentage or simply excluded from the negotiating table. In total rates were reduced by 35% during this round.

Negotiating teams from countries with high tariffs or a wide dispersion of them prefer this linear method of tariff reduction since it leaves the protected sectors with high tariffs in similar conditions. While negotiators from countries with lower tariff disparity prefer a non-linear method, or one applied with different coefficients depending on the sector. The problem at the beginning once the linear reduction is agreed is the determination of the coefficient; such an agreement could take months or more. The tendency is to reach agreements with various coefficients depending on sectors, that is, application of low coefficients for sectors with high tariffs, which produces greater tariff reductions, as we have seen previously, and high coefficients for sectors with low protection.

- ***The Tokyo Round***

The Tokyo Round (1973-79) It was the second most important after the beginning of GATT. 102 countries participated, almost double the number in the previous round and 33,000 tariff lines were consolidated. In terms of a weighted average, rates for industrial products were reduced by 6%, representing a reduction in rate revenue of around 34%. The average tariff for industrial products was 4.7%.

A series of codes were negotiated during this round. Thus, a code was introduced on subsidies and countervailing measures, on anti-dumping, customs valuation, technical barriers to trade (TBT), import licensing procedures, dairy products, beef, civil aviation. and public tenders. This last agreement is very delicate due to its relationships between politics, the public and private sectors. It will later become a plurilateral agreement during the Uruguay Round (UR). Preferential tariff and non-tariff measures were also adopted during this round for DCs, the so-called enabling clause, which allowed DCs to grant preferential conditions to less advanced countries without extending it to all of them. countries (non-MFN).

The series of measures negotiated during this round gives rise to more marked opposition from the DCs who opposed the introduction of all measures. Failing to obtain the two-thirds necessary to adopt the measures as an agreement, they become codes, which are not adopted by all countries (contracting



parties). Which gives rise to a "GATT à la carte", where each country chooses what is most convenient for it. We will have to wait 15 years for the codes to become (mandatory) agreements during the UR.

During the Tokyo Round, it was proposed to use the harmonized formula in order to reduce tariff peaks and dispersion. Thus, it was suggested to reduce the rates by their initial level, that is, a product with a rate of 80% will be reduced by 80% and one with 20% by 20%. The EC proposed that such a formula should be repeated 4 times and that products with tariffs of 50% should not be reduced beyond 13%. The US, for its part, proposed a 60% reduction for all lines except for products with rates equal to or below 6.67%. These would be reduced by applying the following formula:

$$\text{Reduction (R)} = [\text{Initial rate (TI)} \times \text{Coefficient (C)}] + 50 \text{ or } R = (\text{TI} \times C) + 50$$

Thus, a product with a 6% rate will be reduced as follows:

$$(6 \times 1.5) + 50 = 59\% \text{ which is the reduction (R) to apply. A 3\% rate will be reduced from } (3 \times 1.5) + 50 = 54.5\%.$$

Switzerland proposed another formula to reduce the highest tariffs more and those of products with lower tariffs less. It has become popular and different variants have been integrated. It is known today as the Swiss formula. Like several of the other formulas suggested in the different rounds, it is surprisingly simple; the big problem is the coefficient to apply. This always gives rise to a series of negotiations that take time. In the present case, it was finally agreed to apply a coefficient of 14 and 16 to be applied by different products and countries. Thus, contrary to the linear formula, the lower the coefficient, the lower the rate.

$$\text{Final rate (TF)} = \text{Coefficient (C)} \times \text{Initial rate (TI)} / (\text{coefficient} + \text{Initial rate})$$
$$\text{TF} = C \times \text{TI} / (C + \text{TI})$$

Thus, a product with an initial rate of 80% and applying a coefficient of 16, will ultimately obtain a rate of $13.3\% = (80 \times 16) / 96$; while, if an application of coefficient 14 is negotiated, the final rate will be $11.9\% = (80 \times 14) / 94$.

