

**THE ISSUE OF EXCHANGE RATES IN THE HISTORY OF GATT**

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There is a presumption in the international society that the issue of exchange rates is a matter exclusive to the IMF and it should not be included in the Multilateral Trading System. The following study will present that, despite the competence of the Fund on the subject, the GATT already dealt with the impacts that exchange rates might have on the trading system.

**Impacts of exchange rates on trade**

The possible impacts that exchange rates could have on the Multilateral Trading System were perceived already in the beginning of negotiations of the Havana Charter, where the guidelines for the negotiations of tariffs were decided.

In section E of the Annexure 10 of the Report of the First Session of the Preparatory Committee of the United Nations Conference on Trade and Employment (E/PC/T/33) it is stated:

*Avoidance of New Tariff or other Restrictive Measures.*

It is important that members do not effect new tariff measures prior to the negotiations which would tend to prejudice the success of the negotiations in achieving progress toward the objectives set forth in Article 24, and they should not seek to improve their bargaining position, by tariff or other restrictive measures in preparation for the negotiations. **Changes in the form of tariffs, or changes in tariffs owing to the depreciation or devaluation of the currency of the country maintaining the tariffs, which do not result in an increase of the protective incidence of the tariff, should not be considered as new tariff increases under this paragraph.** (*emphasis added*)

The logic of the provision was that devaluation of exchange rates had direct impacts on the tariffary level of a country. Based on this provision, Brazil promoted an adjustment on its tariffs before its entry into negotiations, in 1947.

Owing to the depreciation of the Brazilian currency (18.67 cruzeiros - US\$1), the Brazilian import duties are reduced by 47 per cent. In order to correct this maladjustment the Brazilian Government decided to readjust the duties of its tariffs taking into account only part of the currency depreciation, i.e. 40 per cent. Otherwise, the Brazilian Government would initiate the multilateral negotiations at Geneva by making a gratuitous reduction of 47 percent of the duties of the Brazilian tariff.

Furthermore, it must be pointed out quite clearly that the wording of Annexure 10 is “owing to the depreciation of the currency”. This means that those provisions take into account not only the devaluation on the par value made by law or by agreement with the International Monetary Fund, but also the actual currency depreciation at the time of the multilateral negotiations at Geneva. (*ECOSOC, Second Session of the*

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*Preparatory Committee of the United Nations Conference on Trade and Employment,  
Note by the Brazilian Delegation on the adjustment of the Brazilian custom tariff,  
August 5, 1947, E/PC/T/151, p. 2)*

The discussions on the impacts of exchange rates on trade and its consequences for the Multilateral Trading System regained importance after the fall of the fixed exchange rate system under the auspices of the IMF during the 70s and its substitution with a floating exchange rate system.

Article IV of IMF's Articles of Agreement was amended and the Fund stop exerting a strict control of countries' exchange rates in regard to the par value established by the Fund and initiated a scheme of surveillance. Article IV:3, as amended, read as follows:

### Section 3. Surveillance over exchange arrangements

(a) The Fund shall oversee the international monetary system in order to ensure its effective operation, and shall oversee the compliance of each member with its obligations under Section 1 of this Article.

(b) In order to fulfill its functions under (a) above, the Fund shall exercise firm surveillance over the exchange rate policies of members, and shall adopt specific principles for the guidance of all members with respect to those policies. Each member shall provide the Fund with the information necessary for such surveillance, and, when requested by the Fund, shall consult with it on the member's exchange rate policies. The principles adopted by the Fund shall be consistent with cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency or currencies of other members, as well as with other exchange arrangements of a member's choice consistent with the purposes of the Fund and Section 1 of this Article. These principles shall respect the domestic social and political policies of members, and in applying these principles the Fund shall pay due regard to the circumstances of members.

The CONTRACTING PARTIES to the GATT have manifested their concern with such consequences. In particular, the impact on market access actually faced by exporters was highlighted in a floating exchange rate system:

1. The CONTRACTING PARTIES, while not questioning the floating exchange rate system and the contributions it has made, acknowledge that in certain circumstances exchange market instability contributes to market uncertainty for traders and investors and may lead to pressures to increased protection; these problems cannot be remedied by protective trade action (*Exchange Rate Fluctuations and their Effect on Trade* – Fortieth Session of the CONTRACTING PARTIES, action taken on 30 November 1984 – L/5761)

Furthermore, the contracting parties had already identified the particularly fragile position that small trading countries would face in a floating exchange rate situation. At paragraph 2 of the declaration, it is stated that:

