

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

The Views of Chile

The following communication, dated 29 November 2002, has been received from the Permanent Mission of Chile.

Introduction

1. On the basis of the documents presented and the positions expressed in this Negotiating Group by various Members, the present document is intended to set out Chile's views on this process and contribute to the discussion of some specific points of the negotiations.

2. The first point to be noted is that these specific negotiations are taking place within the setting of the Doha Development Round (DDR). In the context of the single undertaking under which the DDR negotiations are being conducted, progress in this Negotiating Group will necessarily be linked to that achieved in other areas, such as agriculture. Similarly, there must be coherence with the results achieved in other areas of negotiation that affect market access, such as the anti-dumping measures discussed in the Negotiating Group on Rules.

Setting of the negotiations: regional initiatives

3. These negotiations on market access for non-agricultural products in the WTO are not taking place in a vacuum. They are being held at the same time as a number of processes of integration of very extensive scope at both the regional and bilateral levels, whose central feature is the elimination of tariffs and non-tariff barriers. Some of the more ambitious initiatives include:

- Asia Pacific: The 21 economies that make up the APEC have undertaken to achieve free trade in the Asia-Pacific region by the year 2010 (2020 for the developing economies).
- The Americas: Negotiations are under-way to establish the Free-Trade Area of the Americas as from 1 January 2005, i.e. the same time-scale that the Ministers have established for us to complete the Doha Round.
- Europe: The EU is preparing to incorporate the ten countries of Central and Eastern Europe into its Single Market as from 2004.

4. In addition to these major regional or trans-regional initiatives there are countless bilateral or multilateral initiatives with similar aims. Thus, by way of an example, Chile has signed free trade

agreements with practically all the countries of the Americas, so that only the negotiations with the United States, Bolivia and Panama remain to be completed. Outside the region we have concluded free trade agreements with the European Union and the Republic of Korea; we are negotiating with EFTA, and have just agreed at the recent APEC summit in Los Cabos to initiate trilateral negotiations with Singapore and New Zealand.

5. For many countries, both developed and developing, trade liberalization is a fact and there can be no going back on it. Therefore, Members must decide whether such liberalization is to take place inside or outside the WTO. Chile firmly believes that the former – when it is available – is the better option. There now exists a clear mandate from the Ministers to advance resolutely in the WTO towards liberalization of the trade in goods on a non-discriminatory basis. Furthermore, the high level of ambition already shown by various Members of the WTO in regional initiatives, such as those mentioned above, should help to set a high level of ambition in the current multilateral negotiations.

Level of ambition and time-frames

6. Chile has high ambitions in these negotiations. We believe that the positions set out by Hong Kong, China, New Zealand and, more recently, the United States on the objective to be reached in these negotiations point in the right direction.

7. However, it needs to be recognized that all the Members have problems or sensitivities in specific sectors. In trade negotiations it is normal to introduce some tariff reductions gradually so as to soften their impact on the more sensitive sectors. In particular, it has been customary to provide for the results of the tariff negotiations in the GATT/WTO to be implemented over a period of five or six years. However, there is a direct relationship between the level of ambition of these negotiations and the time-frames to be established to implement their results: the shorter these time-frames are, the greater will be the problems of adjustment to the new conditions of competition and therefore the smaller will be the depths of the tariff cuts that may be agreed.

8. In view of the above-mentioned factors Chile proposes the establishment of longer implementation periods. That will, as a consequence, enable higher levels of ambition to be set, since there will be more time and room for the adjustment. These time-frames can be differentiated for the developing countries and, in particular, for the least developed and for those whose customs receipts represent a large part of their tax revenue.

9. In fact, the best way of solving the problem of the sensitive sectors is not to exclude them nor to reduce the general level of ambition, but rather to establish periods of implementation that are sufficiently long to allow the Members to make the internal adjustments that are necessary.

Modalities of tariff reduction

10. The bound tariffs must be the basis for these negotiations. In the case of the groups whose tariffs have not been bound, under no circumstances should a tariff higher than that applied at the date of launching the DDR be used as the basis. Goods whose tariff is not bound have, by definition, the level of protection – through the applied tariff – which the Members believe to be necessary: if additional protection were required, the level of the tariff applied would obviously be higher. Therefore, there is no justification for attempting to use as the basis higher tariffs than those applied at the beginning of the negotiations.