After the second oil shock in 1978, the commercial system faced an economic crisis in the early 1980s. The dominant actor, the United States, saw its competitiveness decrease, its trade deficit increase, and its currency become overvalued. Which leads it to increase its protection, pressure, and retaliation measures on certain trading partners with self-limitation of exports, increase in non-trade barriers and others (application of Section 301 of the Trade Act 1974).

Other countries follow similar steps, thus the "GATT à la carte" increased its "carte", a part of its members carried out commercial transactions outside the system, especially in sectors poorly treated or without great agreement in the previous rounds, such as agriculture, textiles, steel, aeronautics, etc. The parties established preferential agreements (bilateral, regional, etc.), self-limiting exports, introduced unilateral measures, consensus was less frequent. That is, "gray zones" arise, which generates instability and uncertainty in the system.

This leads the Quadrilateral group (Quad), but above all the American administration, to begin a series of negotiations in the largest capitals to design an ambitious agenda that establishes the bases for the Uruguay Round negotiations. It is proposed to introduce agriculture into the negotiations, which is opposed by the EC, which gives in or proposes the introduction of an agreement on services and intellectual property. An improvement of the conflict system, institutional fortification, more active participation of the developing countries and others is also considered. In total, only the preparation of the new round lasted around 4-5 years and the round of negotiations more than 7 years.



- **The Uruguay Round**

The Uruguay Round (1986-93) is the most important agreement on the regulation of world trade due to its impact, the number of countries involved, the agreements established, and the volume of reduced and consolidated tariffs. The new world trade rules included an agreement on agriculture and textiles important to developing countries, on phytosanitary measures, services, intellectual property and dispute resolution.

The GATT codes of conduct, discussed in the Tokyo Round, were renegotiated, updated, and converted into agreements including rules on customs tariffs, technical barriers to trade (standards), investments, pre-shipment inspection, rules of origin, licensing procedures, import, subsidies and countervailing measures, safeguards and antidumping.

It was also agreed to establish a review of trade policies with different periods (2, 4, 6 years) for the DCs and DCs, as well as several countries, mainly industrial ones, agreed on zero-for-zero tariffs (ZZ agreement) on a series of sectors (steel, alcohols, beer, construction equipment, pharmaceutical, medical, agricultural machinery, furniture, dolls, paper, and others). Codes on dairy products, beef³, civil aviation and public tenders negotiated during the Tokyo Round became plurilateral agreements.

Reaching an agreement on all the issues discussed took more than 7 years, during which there were several ups and downs, critical periods, and confrontations typical of such types of negotiations between the main countries and groups of countries, especially in the agricultural domain, textiles, tariff reduction, intellectual property, services, and others. Interest or pressure groups and non-governmental organizations (NGOs) interested in trade negotiations also made their entry in an even more visible way. Several of these served in certain cases as a "fer de lance" for one government or another to move opinion on a particular negotiation issue.

An approach was established in the negotiation agenda in terms of "single undertaking" on "everything on the table", that is, each country accepted the conclusions of the entire package of agreements at once. Each country in principle gained and lost something. In this type of negotiations there is no perfect package, progress is made in terms of certain rules that improve market conditions, give greater stability and predictability to the system, and create the conditions to improve it in future negotiations (next round, Doha).

Thus, 102 countries participated in the RU at its beginning in 1986, but given its importance, 123 countries eventually joined and signed the global agreement in April 1994 in Marrakech (Morocco). This establishes the creation of the World Trade Organization (WTO), the conditions for the application of the commitments and a future work program. Around twenty major trade issues are made official, several of which (5) will be finalized in sectoral negotiations in 1997 in Singapore.

Developed countries bound 99% of their tariff lines, economies in transition 98% and developing countries 73%. That is, around 20-50 points more than in the previous round. A period for application of the agreements and tariff reductions of 5 years for the PDs and 10 years for the LDCs was also agreed upon. Table 1 shows the level of tariff binding and reduction in the two groups of countries.

