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I. ARTICLES

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MODIFICATION OF PROTECTIVE INSTRUMENTS IN INTERNATIONAL TRADE AS A RESULT OF THE URUGUAY ROUND – GATT

In this article, the author presents the most significant agreements of the Uruguay Round due to which important protective instruments of foreign trade were modified. He also discussed the changes of such instruments as import tariffs, compensatory fees, subsidies, anti-dumping tariffs, voluntary import restraints, technical barriers and protective clauses, trying to evaluate the changes performed in favour of the liberalization process of world trade.

1. INTRODUCTION

The signing of the Final Act of the Uruguay Round – GATT by 121 countries on April 15, 1994, finished seven years of negotiations and established a new regulatory system of world trade. The final Act brings into effect 28 different types of agreements commonly aimed at the significant liberalization of international trade. It has been estimated that the implementation of these resolutions will increase world exports by USD 755 billion by 2005 and global income by USD 235 billion („News ..." 1994). This goal cannot be achieved without substantial modification of trade policy instruments implemented by a particular country to protect its domestic market against foreign competitors, while at the same time, limiting trade exchanges. In this article the author presents the basic changes included in the above resolutions and assesses their importance in the liberalization process of international trade.

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2. TARIFF REDUCTIONS IN INDUSTRIAL TRADE

The reduction of tariffs was regarded as the main subject of negotiations of all former rounds of GATT. Since 1947 (Geneva Round) the average tariff rate on industrial goods has declined from 40% to 6,3% in industrial countries. Agreements have also been made on further reductions of tariffs by almost 40% which will be gradually introduced within a five year period, causing the lowering of the average tariff rate in industrial countries by upto 3.9%. The share of non-tariff imports in global industrial imports will increase from 20% to 43%. The products levied with highest tariffs (above 15%) will cover only 5% of imports (so far 7%).

For the first time the developing countries agreed on meaningful concessions during tariff negotiations, e.g. Hong Kong, South Korea, and Singapore declared a complete abolishment of import tariffs for 10 merchandize groups. ("Custom binding" means that the customs will not be increased in the future without adequate compensations paid to foreign trade partners.) The decrease of tariffs is as important as the increased share of combined tariffs in developing countries. The import share of combined rates levied on industrial goods will almost equal 60% after this Round (previously 14%). In effect the average (measured by trade streams) tariff rates on industrial goods imported by developing countries and originating from developed countries will be lowered by 38% and in other cases the decline will equal 37%. This will open the markets of developing countries and substantially improves then the export diversification. With regard to that we can state that tariffs may become a vanishing instrument of trade policy; apart from the significant exception of the textile industry and agricultural trade where a tendency for tariff increase exists.

3. TARIFFS AND QUOTAS PROTECTING THE TEXTILE SECTOR

Textile import items will remain at the level of 28% (previously 35%). The slight decrease of the average tariff rate from 15.5% to 12.1% comes from the fact that in the nearest future tariffs should take over a part of the protective function of import quotas.

A new textile agreement which will appear in 1995, includes the following shedule of liberalization of the textile trade:

– Up to January 1, 1995 not less than 16% of the import volume (base year 1990) of products included in MFA (Multi Fiber Arrangement) has to be subordinated to the general regulations of GATT and additionally in relation to the agreements of MFA the rate of limit increase will equal 16%.

– Till the begining of 1998 and later to 2002, the further liberalization of imports by 17% or 18% may appear and the rate of increase limiting other amounts should increase up to 25% and 27%.

– Till January 1, 2005 further trade groups i.e. 49% of import volume, should be controlled by GATT regulations.

The abolishment of restrictions resulting from MFA and others, inconsistent with GATT which limits textile trade, should result in the developing countries, according to European Consumer Organization estimations, in a profit of about USD 40-50 billion and lower the prices of textile goods by about 5% („Handelsblatt" 1994). Despite that, the liberalization degree of the contested sector remains clearly below the exporters' expectations. Firstly, progress with regards to quotas is constructed in such a way that particularly "sensitive" trade groups will be protected for a period of 10 years. Importer can simply move liberalization of those groups to the far end of the defined terms of liberalization. Secondly, the specific textile-protective clause allows importing countries, within the validity of the agreement, to selectively apply new protective instruments against particular exporting countries. The real or anticipated import increases from those countries will or may injure domestic industry. Thirdly, even after the total integration of the textile sector with GATT, it will not be left without any protection. A general protective clause may be implemented introducing import restrictions against „highly (too) dynamic" exporters for a period of 4 years if export increases disproportionately and causes serious harm. It can be assumed that importers will use this clause relatively often.