2. The CONTRACTING PARTIES also recognize that adjustment to uncertainty over exchange market instability could be more difficult for small traders when hedging opportunities are limited, and for small trading countries and developing countries, inter alia when the geographical distribution of their trade cannot be easily diversified. (*Exchange Rate Fluctuations and their Effect on Trade* – Fortieth Session of the CONTRACTING PARTIES, action taken on 30 November 1984 – L/5761)

The GATT contracting parties, concerned with the negative effects of exchange rate fluctuations on international trade flows, urged the IMF to improve its system in order to take into account “*the relationship between exchange market instability and international trade*” (*Exchange Rate*

*Fluctuations and their Effect on Trade* – Fortieth Session of the CONTRACTING PARTIES, action taken on 30 November 1984 – L/5761).

In response, the IMF published in 1984 a study describing the ways by which such exchange rate instability could affect international trade flows (IMF, *Exchange Rate Volatility and World Trade*, IMF Occasional Paper 30, 1984, WT/GC/444). The academic and empirical evidences were inconclusive and no systemic adjustments were made by the contracting parties to the GATT in order to address the uncertainty and potential negative effects of exchange rate fluctuations. Nonetheless, the IMF study did acknowledge that small trading economies would be more vulnerable to intense exchange market instability since traders would have fewer hedging options.

### GATT Article II

The idea that exchange rate misalignments can affect the negotiated level of market access is evident under Article II:6. The article allows the adjustment of tariffs in order to reestablish the negotiated market access affected by misaligned exchange rates in one specific situation:

The specific duties and charges included in the Schedules relating to contracting parties members of the International Monetary Fund, and margins of preference in specific duties and charges are maintained by such contracting parties, are expressed in the appropriate currency at the par value accepted or provisionally recognized by the Fund at the date of this Agreement. Accordingly, **in case this par value is reduced consistently with the Articles of Agreement of the International Monetary Fund by more than twenty per centum, such specific duties and charges and margins of preference may be adjusted to take account of such reduction**; provided that the CONTRACTING PARTIES (i.e., the contracting parties acting jointly as provided for in Article XXV) concur that such adjustments will not impair the value of the concessions provided for in the appropriate Schedule or elsewhere in this Agreement, due account being taken of all factor which may influence the need for, or urgency of, such adjustment. (*emphasis added*)

A devaluated currency has an effect of lowering the relative value of specific duties, enlarging the negotiated market access. It has the exact opposite effect that *ad valorem* tariffs, that have their relative value raised by a devaluated currency, diminishing the market access. The article allows, thus, countries to reestablish their negotiated market access that was unduly enlarged by the effects of the devaluated currency, by negotiating a raise on their specific duties. This negotiation has occurred nine times during GATT era, between 1950 and 1975, allowing the raise of bound specific tariffs of Benelux, Finland (3 times), Israel, Uruguay (twice), Greece and Turkey<sup>2</sup>.

It is interesting to point out that the provision encompasses only one of four possibilities of effect of exchange rates on tariffs, the other three being: (i) over valued currencies raise the relative value of specific duties, restringing the market access; (ii) devaluated currencies raise the relative value *ad valorem* duties, restringing the market access; and (iii) over valued currencies diminish the relative value of *ad valorem* duties, enlarging the negotiated market access.

Czechoslovakia proposed an amendment to Article II:6, with the addition of the following:

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<sup>2</sup> See GATT Analytical Index, Article II. Benelux: decision of 15 December 1950 (II/12). Finland: decisions of 3 March, 1955 (3S/28), 15 November 1957 (6S/22), and 20 November 1965 (15S/66). Greece: decision of 24 October, 1953 (2S/24). Israel: decision of 3 February 1975 (C/M/103, 124, 125, 138). Turkey: decision of 10 April, 1959 (8S/24). Uruguay: decisions of 18 May, 1961 (10S/34) and 25 Marche, 1965 (13S20).

## CGTI Studies

(b) the provisions of paragraph (a) above shall apply mutatis mutandis in case the par value or the rate of exchange is increased by more than twenty percent. (*Article II – Proposals by Czechoslovak Delegation*, Contracting Parties Ninth Session, Working Party on Tariffs, Schedules and Customs Administration, December 16, 1954, W.9/109)

Nevertheless, the proposal was not adopted.