³These two agreements were transformed in December 1997 and were removed from Annex 4 of the WTO.



Table 1. Consolidation and tariff reduction in the Uruguay Round.

Tariffs of industrial products	Developed countries	Developing countries
Bound tariffs before the Uruguay Round (%)	78	twenty-one
Bound tariffs in the Uruguay Round (%)	99	73
Average pre-RU bound lines tariffs (%)	6.3	15.3
Average tariffs for consolidated lines in the UK (%)	3.8	12.3
Reductions in Agriculture	1995-2000	1995-2004
Average reduction tariffs on agricultural products (%)	-36	-24
Minimum reduction per product (%)	-fifteen	-10
Internal Help. Global Aid Measurement Reduction* (%)	-twenty	-13
Exports. Subsidy value (%)	-36	-24
Exports. Subsidized amounts ** (%)	-twenty-one	-14

*Base period 1986-88; **Base period 1986-90;

Source : Finger JM, Ingco M, and Reincke U: The Uruguay Round. Statistics on Tariff Concessions Given and Received. World Bank. Washington 1996. WTO. Trade towards the Future. Geneva. 1998;

The countries participating in the RU created the WTO in 1994 and gave it 5 essential functions:

- 1) Facilitate the application, operation and administration of all signed agreements,
- 2) Be a forum for negotiations among its members,
- 3) Help resolve differences between members,
- 4) Manage the mechanism for reviewing trade policies of its members and
- 5) Cooperate with the International Monetary Fund, World Bank and related organizations in order to achieve greater coherence in the formulation of economic policies.

While all of these functions are important, the WTO is primarily a negotiating forum for member governments to try to fix trade problems. It does not decide, but rather facilitates, directs, creates the conditions for the clarification of the set of legal and technical standards that make up trade agreements and that condition governments to establish trade policies within the limits of their commitments. In case of differences, this will be resolved through an impartial procedure (dispute resolution) signed by the members during the negotiation.

The application of the signed agreements created greater security, stability and foresight in the system. The commercial operations of member companies increased, especially those of the DCs, while a large part of the members, the DCs, presented problems with the implementation of the agreements and a certain disillusionment regarding the expected commercial benefits. Added to this is a series of preferential agreements between its members and the launch of a new round (Doha) that presents important conclusion problems.

The financial crisis of recent years, the changes in the world market and the development of other countries have changed the power relations in world trade and have, in a certain way, put all these negotiations aside, given their complexity, the number of agreements and the time to dedicate to it. With all the efforts that the WTO deploys, it is today in a position typical of multilateral trade negotiations, the theory of the bicycle, "continue pedaling" even if there are problems and "wait and see" ("wait and see"). what its members decide about the continuity of the negotiations and how to adapt these to the current context.



3. Aspects of the commercial negotiation process. Elements to consider.

- **First steps, "negotiations at home"**

As we have seen, the multilateral negotiation process is long, complex and uncertain. It includes diverse topics (standards, tariffs, health aspects, subsidies, services and others) and requires significant human, technical, legal and financial coordination efforts from governments. Countries have addressed such problems in diverse ways depending on their economic and political situation. However, it is noted that one of the first steps to take once the decision to participate in the negotiations has been established is not only to decide on the priority objectives but also to secure the budget necessary to carry out such objectives. This first requires an estimate of the current budget and what is necessary for the first phase of negotiation. Which leads to approaching the Ministry of Finance or Treasury to explain and clarify the need for resources for the next budget. This includes specific studies, negotiation trips, informal meetings, invitations to delegations to the country, public relations campaigns and communication policy, among others.

