

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF PARAGUAY

Revision

In the light of the consultations held since the last meeting of the Working Party, the paragraphs in the draft Report reproduced hereunder have been revised and will be submitted to the Working Party for consideration at the meeting to be held on 30 April 1993. The paragraphs that do not appear in this text remain unchanged.

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3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Paraguay (L/5500), a text on the foreign trade régime (L/6468/Add.1) and the questions submitted by contracting parties on Paraguay's trade régime together with the replies of the Paraguayan authorities thereto (L/6468/Add.1, 2 and 3). In addition, the representative of Paraguay made available to the Working Party the following material:

- Customs Tariff - Updated;
- Decree No. 14003/92 adopting the Harmonized Commodity Description and Coding System as the nomenclature for the national customs tariff, embodying in a single legal instrument, amending and expanding the regulatory provisions of Law No. 1095 of 14 December 1984, and putting into effect the customs tariff as the basis for the above-mentioned Harmonized Commodity Description and Coding System;
- Decree No. 14214/92 - Amends Decree No. 14003/92;

- Decree No. 14620/92 - Explains annex to Decree No. 14003/92;
- Law No. 489/74 - Approves with amendments Decree Law No. 5 of 29 March 1974 setting up the Customs Valuation Service and adopts rules for the determination of the taxable base for import taxes;
- Decree No. 12317/75 - Establishes the regulations for Law No. 489 of 11 December 1974;
- Import statistics by product and by origin;
- Decree No. 216 of 27 February 1989 - Adopts economic, financial, monetary, and foreign-exchange policy measures;
- Law No. 90/90 establishing provisions for the promotion of exports of non-traditional and manufactured products;
- Law No. 60/90 on tax incentives for national and foreign capital investment;
- Decree No. 8463 of 28 January 1991, which prohibits the export of sawnwood, whether or not planed, of the following species: cedar, lapacho, incense and peterebi (Freijo);
- Document concerning foreign trade of Paraguay in the first six months of 1991;
- Decree No. 8988 of 22 March 1991, lifting the ban on the importation of onions, tomatoes and other fruit and vegetables, and establishing calendars for such imports;
- Law No. 494 - Animal Health Inspectorate;

- Law No. 672. Organic Law on the Directorate of Plant Protection and Plant Health Inspectorate;
- Decree Law No. 8051 enacting a new Organic Law for the Protection of Agriculture;
- Decree No. 10189 of 22 December 1941, on the organization of the departments established by Decree Law No. 8051 of 31 July 1941 and establishing regulations governing their functions;
- Decree No. 37319 reorganizing the departments of the Directorate of Plant Protection created by Decree Law No. 8051/41 of 31 July 1941;
- Import statistics by tariff line and supplier country;
- Law No. 117/91 of 7 January 1992, on investment, promoting and guaranteeing national and foreign investment, on a basis of complete equality. The law guarantees a régime of freedom to produce and market goods and services and to import and export, provides that domestic and foreign investment will be subject to the same tax régime, and foreign investors must comply with the country's labour and social security laws. The law guarantees the right of ownership for national and foreign investments as well as freedom for the entry and exit of capital and remittance abroad of dividends, interest, commissions, royalties and other exchange operations;
- Law No. 125 of 9 January 1992, establishing the new tax system. This Law provides for an income tax, capital tax, consumption tax (VAT), and documents tax, and establishes provisions of general application. With the entry into force of the new tax régime, thirty-five laws and decrees listed in Article 254 of the Law have been wholly or partially repealed. The Value-Added Tax (VAT) came into force in July 1992;

- Law No. 126/91 of 9 January 1992 on the privatization of State-owned companies. By this Law the Executive is authorized to transfer wholly or in part to the private sector the public enterprises producing goods and services that are hereafter classified "State-owned companies subject to privatization", and the equity or partnership shares, as the case may be, of enterprises of which the State is a shareholder or partner. In each case the law will establish which enterprises are to be privatized;
- Decree No. 12499 of 13 February 1992, updating and establishing rates of port fees and charges for services to shipping levied by the National Shipping and Ports Administration;
- Decree No. 16080/93, prohibiting the entry of specific products into the country;
- Decree No. 16135/93, prohibiting the entry of raw or frozen vegetables and fruit.