During the discussions about the adaptation of Article II:6, in the new context of floating exchange rates, once again a question was raised about the possibility of application of that article in the opposite situation: whether contracting parties with appreciated currencies should be required to reduce their specific duties, in order to maintain the negotiated level of market access. The working party agreed not to pursue the matter, noting that contracting parties could resort to articles XXII and XXIII of GATT if they considered that the appreciation impaired in a particular case the value of specific duty concessions (*Report of the Working Party on Specific Duties*, L/4858, November 2<sup>nd</sup>, 1979, p. 6).

A second interesting issue raised by Article II:6 is the change in the international monetary system, from a par value to a floating exchange rate system. Initially, any devaluation that could give rise to the application of Article II:6 would be defined by the IMF, according with the par value system managed by the Fund. With the end of the gold exchange standard, it would be necessary to adapt the article, so misalignments could still be calculated, despite the lack of a par value.

The GATT contracting parties created a Working Group whose objective was to adapt the existing mechanism in article II:6 to the new reality of floating exchange rates. From 1978 to 1980, the Working Group met and adopted, in January 29<sup>th</sup> 1980, the “*Guidelines for Decisions under Article II:6(a) of the General Agreement* (L/4938, 27S/28-29). This document reaffirmed the importance of maintaining the mechanism in order to neutralize the effect of exchange rate devaluation on specific tariffs of contracting parties and creates a methodology for the calculation of the currency depreciation, which shall be performed by the IMF. The calculation takes into consideration the import-weighted average exchange rate during the previous six months, and the depreciation shall be based on currencies of trading partners supplying at least 80% of the imports of the concerned country. This Guidelines have been incorporated under GATT94, as established by its article 1(b)(iv), and can be rightfully invoked by any WTO member.

### Exchange Rate and Trade Defense Remedies

Already during the negotiations of the Havana Charter, parties considered that devaluated exchange rates might constitute a form of unfair trade (*Preparatory Committee of the International Conference on Trade and Employment – Committee II – Summary Record of Technical Sub Committee*, UN ECOSOC, E/PC/T/C.II/48, November 11, 1946). Some argued “*that exchange dumping was a question for the Fund to consider*”. While others argued that “[n]ot all ITO members would necessarily be members of the Fund. If Australia did not join the Fund, she ought to be free to take necessary measures to counteract dumping by exchange depreciation”. The representative of the IMF argued that:

Clearly, he said, a country which was not a member of the International Monetary Fund could not be expected to conform to its statutes. Members of the Fund on the other hand were bound to conform to its statutes; and the statutes prohibited all forms of monopolist practices in connection with currency and multiple monopolist practices in particular. An alternative possibility, which had been suggested, was to have a single exchange fluctuation rate. But the question of exchange fluctuations was dealt with in a different manner by the statutes of the Fund. Under the statutes of the Fund, each country was left a certain freedom of action in the matter of its exchange rates, subject always to observance of the limits set

## CGTI Studies

by the statutes of the Fund. Manipulation of the exchange rate up to ten per cent was free. But any change of more than ten per cent required the assent of the Fund; and there was provision for penalties against any member of the Fund acting in defiance of the Fund in such a case.

The delegate of South Africa said it was clear from the remarks of the IMF representative that:

there were loopholes for dumping on the part of countries which were not members of the Fund. Again, a country which was a member of the Fund might receive the approval of the Fund to a depreciation of its exchange by more than ten per cent. Such a depreciation of its exchange might well constitute a menace to the industry of another country, and justify anti-dumping measures on the part of the latter.

To what the representative of the IMF answered that:

The second loophole envisaged by Mr. Cherry was equally real: but its scope was limited. It was possible, but very unlikely, that the Fund would ever authorize the depreciation of the exchange of a country to an extent involving a menace to the industry of another country. The aim of the Fund was the maintenance of equilibrium in the trade balances and in the balances of payments of all countries: and it would be wholly inconsistent with that aim if it were ever to lend itself to facilitating the dumping of any particular trade product.

The discussion above shows that the Multilateral Trading System was relying on the strict control exerted by the IMF on exchange rates. Although the financial system suffered deep changes in the 1970s, the GATT system was never properly adapted.

A proposal of currency dumping was, finally, made by Australia and faced the opposition of the United States (*Drafting Committee of the Preparatory Committee of the International Conference on Trade and Employment – Technical Sub-Committee*, UN ECOSOC, E/PC/T/C.6/19 of January 27, 1947).