11. For the reduction or elimination of tariffs, Chile is in favour of an approach centered on an ambitious formula, such as the Swiss one, although for the moment we are not proposing any specific formula. However, some of the formulas proposed by the Members are a cause for concern, in particular those that envisage reductions in average tariff levels. Such formulas make it possible for

minimal or non-existent tariff reductions to be granted for the sensitive (and therefore more protected) goods while the concessions are concentrated in the non-sensitive sectors. That would certainly be a poor outcome in terms of the objectives of these negotiations, such as the attack on high tariffs, tariff peaks and tariff escalation. Therefore, the formula(s) to be used should be applied directly to all tariff headings without exception. In addition, the mechanism of a "tariff ceiling" proposed by Norway in document TN/MA/W/7 appears to be a good way of dealing with goods which, even after the formula has been applied, still maintain high tariffs.

Request-offer and sectoral approaches

12. To negotiate on the basis of a request-offer approach has at least two disadvantages. One is that in this approach, by its very nature, negotiations tend to remain confined to the main exporters and importers of the product in question. That leads to virtually sidelining the developing countries, who tend to be principal exporters of few products and whose import markets are generally small. The second disadvantage, common to all the sectoral approaches, is the natural tendency of countries to reduce or eliminate their tariffs only in their non-sensitive sectors, leaving the sensitive products subject to smaller reductions or directly excluding them. The adoption of a sectoral approach, including the "zero-for-zero" variant, leads to a situation in which the sensitive products will once again be left out, since the necessary trade-offs will not take place. Such a situation would be going against the Doha Mandate and would leave the developing countries worse off.

13. Consequently, the request-offer or sectoral approaches which are favoured by some Members should only be used to complement the formula approach, when the reductions obtained through the chosen formula are insufficient.

High tariffs, tariff escalation and tariff peaks

14. The terms "tariff escalation", "tariff peak" and "high tariff" have not been formally defined. Any attempt to define them would involve a time-consuming discussion of doubtful practical utility. In fact, all the proposals presented so far by the Members deal with these problems in one way or another, without any need to have defined them beforehand. Therefore, it seems more reasonable to concentrate first of all on the form or modality of the negotiations and then later on examine whether greater precision on these kinds of tariff instruments is necessary.

Environmental goods

15. Similarly, there is no need to attempt to reach agreement on definitions of environmental goods. Insofar as the negotiations will exclude nothing, by definition all good - including the so-called "environmental" goods - will be included in the reduction or elimination of the tariffs and non-tariff barriers being negotiated.

16. However, some Members have indicated a special interest in specific products, which they regard as "environmental". Recognizing the legitimacy of such an interest, we believe that, first of all, the general formula(s) of tariff reduction have to be agreed. If the results achieved were still considered to be unsatisfactory, they could be complemented by other modalities of negotiation (see paragraph 13). Obviously, any additional liberalization to that envisaged by the formula for "environmental" goods should be offset by equivalent concessions by those Members that have a particular interest in liberalizing the trade in such goods.

17. In any event, there is no place in the GATT framework - nor is it acceptable - for any possible definition of environmental goods to include the concept of production processes and methods. That would mean agreeing to grant different treatment to like products, as well as interference in the

sovereign right of each WTO Member to produce goods by means of processes that reflect its level of economic, social and technological development.

18. Likewise, the illustrative list of environmental goods recently circulated by one Member – without entering into the question of whether or not the products included therein may be considered "environmental" – presents concrete problems for the negotiations. For example, the tariff nomenclature of many Members – including Chile – makes no distinction between a "standard" automatic washing machine and an automatic washing machine that economizes on detergent or water.

Non-tariff measures (NTMs)

19. The document submitted by New Zealand (TN/MA/W/4) provides a good foundation for initiating discussion on this subject. As is clear in that document, there are many NTMs which are covered by the various WTO Agreements. Furthermore, many of them are allowed.

20. Thus, the more probable result of the compilation of NTMs that each Member must present by 31 January next year at the latest is that that list will include, almost entirely, measures that are already covered by the WTO Agreements.

21. Therefore, one of the first decisions to be adopted by this Negotiating Group concerns the treatment of non-tariff measures covered by other agreements. For example, is it necessary to notify all the measures that affect our exports and which have been notified under the WTO Agreement?

22. Chile's position is that if a NTM is covered by a WTO Agreement it is necessary to ascertain whether the respective agreement is included in the single undertaking. If so, the corresponding negotiating group must deal with that measure. If the agreement is not included in the Doha Mandate, there are two alternatives. If the measure is considered to be illegal, it may be challenged under the Dispute Settlement Understanding. If, on the other hand, it is legal, an attempt could be made to eliminate it through a request-offer approach, given the very limited applicability of a formula approach to dealing with the great diversity of existing non-tariff barriers. Finally, if a non-tariff measure is not regulated by any WTO Agreement, consideration might be given to the negotiation of new disciplines, which would mean obtaining a separate mandate at the Cancún Ministerial Conference. However, the initiation of such negotiations would depend on the consensus of the Members.