Certain countries first discuss participation in the cabinet of ministers and then by ministry involved in the negotiations with finance or treasury. In both cases the first round of negotiations is at home and not only financial, but also technical in order to argue the well-founded of the priorities before the prime minister or presidency. It must be considered that both do not want to risk their political capital and will demand solid arguments from their ministers regarding their negotiation decisions and their possible results. This requires a first study of the situation of the sector with experts from the ministry or institution (customs, intellectual property, etc.) and subsequently studies by external specialists on this or that situation of a national sector and international competition.

The EC is, in such a context, an interesting example of negotiation at at least 4 major levels. First, the evaluation of positions to be taken is made in the ministry (agriculture, industry, customs, institution, etc.) of the member country with the interested parties (business associations, farmers, insurance, etc.), then the positions are discussed (negotiated) by topic or agreement in Brussels with the other member states (12 in the RU, 27 today) that have taken a similar approach. This phase is frequently longer than the first, given the contradictory positions of its members. France, Poland, and Romania, for example, will tend to maintain the status quo in agriculture, while Germany, Holland and England will propose progressive liberalization. There follows a presentation to the European Parliament that can be repeated several times depending on the proposal to be taken in the negotiations and the political color of the parties that comprise it. At the end of this process, a common position will be taken to defend in Geneva or in another regional negotiation. In important negotiations a representative of the interested government(s) will be present (main supplier or main affected party). During the negotiation, the EC establishes an information plan open to civil society, NGOs and the private sector. This creates problems and oppositions in several cases, but in the long run the process is more transparent, and it is a promising investment of capital.

- **Coordination and priorities**

All of this takes time and requires enormous coordination of positions, approaches and information to interested parties. In many cases this is one of the great problems of countries, prioritizing and coordinating positions and considering the interests of government institutions (departments of agriculture, MSF, health, customs, services, intellectual property and others) and companies or business associations that propose this or that position. The negotiating team not only needs to be clear about the priority positions of these organizations (agriculture, standards, services, for example), but also a close relationship with the national Delegation to the WTO in Geneva and the embassies of the countries with the dominant positions in the main themes of the negotiations.



One of the problems that the DCs face is the lack of qualified personnel to follow the negotiation package and the budget necessary to participate in the numerous specialized meetings. In many cases the staff in Geneva is limited to 3-6 people who must follow more than twenty specialized topics. Conclusion, countries, especially developing countries, cannot follow everything. They, as well as the PDs, establish or agree on positions with this or that group on specific topics. Other countries define 4-7 priority topics which are followed closely, leaving the rest to second or third rank.

This requires a trade policy and a clear mandate in the capital to dedicate itself to this or that negotiating topic. Not all countries have it. In many cases, this considers the WTO negotiations to be very distant and focuses its attention on preferential agreements that generate a more immediate political impact in the country. Such a situation produces in many cases a lack of response from the capital when the Delegation in Geneva or the negotiating team requests authorization regarding this or that position or that alliance.

- **Cooperative Behaviors and Negotiable Packages**

We have seen that negotiations, especially multilateral and regional ones, involve a series of topics to negotiate. This makes conclusions difficult and results uncertain. But at the same time, this encourages certain representatives unsure of the results to participate and cooperate given the size and variety of topics in the package. The negotiator will think that "there will be something on the negotiating table that can be beneficial for us", which is in certain cases correct. However, we must not forget that experienced negotiators when establishing the negotiation agenda propose a wide variety of topics, knowing that this or that topic will cause an impasse during the negotiation due to the position of this or that country. Such impasses or dramas are typical of negotiations, it leads the negotiating team to threaten to withdraw from the negotiation table, it creates tension, he can play the bluff, however, the adverse party, if well informed, knows that given the variety there is something on the table that may interest you and make you modify your initial position. This requires good coordination in terms of positions and information regarding the needs of the opposing negotiating team.