4. TARIFFS, INSTEAD OF COMPENSATORY FEES, IN AGRICULTURAL TRADE

The reduction of protective barriers in the trade of agricultural products was regarded as the most important negotiating problem during the Uruguay Round. Controversies existing between the USA, supported by the so-called Cairns group which demanded full liberalization of this trade, against the European Union and Japan which wanted to sustain the previous level of

protection, almost ended with the breaking of talks in 1990. In 1992 the negotiations reached a turning point. The agreement implies that up to 2001 (2005 in developing countries) all non-tariff barriers apparently used to protect agricultural markets will be transformed into tariffs which will be further reduced by 36% (developing countries by 24%). The lowering of tariffs will be gradually introduced in a period of 6 years in developed countries and within 10 years by developing countries. Simultaneously, a minimal access to the market has been established in the form of tariff quotas equaling 3% of domestic consumption.

On the other hand, a special protective clause allows the introduction of additional tariffs if the import volume of the given year exceeds12.5% of the average range of previous years or if the import price will be placed below the average of 1986-1988. The consequences of this clause may be harmful because of the relatively low prices for agricultural products on agricultural markets.

The agreements on agriculture subsidies force developed countries to lower the "aggregated ratio of subsidies" by 20% (developing countries by 13.3%) within the assumed liability period the subsidies not directly influencing production are excluded from the rules. Export subsidies should be lowered to 64% of the average value of subsidies between 1986 and 1990 and the value of subsidized exports should decrease to 79% (developing countries down to 76% or 86%). Vast, economically useless subsidies in agriculture influence the disturbances of production and trade.

The liberalization of agricultural trade can be recognized as limited because of the exclusion from the reductions of certain amounts of subsidies, the implementation of numerous protective mechanisms and the slight reduction of direct subsidies. So, it is indespensable to continue the negotiations on this subject within the WTO (World Trade Organization) forum.

5. CHANGES TO THE PROTECTIVE CLAUSE. VER-PROHIBITED INSTRUMENT

In accordance with Article 19 of GATT, the parties of the General Treaty can implement protective instruments if import increases to the extent that it may injure domestic production. The protective clause has been seldom implemented due to its being onerous. The non-discriminative implementation of the protective clause means implied new negotiations with all affected trade partners. If they did not agree upon compensation owed by the country which was introducing restrictions on exporting countries, they had the right to

institute retaliatory tariffs. Instead of the instruments defined by Article 19 of GATT, the countries more often used and were not restrained by GATT agreements of voluntary export restraints.

A new agreement on the protective clause implementation clearly prohibits protective instruments in the form of VER (Voluntary Export Restraints) or OMA (Orderly Marketing Agreement). All agreements of such kind have to be dissolved within four years after the date of WTO establishment, i.e. January 1, 1995. As an exception, an importer is allowed to continue one agreement till the end of 1999 if the directly injured country agrees. It was decided to sustain the agreement on export limits for Japanese cars to EU to what has been clearly defined. These allowed protective instruments (Article 19 of GATT) cannot be discriminative and must be limited to the capacity required for protection or the elimination of significant damage.

The safeguard actions allowed under GATT art. 19 are in principle to be applied in a non-discriminatory fashion and must be limited to the extent which is necessary to prevent or repair a serious injury. The measures can be applied for a maximum four-year period to begin with, but this can be extended for another four years. If the measures are applied for more than one year, the import restrictions should be relaxed progressively. The countries affected by safeguard measures may not apply any countermeasures for three years.

In the case of quantitative import restrictions, the quotas may be distributed in agreement with all the contracting parties who have a major interest in the supply of the goods involved. If these procedures prove to be impractical, the exporting countries shares during a previous representative period are to form the basis for the distribution of quotas. Under certain conditions, there is a possibility to deviate from those regulations. In the case of quantitative import restrictions there is no possibility of applying safeguard measures selectively, i.e. only against some of the countries. These are limited to the four-year application period.