Latter, it was supported by two other members, but was not adopted at the final version of the

The proposal read as following:

Three delegates suggested inclusion of the following paragraph:

7. "Any Member maintaining restrictions on forms of dumping other than 'price dumping', e.g., freight dumping or dumping by means of depreciation of currency, shall only impose such dumping duties where it has determined after enquiry that the method and extent of dumping against which action is taken is such as to injure or threaten to injure an established domestic industry." (*Report of the Drafting Committee of the Preparatory Committee of the United Nations Conference on Trade and Employment*, UN ECOSOC, E/PC/T/34 of March 5<sup>th</sup>, 1947, p. 13).

The proposal was later dropped and there was no provision on currency dumping not at the Havana Charter, nor at GATT.

It is important to notice that despite the fact that the proposal was not accepted, the harms that could be caused by exchange rates, especially multiple currencies remained a concern to parties.

The delegate of South Africa affirmed that "*We had these expressions of opinion and we withdrew our endeavours to get the proposed new paragraph 7 written into this particular Article, by virtue of the fact that this commentary was to be included in the notes of this meeting.*"

Still on the same issue, the delegate of France stated:

In fact, as the representative of the International Monetary Fund pointed out when he gave us the explanation of the matter, there may be sometimes multiple currency rates to favour the export of certain products and apply certain rates to products of one kind and other rates to another category of goods. For instance, they will apply a certain rate to a product which they want to sell and which is very useful, and then they would apply quite a different rate to certain other goods in the export of which they are not so much interested. Of course, the official adoption of this multiple currency rate is to foster the exportation of a country, and this is condemnable practice of course which must be forbidden under the provisions of the Charter. (*Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, Verbatim Report, UN ECOSOC, June 28 1947, E/PC/T/A/PV/20*).

Two interpretative notes were added, in 1955, to GATT regarding the issue of multiple currencies. The interpretative note on paragraphs 2 and 3 of Article VI considered that:

Multiple currency practices can in certain circumstances constitute a subsidy to exports which may be met by countervailing duties under paragraph 3 or can constitute a form of dumping by means of a partial depreciation of a country's currency which may be met by action under paragraph 2.

The issue of exchange rate on antidumping was later raised in a GATT panel brought by Brazil against EC's application of AD measures on cotton-yarn from Brazilian producers (EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995). Brazil argued that the EC had violated its obligation under the Tokyo Round AD Code (the predecessor of the Uruguay Round Anti-dumping Agreement - ADA) by not taking into consideration the particular volatile situation of Brazilian exchange rate concurrent with high inflation.

In early 1989, facing very high inflation, the Brazilian Government froze the exchange rate at one Cr\$ ("Cruzeiro") to one US\$ in an attempt to decrease money supply and control inflation. The exchange rate freeze continued for a period of three months. During this period domestic inflation continued. Receipts from export sales (which were paid in US\$), when converted into Cr\$, remained stable. Following the unfreezing of the exchange rate, the Cr\$ depreciated. Brazil argued that this combination of a fixed exchange rate and domestic inflation led to a gross distortion in the comparison between domestic prices (when used as the basis of normal value) and export prices, and this resulted in an inflated dumping margin.

Brazil argued that the phrase "particular market situation" in Article 2:4 (presently article 2:2 of the ADA) included the relevant situations external to the domestic market, such as exchange rates, which affect price comparability. Furthermore Brazil argued that article 2:6 (presently article 2:4 of ADA) required the EC to consider the particular exchange rate freeze situation in Brazil at the moment of export in order to respect the "fair comparison" requirement in the article. The panel so summarizes Brazil's position:

Brazil emphasized that the overriding principle of Articles 2:4 and 2:6 of the Agreement, reiterated throughout the text of the Agreement, was that the methodology adopted should permit a proper comparison. Brazil believed that this fundamental principle had been violated in this case. Brazil argued that to ensure a proper comparison between normal value and export price, the EC should have taken further steps by acknowledging the particular market situation prevailing in Brazil and basing normal value on sales to third countries, or adjusting the normal value based on domestic data, or adjusting the exchange rate used. (...)It was not possible to make such a comparison without using an exchange rate, and the selection of the exchange rate, particularly in the light of domestic inflation, was critical for the comparison. Article 2:4 therefore recognized the link between the establishment of normal value and evolution of exchange rates. (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 77-81*)

Although relating to a fairly specific situation involving exchange rate issues, the case was an opportunity in which both parts had to discuss particularly different views of the impact of exchange rate variations on AD investigations. Even more broadly, the concept of neutrality of exchange rates was discussed by the parts.