In other cases, the experienced negotiator knows that he must leave something in the way or minimize the proposal, to concentrate on the topics of real importance (for his country) and thus maintain the negotiation course. A frequently discussed case is the agreement on investments in the WTO, it is weak as it is, it was negotiated during the Uruguay Round, but it was agreed to minimize it to make a group of countries happy. On the other hand, the (experienced) negotiators accepted because they knew that the investment rules came in the services agreement in mode 3. Another case is the introduction of the four Singapore issues in the Doha Round. From the beginning it was known that they were not accepted by the PVD, this was seen more clearly in Cancún in 2003, where they clearly rejected in bloc. Conclusion it was taken from the negotiation table "on condition" of leaving one for negotiation in the round, it was trade facilitation.

- **Political capital and cooperation in negotiations**

On the other hand, the fact of having a large package of topics to negotiate on the table, attracts many countries to participate but if the country avoids this opportunity, it must in one way or another justify its non-presence before its public. Since this requires well-founded arguments to neutralize pro-participation interest groups and political oppositions, in most cases governments participate. Being left alone (or a few) outside the negotiating table is rarely well perceived in the country. This leads the negotiating teams to try to cooperate in one way or another given the package and the political capital invested.

If the package and capital is important, the lower the chances of not reaching an agreement and the higher the chances of obtaining last-minute "concessions." The negotiating team may threaten to withdraw, refuse to respond to this or that offer, etc. but in the end the adverse negotiating team knows that it will come to negotiate in one way or another a change of form or a change in a previously



preliminary agreement. Time, progress in other areas and vested political capital are important on both sides. An exemplary case is the case of the agreement on agriculture between the EU and the US during the UR. A pre-agreement was established between them in 1992 (Blair House Accord) that obliged the EU to reduce its export subsidies and opened the community market by around 3% as a minimum to agricultural imports.⁴ The reluctance and renegotiations within the EC were more than strong, not to mention the readjustment and necessary reduction of subsidies in the US. The commitment was reached the following year in Brussels, just 15 days before, of the completion of the Uruguay Round, on December 7, 1993.

- **Multiple levels of the negotiation and alliance process**

The multilateral negotiations process has a series of negotiation phases after the agenda is established and priorities are determined. At first, they are preliminary meetings to see who is who, what the other or others want, who we have similar positions or interests with, preliminary coalitions, etc. These initial phases, which can take more than a year, are followed by a phase of requests and proposals, which is what we want in terms of access to markets and what we can give, generally the maximum is requested first, and the minimum is proposed in the second. Everyone knows it and everyone does almost the same thing. Each one checks the other's opening positions, to reach preliminary agreements on this or that topic, to subsequently enter a more substantive negotiation phase that is generally almost at the end of the agreed period.

Certain countries approach such negotiations with a "nice-guy-bad-guy" approach.⁵ In the first phases, the negotiating team gently checks positions ("the good people"), tries to reach points of convergence, minimizes divergences, sees strengths and weaknesses, gains trust, etc. As progress is made on this or that topic, in the substantive phase, the negotiating team changes (sometimes it is due to a change in administration or others), the bad-guys arrive, they know the respective agreement inside out (agriculture, subsidies, services, etc.), your positions and reactions, they demand and demand, but they always leave you small angles or an exit window, your answers must be for "tomorrow or the day after tomorrow at the latest." Time is of the essence, once agreements have been reached on the main topics of interest to that country, the friendly ones arrive, a lot of progress has been made, their task is to have a cooperative approach where possible, but without touching what has already been agreed upon.

Of course, what was agreed is touched upon and tweaked at the end, given that the negotiation is under conditions of "single commitment", that is, there is no agreement if an agreement is not reached on all the topics on the negotiating table. Which always gives rise to "last minute" changes where the essential thing is an agreement on the set of topics on the table.

Although such an approach is generally particular to large and advanced economies with significant human and financial resources, small and developing countries have balanced this situation with the creation of alliances with groups of countries with similar interests.⁶ This is how the G20, G33, ACP Group, African Group, the Group of Vulnerable Economies, the group recently acceded to the WTO and others have emerged in recent years, especially during the Cancún meeting in 2003 (and after).