On the other hand, the agreement creates more clarity in the so far applied regulations and smooths its practical use. The three-year non-retaliation period and the possibility of applying safeguard measures selectively increases considerably the attractiveness of the safeguard clause for importers. Basically the new agreement pronounced in Article 19 amounts to legitimizing safeguard measures similar to the effects of voluntary export restraints (VER). It mainly results from possibility to establish quotas without any countermeasures from the contracting parties. Moreover, there are no agreements which may prevent its general abuse, while stating the time limits of the eventual abuse.

6. THE ANTI-DUMPING RULES

Article 6, the anti-dumping and anti-subsidy GATT codes grant the parties of the General Treaty the right to impose anti-dumping and countervailing tariffs if an existing branch of the domestic economy is injured by, or threatened with injury from dumping or subsidies or if the development of a domestic branch is considerably delayed for the same reason.

The anti-dumping procedures negotiated in the Uruguay Round contain more detailed rules than the old anti-dumping code. These concern the methods to be used to determine dumping, criteria to be taken to prove the injury, procedural regulations for conducting the anti-dumping procedures. A new important element is the fact that the anti-dumping measures must be discontinued at the latest five years after they have come into force unless an examination shows that it is expected that the discontinuation of the measures would mean further or new injury from dumping ("sunset clause"). Further regulations prescribe immediate suspension of anti-dumping investigations if the injury is minimal ("de minimis clause"). (The margin of dumping is considered minimal when it is smaller than 2% of the normal value, and injury is minimal when the quantity of dumping import equals less than 1% of domestic consumption of alike products.) The agreement also clarified the role of the dispute settlement panel in anti-dumping cases and sets the obligation of notifying. In case agreement has not been achieved through the dispute panel each party has the right to appeal to a committee to debate the controversies.

Some economists state that the new agreement appears to be more of an employment programme for bureaucrats (Großman et al. 1994). It fights the symptoms but not the causes such as the limited access to markets. It mainly emphasizes the injury suffered from the dumped products by competing companies, while the interests of the exporters and the consumers are hardly taken into account.

7. FORBIDDEN AND ALLOWED SUBSIDIES

The agreement negotiated in the Uruguay Round defining subsidies is a further development of the present anti-subsidy GATT code. Subsidies have been divided into three categories:

1) prohibited
2) actionable
3) non-actionable.

All forms of financial support depending upon particular export behaviour of the enterprise belong to the first group. Subsidies which can lead to injuries of other WTO members interests are defined as actionable. This is to be suspected when the subsidy is greater than 5% of the value of a product. The third group of non-actionable subsidies contains specific subsidies for support of disadvantageous regions and for improvement and financing of environmental protection. The agreement states that subsidies can temporarily stimulate economic development. The developing countries may apply the agreement for a period of 8 years on the day of its commencement and the countries transforming to the market economy for a period of 7 years. The agreement regards the export subsidies connected with companies debts extinguish.

Export subsidies require modification. They can also be liable to compensatory duties. The agreement defines the procedures its duration and the way of computing the subsidies for a given product.

We can expect that suddenly only subsidies injuring competitors will be eliminated, however it should mentioned that it eliminates all the discrepancies in existing regulations. Thanks to the strict division between prohibited and actionable subsidies, the new agreement should favour more the accurate policy of subsidies and its substantial discipline.

8. TECHNICAL BARRIERS TO TRADE

International trade should impose external economic aims and instruments particularly clearly in technical barriers to trade in order to protect social health and natural environment. Those instruments are viable and should not be disputed, however sometimes the regulations function as protective measures if they attempt to limit the access of foreign producers to the domestic market. They are regarded as technical barriers.

The agreement of the Uruguay Round is an extension of the standardization code of the Tokyo Round. This agreement confirms the right of different countries to establish substantial norms to protect human life and health and natural environment. The WTO members are in principle obliged to develop national regulations on the basis of international standards. This agreement concerns not only production standards due to the standards code but also production and technological norms. On the day of commencement, the obligation of notifing the introduced standards will be imposed on non-government institutions as well. The code of Good Behaviour may also develop better mutual cooperation of the trade partners when Preparing, Agreeing and Implementing the Standards. This code can be accepted by private and state institutions. However, it does not mention any mutual agreement upon those

standards. With regard to that it places itself far behind the West-European model of mutual norm acceptance within the so-called „minimum of harmonization". Together with the new dispute settlement mechanism, the agreement nevertheless contributes in particular to combating protectionist misuse in the defining and implementation of standards.