Brazil was of the view that the “*EC's refusal to adjust the exchange rates used in its investigation violated a fundamental principle of the Agreement*”, considering as “price dumping” what was, in fact, “*the well-known phenomenon of "exchange dumping"*”. Furthermore, Brazil argued that in so doing, the EC “*had relied on certain principles such as "monetary neutrality" that were not valid in the context of anti-dumping proceedings*”. (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 118*)

The EC, on the other hand, argued that:

The calculation of dumping margins had to be made on the basis of objective and verifiable information, and not on the basis of arbitrary and subjective aspects. Accepting Brazil's arguments in this regard would amount to introducing considerable amount of subjectivity and uncertainty into the system. It would go far beyond the scope of the Agreement, the possibilities and the competence of the investigating authorities, and the interests of the signatories to have security and predictability in international trade. (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 119*)

The EC was, in this sense, concerned with the potential consequences to the system of integrating exchange rate considerations into AD investigations. Brazil disagreed that the clear intent of the negotiators was to leave “monetary aspects of dumping” outside the scope of the Agreement. Rather, the intent of the negotiators would have been to exclude the depreciation of exchange rate (the so called exchange rate dumping) from the scope of the Agreement. In other words, since exchange rate dumping was not part of the Agreement, due consideration to exchange rate situations should be done in order to respect normal price and price comparability, as well as to avoid considering such a phenomenon as “regular dumping”.

It was absolutely wrong to infer from this specific fact the general statement that “monetary aspects of dumping” were outside the scope of the Agreement. In any event, even if such a principle could be relevant to the interpretation of the Agreement, Brazil did not consider that it could be applied in a way to frustrate the fundamental objective of the Agreement, i.e. the requirement that there be a proper and fair comparison between normal value and export price. (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 280*).

Both countries agreed that the present rules governing AD investigation excluded the possibility of considering exchange rate dumping in the “price dumping margin”. Brazil however argued that completely excluding monetary aspects of dumping would do exactly the opposite, since it would open up the possibility of counting exchange rate dumping as regular dumping, while the EC feared the possible unpredictability consequences to the system of considering such arguments.

The panel in the case did not render specific answers to the overarching question of whether monetary aspects of dumping were intended to be excluded or not from the AD agreement. It limited its analysis to the practical question posed by Brazil of whether the EC had violated the agreement by using the official exchange rate in its investigation. The panel thus concluded that Brazil had not proved that the particular exchange rate situation at the time of the sells affected directly the prices practiced in its local market insomuch to render it inadequate as a basis for normal price consideration. On that, the panel further stated that:

## CGTI Studies

Even assuming *arguendo* that an exchange rate was relevant under Article 2:4, it would be necessary, in the Panel's view, to establish that it affects the domestic sales themselves in such a way that they would not permit a proper comparison. Brazil had asserted that exchange rates were capable of affecting domestic sales and prices, because for example, the cost of raw materials could be affected by fluctuations in the exchange rate. In particular, domestic sales and prices could be affected if imported raw materials were used in domestic production. However, Brazil had not argued that the cost of raw materials used in manufacture of cotton yarn were in fact so affected. For the Panel to engage in such an exercise, it would have to exceed its scope of review. (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 479*)

In this sense, the panel did not exclude completely the influence exchange rate misalignments could have on AD investigations. Actually, were imported inputs considerable costs in cotton-yarn production, and provided that Brazil presented this argument, exchange rate could be a relevant aspect in the investigation. In the panel's view, there is no *a priori* exclusion of exchange rate considerations in the application of the AD rules.

Considering price comparability and article 2:6 of the AD Code, the Panel reached a narrower interpretation. It considered that exchange rate misalignments would not affect price comparability since, if the prices compared (export price and normal price) had been rightfully selected, the only purpose of exchange rate would be to translate these prices into a common currency:

The exchange rate in itself is not a difference affecting price comparability. It is a mere instrument for translating into a common currency prices that have previously been rendered comparable in accordance with the second sentence of Article 2:6. In the view of the Panel, an exchange rate's function is to make it possible to subsequently effect an actual comparison on a common basis as provided under the other relevant provisions of the Agreement (*EC-Imposition of AD Duties on Imports of Cotton-Yarn from Brazil – ADP/137, 4<sup>th</sup> July, 1995, p. 494*)

Finally it is interesting to point out a study made by the GATT Secretariat on Contracting Parties national legislations on Antidumping and Countervailing Duties (*Anti-dumping and Countervailing Duties – Secretariat Analysis of Legislation, Contracting Parties Twelfth Session, October 23, 1957, L/712*)

The report recognized that:

In practice most countries do not distinguish between anti-dumping and countervailing duties and they levy a special charge (the name of which varies: dumping duties, anti-dumping duties, special duties etc.) regardless of the fact whether or not the price reduction has been achieved by dumping or by subsidization. The practical reason for this approach seems to be that a comparison with the "normal value" is possible in most instances while proof of a subsidization is often difficult, GATT, aware of these problems, permits the subsidy or bounty to be estimated, and states that no product should be subject to both anti-dumping and countervailing duties (paragraphs 3 and 5 of Article VI). (...)