The alliances cover the most diverse topics. Some countries agree on 1-2 issues in one group but disagree on other topics. The difficulty is finding a solid angle of convergence between so many participants. However, several of the groups have shown unity and coherence in general terms of the negotiation process. This has surprised Cancún and has modified the status quo of the negotiation

⁴Pantz. D. *Institutions et politiques commerciales internationales. Du GATT à l'OMC.* A. Colin. Paris 1998.

⁵Hoekman H & Kostecki M: *The Political Economy of the World Trading System. From GATT to WTO.* Oxford Univ. Press. 1998.

⁶Narlikar A & Odell J: *The Distributive strategy for bargaining coalition: the Like-Minded Group in WTO.* In Odell JS, Editor, *Negotiation Trade. Developing Countries in WTO & NAFTA.* CUP. 2006. MD Fernandez: *Trade Negotiations make strange bedfellows.* *World Trade Review* 2008, 7:2. 423-453p



process in general. Several developing countries have teams of negotiators that have nothing to envy of those of advanced economies; however, given the current situation, this is still not enough to continue advancing in the Doha Round.

- **Negotiations and Interest Groups**

Industry associations, import and export groups, chambers of commerce and others play a significant role in the negotiation process. They in several cases guide, propose and above all defend their interests before the government. Which should not only consider their interest but also that of the population as a whole. That is, giving the possibility to diverse groups of the population to choose and purchase from a wide variety of products according to their tastes and income.

In many cases, such groups report in detail the situation of a particular sector to the government, which makes it possible to adapt aspects of legislation or specific positions in negotiations. In others, they exert influence, which can generate conflicts of interest and minimize the neutrality of the government, which among other things happens frequently.

It is estimated that there are around more than 20,000 "lobbyists" or interest groups in Brussels, from industry associations, insurance companies, banks, animal protection organizations, etc. to representatives of this or that region (Catalonia, Wales, Normandy etc.) in the EU. A similar case is in Washington. Thus, the role played by American Express, Citibank and AIG in the US negotiations on financial services and insurance during the UR is well known. Something similar is the influence of the French and European farmers' association on the positions of the EC in agriculture, of rice producers in Japan or that of banana groups in the negotiations on the liberalization of the banana market and the resolution of disputes at the WTO. On one side were importing interest groups (Fyffes and others), and Jamaican producers along with the Caribbean Banana Exporters Association (CBEA) as beneficiaries of the new (1993) EU regime. The ACP countries supported the CBEA in terms of their preferences. On the other side behind the American government and some Latin Americans were Dole Foods, Chiquita and Del Monte, they had 70% of the import market⁷.

As for NGOs, they have increased their role and counterbalanced the interests of industrial, financial and other groups. In recent years, consumer and importer associations have been added, which has placed government representatives in several cases in situations uncomfortable. In several cases, certain NGOs in DCs have been created with help from DC NGOs or with subsidies from DCs that use them as a spearhead in certain negotiations. Certain African NGOs will play such a role in the Cancún negotiations.

An interesting case is the analysis carried out in Geneva between delegations from 28 countries on influenza in certain sectors in trade negotiations (Table 2).

The study shows us the importance and active role played by importing and exporting groups in general, followed by parliaments and NGOs. The difference between both groups of countries is not that great, however, it is seen in an increase in the influence of national parliaments and NGOs in industrial countries and of other ministries and agencies in developing countries. Of course, such results must be taken with caution given that the survey only reflects a limited number of countries, 28 out of 150 WTO members at the time of the study (5 DCs and 23 LDCs).

As we have seen previously, the general trend is to establish periodic and open consultations with the industry, consumers, and NGOs in order to better understand their interests and problems and thus generate more appropriate positions in the negotiations. The process tends to be more open, but it is still gray and far from transparent given the multiplicity of interests.