#### Tariff régime

8. At the request of the members of the Working Party, the representative of Paraguay described the basic instruments governing imports. He said that these instruments were the Customs Tariff established by Law No. 1095/84, the Customs Code established by Law No. 1173/85 and the regulations governing the Customs Code established in Decree No. 14003/92 and its amendments. The Customs Tariff was based on the Harmonized Commodity Description and Coding System. The Customs Tariff established differential levels of tariffs for products depending on their importance for the national economy. The *ad valorem* tariff rates were established in a single column. Tariff rates levels varied between duty free and, in exceptional cases, a 35 per cent ceiling. For raw materials, the levels were 0 to 10 per cent; for consumer goods, 10 to 35 per cent; for machinery and equipment, 5 per

cent. As stated in the reply to question 14 in document L/6468/Add.1 pursuant to Law No. 1095/84, the Executive set tariffs higher than the legal levels; in exceptional cases the Executive can establish a maximum tariff of 70 per cent. Exceptions to the régime were as follows: baggage of international travellers; goods exempt in accordance with international treaties; baggage and household effects of immigrants and repatriated Paraguayans; goods intended for cultural purposes; samples without commercial value, etc. Other exceptions established by special legislation were as follows: (i) import régime established in law 60/90 on Promotion of investment for economic and social development, provides exemptions for imports of capital goods, inputs and raw materials; (ii) import régime within the framework of the Latin American Integration Association (ALADI) in accordance with the provisions of the 1980 Montevideo Treaty; (iii) temporary admission, in accordance with the Custom Code Law 1173/85 and the regulations established by Decree No. 15813/86, by which the Government can suspend the payment of import tariffs on certain goods intended for re-export within a certain period of time.

9. Some members requested that Paraguay provide detailed information with respect to the scope and nature of the import régime for industrial inputs and raw materials. The representative of Paraguay stressed that under the general régime for imports all industrial products regardless of their origin could be imported under the general régime establishing tariff levels of 0 to 10 per cent.

10. With reference to the replies to question 11 in document L/6468/Add.2 and question 30 in document L/6468/Add.3, some members noted that the preferential rates applied by Paraguay to a list of products originating in certain border countries appeared to be inconsistent with Article I of the General Agreement. In response the representative of Paraguay said that in accordance with Law No. 1095/84 and Decree No. 1633/88, and in light of geographical and economic conditions, for a long time certain products originating in neighbouring countries, without discrimination among countries, had been subject to a 10 per cent

uniform tariff régime in Paraguay which replaced all levies on imports. The relevant products were listed in Decree No. 1663/88 and in the Customs Tariff of Paraguay which had been made available to the Working Party. The programme setting out those preferences was eliminated as of 1 July 1992 pursuant to Law No. 125/92, with the general régime applied to all imports as of this date.

11. Some members said that Paraguay appeared to apply a surcharge to certain products due to a special tax régime of 7 per cent levied except when such products are imported from border countries, and requested an up to date list of such products. The representative of Paraguay said that the current list of products subject to the 7 per cent special tax rate appeared in Resolution 932 of 7 October 1991 which had been made available to the Working Party. The 7 per cent tax was not a surcharge but a substitute of the general import régime for certain products. This régime was eliminated with the entry into force of Law No. 125/92 on 1 July 1992.

12. In conclusion, the representative of Paraguay stated that the authority of his Government described in paragraphs 8-11 of this report to levy taxes and surcharges on imports and exports, and to suspend them, is the Executive power through the Ministry of Finance which would apply such measures, from the date of accession, in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XI, XII, XVIII, XIX, XX and XXI. The Working Party took note of this assurance.

#### Taxation régime

13. At the request of the members of the Working Party, the representative of Paraguay described the tax régime applied to foreign trade. He said that the taxation régime of Paraguay had undergone a process of substantial rationalization and simplification. Decree Law 20 of 2 May 1989 had unified the taxes on import operations. As stated in the replies to questions 17-20 of document L/6468/Add.3, the special