9. NEW MECHANISM OF DISPUTE SETTLEMENT

Each member of WTO injured by decisions and procedures of the trade co-partners has the right to set up the dispute settlement panel; its verdict can only be rejected unanimously. The verdict can however be contested before a standing appellate body, the judgement of which should be limited by legal procedures and also rejected unanimously. If the country involved does not apply the recommendations of the verdict within the defined period of time, the plaintiff can demand negotiations on appropriate compensations. If these fail, the injured country can apply sanctions, which should be basically imposed on the same sector. They can also be extended to other sectors as the „ultima ratio" on other agreements („cross retaliation"). This new dispute settlement procedure considerably improved the defence opportunities of smaller and economically weaker countries against powerful opponents. The countries affected can no longer evade a verdict by simply ignoring it, such as recently happened. In principle unilateral coercive measures and sanctions such as have often been practiced in the past should in future be largely impossible.

10. CONCLUSION

The agreements of the Uruguay Round modified viable protective instruments applied by foreign countries in their external trade policy. The main objective of the Uruguay Round was to liberalize international trade what is strictly associated with its modification. The author regards as eminent:

– further reduction of tariffs on industrial products,

– transformation of changeable adjustment fees into more transparent and stable instruments such as tariffs, reduction of subsidies to protect agricultural market,

– liquidation of the so far widely applied voluntary export limits,

– time limits of protective measures due to the general protective clause,

– duration limits of the anti-dumping tariffs,
– introduction of accurate division betwen the prohibited and actionable,
– settlements limiting the technical barriers to trade,
– introduction of a new, more efficient mechanism of dispute settlements.

The above-stated changes establish more clarity to the current regulations, eliminate ambiguity of the agreed statements, exclude their autarchic interpretation and introduce greater discipline of protective measures application. Reduction of customs duties and some of the non-tariff barrier should favour the process of trade liberalization. It does not, however, mean that importers have been deprived of the possible measures to protect the domestic market. Those instruments were only modified but not eliminated (except VER). Moreover, they are still actionable, not changed in the Uruguay Round, agreed upon the General Treaty, are the regulations regarding the exceptions of trade limits in the case of payment balance disturbances (Article 12 of GATT) or the necessity to guarantee the national safety (Article 21).

In the past, all the protective measures were very frequently abused by the countries leading the protectionist policy. The elimination of such procedures in future, mostly depends on the WTO members and their subordination to the regulations agreed upon. It is also important to continue multi-lateral negotiations since not all regulations can be regarded as satisfactory, and some of the problems of international trade have not been yet discussed during the Uruguay Round.

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THE LINKAGES BETWEEN TRADE AND ENVIRONMENT. A CASE OF POLAND

The authors of the paper try to highlight the most important interlinkages between Poland's foreign trade and the state of the natural environment. They analyse both the influence of international environmental agreements on Polish exports and imports and the bearing of trade upon environmental quality. Special attention has been paid to the ecological aspects of trade relations between Poland and the European Union and, within this analysis, to environmentally disadvantageous changes in the structure of Polish exports to and imports from this international economic organization.

The paper has been mostly based on findings of vast empirical investigations carried out by the authors within their report („The Linkages Between Trade and Environment. A Case of Poland") prepared for the United Nations Conference on Trade and Development. The authors express their thanks for the permision to use excepts from this Report.

1. TRADE-ENVIRONMENT SUSTAINABLE DEVELOPMENT

1. The liberalization of foreign trade creates new dangers to the state of natural environment in both post-socialist and developing countries. It is commonly emphasized that international trade leads to the emergence of specific buffers between countries accumulating goods and wealth and those manufacturing them, particularly at early stages of production processes within which an extensive use of natural resources and environmental degradation takes place. This phenomenon has been noticed by the World Commission on Trade and Development that suggests (in the Brundtland Report) new measures of incorporating environmental externalities into trading channels.

2. There occurs a visible tendency in the group of less developed countries, including the economies in transition, to be more and more dependent on the production of „anti-ecological goods". It is enhanced by the system of