⁷Other aspects see: Quentin Peel, Man in the news Carl Linder, *Banana Republican*; *Financial Times*, 14-15 Nov.1998 London



Table 2. Range of influence of national groups and organizations in the negotiations

Range	Industrial Countries	Influence (5 p. max.)	Developing countries	Influence (5 p.max.)
1	Importer Groups	3.87	Importer Groups	3.62
2	Export Groups	3.67	Other Ministries and Agencies	3.57
3	National parliament	3.63	Export Groups	3.45
4	Non-Governmental Org. (NGO)	3.20	National parliament	2.96
5	Other Ministries and Agencies	2.93	Org. non-governmental	2.76
6	Sub-federal organizations	2.50	Public (election year)	2.51
7	Public (election year)	2.40	Public (non-election year)	2.10
8	Public (non-election year)	2.27	Sub-federal organizations	1.90

Source : Zahrt. V: Domestic constituents and the formulation of WTO negotiation positions: what the delegates say. World Trade Review 2008, 7:2; 393-421p

- **Symbolic aspects and equity in negotiations**

In many cases the final agreements are thanks to the flexibility of the negotiators, the mutual understanding between the parties and the symbolic importance that the agreement generally carries. In several cases, this requires including elements of symbolism that satisfy ministers and do not significantly reduce their political capital at home.

Thus, the inclusion in the Tokyo Round of the clause that enables the DCs to be treated in a differential manner made it possible to satisfy requests that were latent in the negotiations. Something was given in return, but this did not fundamentally change the initial direction and the hard core of the negotiations. talks. A similar case can be considered, the introduction of "development" in the Doha Round, this is repeated in several places and has become for some countries the Doha Development Round, which is far from being latent. But this played a symbolic aspect at the beginning, above all to convince a series of countries not very convinced of the results of the UR.

This leads us to consider the notion of equity, which seems to be more important than the notion of economic efficiency of negotiation. The first is more general and includes a series of elements other than commercial ones, to which, in the end, negotiators give greater importance.

Conclusion

In summary, It can be considered that in any multilateral negotiation it is more than important to know very well the agreement that is being negotiated and to adequately determine the priorities and the elements that can ultimately be left aside. Political support for the negotiating team is also essential, as is the authorized margin of flexibility and financial resources to properly carry out the negotiations. Knowledge of the international market of priority sectors or products is equally essential, including the respective positions of the adverse party and the close coordination of the national parties participating in the negotiations. We must not forget in the entire process that there are not only producers and exporters but also that large part of the population that is consumers, who want to have the possibility of choosing between a countless number of products and being able to purchase them according to each one's income.

What was expressed in the preceding pages about the negotiation process can be briefly summarized as follows:



1. A strong political commitment from government authorities
2. A design of priorities by sector and product in the country.
3. Excellent knowledge of the agreement to be discussed. As well as the correlated legislation
4. Trading margin authorizations. Definition of limits not to be crossed.
5. Regular consultations with the business sector, importers and consumer groups
6. Analysis of the situation of the most important competitors
7. Necessary budgets for sector studies, implications, and impact of the negotiation.
8. Budgets for travel, public relations, specialized conferences, and others
9. Search for alliances with countries or groups of countries
10. Coordination of the negotiating team with the sectors and institutions involved.
11. Close coordination between the capital and Geneva
12. Periodic information to the business sector and civil society

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Sogerom.
Belgium-Dominican Republic. 2010⁸

⁸ Power Point Version on Agriculture (21 pages): [The Regulation of World Trade, the WTO and Agricultural Negotiations. St. Domingo 2010 \(SA 38 pages\).pdf](https://fddocuments.ec/reader/full/mundial-la-omc-y-las-negociaciones-agr-contenido-1-del-gatt-a-la-omc-2) either <https://fddocuments.ec/reader/full/mundial-la-omc-y-las-negociaciones-agr-contenido-1-del-gatt-a-la-omc-2>