purpose taxes listed in document L/6468/Add.1 were no longer applied to imports. The merchandise sales tax established by Law No. 48/89 of 27 December 1989 which had been adopted with amendments pursuant to Decree Law 20 of 2 May 1989, consolidated the previous taxes applicable to imports, which was eliminated when Law No. 125/92 came into force. In addition to the tariff, imports were subject only to the ad valorem tax set out in the aforesaid law. Currently the internal tax régime had the following schedule: 30 per cent for matches, playing cards, cigars and tobacco, alcoholic beverages in general, fruit juices and other products; 3 per cent for raw materials and inputs, fuels and lubricants, coarse salt and agricultural machinery and implements; and 6 per cent for other products. The merchandise sales tax which had had differential rates as follows: for domestic goods, 4 per cent; for imported goods, 8 per cent; and luxury goods irrespective of origin, 14 per cent, was replaced by the value added tax. The 1.5-2 per cent seals and stamp tax was not a customs charge applicable to products but a tax applicable to all documents whether or not related to trade. The 5 per cent consular tax was also a general revenue tax and not a customs charge. More recently, Law No. 125 of 9 January 1992 had established the new tax system providing for an income tax, a capital tax, a value added tax, a selective consumption tax, a livestock tax, a documents tax and establishing other provisions of general application. The consumption taxes entered into force in July 1992. Sales, services and imports were subject to the value added tax with a rate of 10 per cent. National manufacturers and importers of some twenty categories of products were subject to the selective consumption tax levied at the following rates: for tobacco products, 7-8 per cent; for carbonated beverages, beer, wine and liquors, 8-10 per cent; for alcohols, 5-10 per cent; for petroleum fuels, up to 50 per cent. Some thirty four acts and documents, including those related to the export of unprocessed agricultural products, were subject to the documents tax.

14. With reference to the internal taxes described in the responses to question 7 in L/6468/Add.1, question 8 in L/6468/Add.2 and question 16 in L/6468/Add.3, some members noted that pursuant, inter alia, to

Law No. 48/89 and Law No. 291/71, in addition to tariffs, the seals and stamps tax and the merchandise sales tax, Paraguay applied a number of additional customs taxes both on an ad valorem and specific basis. In this respect special reference was made to the 2 per cent tax levied on alcoholic beverages. These members asked whether the respective rates had to be added to the tariff rates in order to determine the price of imported goods and whether these taxes applied equally to imports and domestic products. The representative of Paraguay said that Law 291/71 had been abrogated, pursuant to Law No. 48/89 which was in turn abrogated by Law No. 125/92. The 2 per cent merchandise tax on alcoholic beverages is therefore no longer in force.

#### Merchandise sales tax

15. Some members noted that Law 69/68 as modified by Law No. 1035/83 and Law No. 48/90, established a merchandise sales tax with differential rates between domestic and imported products which appeared to be inconsistent with Article III of the General Agreement. The representative of Paraguay said that pursuant to Law No. 125/92 only a value added tax was levied, with the same rates both for domestic and imported products.

#### Seals and stamp tax

16. In response to a question concerning the seals and stamp tax, the representative of Paraguay said that pursuant to Law 1003/64, the seals and stamp tax was levied on all documents including import documents, bills of lading, bonds, letters of credit, payment orders, etc., at rates varying between 2 and 1.5 per cent. This tax was repealed by Law No. 125/92.

#### Consular tax

17. In response to further questions concerning the consular tax, the representative of Paraguay said that pursuant to Decree Law 46 of 1972 consular taxes were levied on all documents subject to consular visa.

Levying of the tax was repealed by Law No. 125/92, paragraph 44, with only those taxes specified for consular services remaining in force.

18. Some members said that it would appear that certain taxes and charges applied by Paraguay were not entirely consistent with the provisions of the General Agreement. In the view of these members, Paraguay should make a commitment that all taxes and charges on imports would be applied in accordance with the provisions of the General Agreement at the time of accession or within a relatively short period of time after accession to the General Agreement. In this context, some members stressed the particular relevance of Articles II, III and VIII thereof, while a member stressed the particular relevance of the last two of these Articles.

19. The representative of Paraguay said that the Value Added Tax (VAT) and Selective Consumption Tax, both included in Law No. 125 of 9 January 1992 "establishing the new tax régime", entered into force on 1 July 1992. VAT is applied at a rate of 10 per cent to all goods, both local products and imports, with the exception in the latter case of crude petroleum, fuels produced from petroleum, agricultural products in their natural state, and products imported under Investment Promotion Law No. 60/90, among others. VAT replaces the taxes established by Law No. 48/89, Decree Law No. 2/90, paragraph 44 of Article 13 of Decree Law No. 46/72 on Consular Duties, Law No. 69/68 on the Merchandise Sales Tax, and Law No. 1003/64 on the Seals and Stamp Tax, which are applied to imports. The Selective Consumption Tax is levied on specific locally-produced and imported articles: thus, cigarettes and tobacco are subject to a rate of up to 8 per cent; beverages in general to a rate of up to 10 per cent; spirits to a rate of up to 10 per cent; and petroleum-based fuels to rates of up to 50 per cent. Neither VAT nor the Selective Consumption Tax discriminate, as far as rates are concerned, between imported and domestic products. In addition, Law No. 125/92 repeals all provisions granting general or specific exemptions from internal taxes, customs duties and port fees, with the exception of those referred to in Law No. 60/90 on the legal régime governing hydrocarbons.

those concerning public works, and those provided for in international agreements, conventions and treaties. In accordance with the new national taxation system, as of 1 July 1992 the charges applicable to imports are: (1) the duties established under the Customs Tariff; (2) the Value Added Tax (VAT); (3) the Selective Consumption Tax.