A special type of low price import may also be mentioned in this connexion, namely those which are the consequence of currency measures taken in the exporting country. While in most such instances the price comparison will not permit the levy of an anti-dumping duty, GATT expressly permits the levy of countervailing duties in circumstances where the exportation of the product is facilitated by a multiple currency system (Note to Article I e VI). (p. 7)

Regarding the national legislation of Australia, one of its provisions read as follows:

## CGTI Studies

If the Minister is satisfied, after inquiry and report by the Tariff Board, that goods have been or are being sold to an importer in Australia, which were manufactured wholly or in part from material supplied from any country whose currency has depreciated by comparison with the currency of the country to which the material was supplied, and that the manufactured goods have been or are being sold to an importer in Australia at a price below the price at which the same goods could have been manufactured in the country of manufacture if made from material of such country of manufacture, and allowing for a reasonable profit, the Minister may publish a notice in the Gazette specifying the goods as to which he is so satisfied.

Upon the publication of the notice there shall be charged, collected and paid to the use of the King, for the purposes of the Commonwealth, on those goods imported into Australia, a special duty (in this section referred to as "the dumped materials duty") (p. 35)

Regarding the national legislation of South Africa, some of its provisions read as follows:

83. (1) Whenever the Minister is satisfied, in respect of goods which are of a class or kind produced or manufactured in the Union, that – (...) (e) such goods have been or are being or are likely to be imported into the Union from a territory the currency of which is depreciated in relation to Union currency, or that the currency of the territory of origin of such goods which have been or are being or are likely to be imported into the Union is likewise depreciated,

(...)

84. The dumping duties which may be imposed in terms of section eighty-three, Shall be the following, namely – (...) (e) "exchange dumping duty", which shall be the amount by which the actual cost of the goods as defined in section eighty-five is less than such cost expressed in the currency of the territory of origin or export of the goods and converted into Union currency at a rate which the Minister is hereby authorized to determine and notify in the Gazette. (p. 94-95)

Regarding the national legislation of the United Kingdom, some of its provisions read as follows:

(3) References in this Act to giving a subsidy are references to giving, directly or indirectly, a bounty or subsidy on the production or export of goods (whether by grant, loan, tax relief or in any other way and whether related directly to the goods themselves, to materials of the goods or to something else), and include – (...)

(b) the giving of favourable treatment to producers or exporters in the course of administering any governmental control over the exchange of currencies where such treatment has the effect of assisting a reduction of the prices of goods offered for export (p.149)

## Conclusions

As presented throughout this paper, the issue of exchange rate was included in the GATT since its creation. Provisions such as Articles II:6 and Article XV, as well as the Interpretative Note on Article VI, regarding multiple currencies, show that the impacts of exchange rates on trade instruments existed even during the par value system.

Concerns increased, however, when, in the 1970s, the IMF adopted a system on floating exchange rates. At this time, GATT Contracting Parties started discussing the possible impacts that this new system might have on international trade law and how the existing GATT provisions, such as Article II:6 needed to be adapted to the current financial context.

## CGTI Studies

Even though an adaptation of Article II:6 was adopted, in 1980, there were no further study of other trade instruments that might be affected by the new floating exchange rate system. The GATT was drafted based on the rigid control exerted by the IMF on countries' currencies. Therefore, although the GATT did consider the effects of exchange rate on trade, it only negotiated some provisions that could not be properly addressed by the IMF. With the changes introduced by the Fund, a much wider effect of exchange rates on trade instruments was observed. Nevertheless, the Contracting Parties did were not able to promote a deeper reform of the GATT.

It is also worth noting that despite the proposal on currency dumping was discarded during the initial GATT negotiation, parties remained worried about the issue and claimed the inclusion of an interpretative note that stated that multiple currencies might be deemed as subsidy or dumping and, therefore, could be addressed by the respective trade defense remedies.

The study shows that the issue of exchange rate was never an exclusive matter of the IMF and that, since the end of the par value system, it became, even further, a worry to the GATT and, in the following, to the WTO.