20. In conclusion, the representative of Paraguay stated that his Government would apply its taxes and charges applied to imports referred to in paragraphs 13 to 19, in accordance with the provisions of the General Agreement, in particular Articles III and VIII. In this regard, any domestic taxes and charges whose application varies according to whether the items are locally manufactured or imported would be eliminated as of 1 July 1992. If, one year after accession, such taxes and charges have not been eliminated, the matter would be reviewed by the CONTRACTING PARTIES. Other charges on imports, other than tariffs or customs charges associated with the cost of services rendered, would not be applied in excess of the bound rates of duty established in Paraguay's schedule of concessions annexed to the General Agreement, unless such application is consistent with the appropriate GATT Articles. The Working Party took note of this commitment.

#### Import régime

23. A number of members of the Working Party said that in recent years the liberalization, rationalization and transformation of the Paraguayan foreign trade régime had developed so rapidly that most of the documentation submitted previously was out of date. These members asked Paraguay to provide full information on the situation of the restrictions currently applied to imports, including prohibitions, quantitative restrictions and licensing requirements with respect to all products and in particular agricultural products. The representative of Paraguay said that under Decree No. 16080/93, temporary import prohibitions had been established on 73 tariff items for economic reasons. In addition, pursuant to Decree No. 16185/93, imports of agricultural products in a

raw or natural state were prohibited on the grounds that they posed an epidemiological risk to people (cholera). Fire-arms, explosives and the like can only be imported with prior Government authorization for national security reasons. Crude petroleum, gas-oil (diesel) and petrol (gasoline) can be imported only by PETROPAR, the State agency with a legal monopoly for their production and importation. Imports of medicines, drugs, narcotics and psychotropic substances, as well as products that could serve as a basis for their production in general, are subject to the authorization and control of government bodies established in conformity with relevant multilateral agreements.

24. The representative of Paraguay declared that his Government was committed to the gradual elimination of the use of import prohibitions, restrictive import licenses, and other quantitative restrictions which are inconsistent with the provisions of the General Agreement. He confirmed that his Government would continue to eliminate such import restrictions in all sectors with the goal of fully eliminating their use prior to 31 December 1994. After accession to the General Agreement, any new import restrictions would only be applied in conformity with the provisions of the General Agreement. All import restrictions remaining in effect after 31 December 1994 would be notified with reference, where applicable, to the relevant provisions of the General Agreement, in particular Articles XI, XII, XVIII, XIX, XX and XXI, within six months. If the aforesaid notification is not submitted, the issue would be brought to the attention of the CONTRACTING PARTIES. In addition, Paraguay would ensure that remaining restrictions and import permit requirements are applied in a way consistent with Article XIII of the General Agreement and shall apply all restrictions in accordance with the principle of non-discrimination. The representative of Paraguay further confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these measures on their trade. The Working Party took note of this commitment.

26. The representative of Paraguay stated that his Government did not use balance-of-payments measures to provide protection to specific industries, or to encourage domestic production. If the need to use trade restrictions for balance-of-payments purposes should nevertheless arise, restrictions would only be applied on a temporary basis in accordance with Article XVIII of the General Agreement, the 1979 Declaration, and their related procedural rules, and Paraguay would give preference to those measures which had the least disruptive effect on trade, i.e. price-based measures. If the Government of Paraguay elected to use a non-price based measure, it would submit an explanation for the action taken. The representative of Paraguay confirmed that his Government intended to notify the CONTRACTING PARTIES any trade restrictions taken for balance-of-payments purposes and would enter into consultations in the Committee on Balance of Payments.

#### State trading

29. Information was requested with regard to the activities, existence of competition and import restrictions benefiting ACEPAR, the State-owned steel company; INC, the national cement enterprise; APAL, the State alcohol monopoly; FERTIPAR, the fertilizers enterprise; and the scope and nature of the port charges applied by ANNP (Administracion Nacional de Navegacion y Puertos) to imports from border States. With reference to State trading, the representative of Paraguay said that Paraguay did not grant State entities or enterprises any special privileges except in the case of PETROPAR (Petróleos Paraguayos), which had a monopoly for the production and sale of petrol and diesel oil with the obligation to ensure adequate supplies and price stability. He added that Aceros Paraguayos Sociedad Anónima (ACEPAR) is like any corporation, except that its main shareholder is the Paraguayan Government. As all other private enterprises, it is governed by the Civil Code and is now being privatized. It is granted no privileges by the State, it is not included in the General Budget of the Nation, and it is self-financed. The company faces no problems of competition as regards quality or price,

owing to its advanced technology, nor have barriers or restrictions been applied to the importing of products manufactured by this company.

The Industria Nacional del Cemento (INC) is an autonomous State-owned company created under Law No. 126/69. Its purpose is to produce cement and other by-products, as well as to market its products nationally and internationally. It is self-financed, receiving no funds under the national budget, nor financing or other privileges from the State, and it pays all taxes levied as does any other corporate entity. The importing of cement manufactured in other countries is not prohibited. The INC is very competitive owing to the quality of its products, which rank high among cements of the same type and category. Production costs are relatively low, and tend to decrease as production volume increases, along with operational optimising of the company's plants.

The Administración Paraguaya de Alcoholes (APAL) is a State-owned enterprise involved in exporting and importing as a private company. It is now becoming a corporation by selling shares to the private sector. It receives no financing or special privileges from the State. Its competitiveness stems from the quality and price of its products. There is currently a temporary prohibition on importing rum (aguardiente de caña) pursuant to Decree No. 16080/93.

Petróleos Paraguayos (PETROPAR) is a State-owned company which manufactures petroleum-derived fuels. Of note is the fact that all petroleum-derived products may be freely imported, except diesel oil, mononaphthas and crude, which can only be imported by PETROPAR. It operates without receiving any other special treatment from the Government. The company's administrative policy is based on austerity and diversification of supply, ensured by profitable contracts that allow PETROPAR to maintain its competitiveness in the area.

The Administración Nacional de Navegación y Puertos (ANNP) is mainly responsible for ensuring the navigability of rivers and maintaining port

facilities. There is no rate discrimination whatsoever as regards charges for its services. Paraguay is currently engaged in a wide-sweeping privatization programme. Pursuant to Law No. 126/92, Article 19, the following State-owned enterprises are scheduled to be privatized: Administración Paraguaya de Alcoholes (APAL), Flota Mercante del Estado (FLOMERES), Líneas Aéreas Paraguayas (LAP), Ferrocarril Central Carlos Antonio López, and Aceros Paraguayos (ACEPAR).

34. The representative of Paraguay stated that his Government did not grant subsidies that affect trade. He indicated that, should his Government in the future decide to grant such subsidies, it would avoid serious prejudice to the interests of other contracting parties, as provided in Article XVI:1 of the General Agreement. The representative of Paraguay also stated that his Government intended to observe the provisions of Article XVI:1 from the date of accession to the General Agreement and in this respect would receive favourably requests for consultations from other contracting parties.

36 bis. A member of the Working Party stressed the need that Paraguay provide up-to-date information on the implementation of MERCOSUR as this agreement was expected to have a significant impact on the trade of other contracting parties. This member recalled that contracting parties were in the process of negotiating basic tariff and non-tariff measure obligations with Paraguay in relation to accession, therefore there was a legitimate concern with regard to the compliance of GATT obligations vis-à-vis MERCOSUR. In this member's view, the Working Party was an appropriate forum to review the extent to which the implementation of the MERCOSUR Agreement would have a bearing on the terms of accession to the General Agreement currently under negotiation with the Government of Paraguay. Finally, this member noted that this issue was related to the Enterprise for the America's Initiative aimed at the expansion of continental trade.

37. The representative of Paraguay stated that the Treaty of Asunción had been notified to the GATT in February 1992. He confirmed that Paraguay as a signatory of MERCOSUR would fulfil its obligations relating to MERCOSUR under the General Agreement and the instruments under its auspices. With respect to regional arrangements generally, he stated that Paraguay would participate in providing periodic reports on the activities of the trade agreements to which it is party, including changes in their operation that could affect contracting party trade. His Government was prepared to consult with the CONTRACTING PARTIES concerning the commercial effect of these agreements, if requested by interested contracting parties. The Working Party took note of these assurances.