

RESTRICTED

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ORIGINAL: ENGLISH

GENERAL AGREEMENT ON TARIFFS AND TRADE  
Second session of the contracting parties  
(Item 8 in the Provisional Agenda)

PROTOCOL OF PROVISIONAL APPLICATION - REQUEST OF THE GOVERNMENT OF CHILE

By cable dated 25 June, the Government of Chile informed the Executive Secretary of the Interim Commission for the International Trade Organization that they were unable to sign the Protocol of Provisional Application by the closing date of 30 June. The following is the text of the cable received:

"REFERENCE YOUR LETTER 4 JUNE. CHILEAN GOVERNMENT GREATLY FEARS UNABLE SIGN PROTOCOL PROVISIONAL APPLICATION OF GENEVA GENERAL AGREEMENT ON TARIFFS AND TRADE BEFORE CLOSING DATE OF JUNE 30. FIRST, CHILEAN LAW PERMITS GOVERNMENT PUT INTO PROVISIONAL EFFECT ONLY THE TARIFF LISTS ANNEXED TO GENERAL AGREEMENT UNTIL APPROVED BY CONGRESS, AS STATED BY DELEGATION AT GENEVA CONFERENCE (RESTRICTED DOCUMENT E/PC/T/W/313). SECOND, SOME PROVISIONS PARTS 1 and 3 GENERAL AGREEMENT REQUIRE APPROVAL CONGRESS WHICH CONSIDER IMPOSSIBLE OBTAIN BY CLOSING DATE STATED, SINCE, APART FROM COMPLEXITY AND VOLUME OF MATERIAL CONGRESS WILL REQUIRE TO STUDY OFFICIAL SPANISH TEXT OF LISTS ANNEXED TO GENERAL AGREEMENT AND OF THE GENERAL PROVISIONS OF THE AGREEMENT AS AMENDED HAVANA. THIRD, THERE HAS ALSO BEEN DIFFICULTY IN MAKING ESSENTIAL PRELIMINARY STUDIES OWING TO COMPLEXITY AND LENGTH DOCUMENTS, TO THE ABSENCE OF THE OFFICIAL EXPERTS WHO AFTER GENEVA NEGOTIATIONS WERE REQUIRED TO ATTEND HAVANA CONFERENCE AND TO THE IMPOSSIBILITY HITHERTO OF OBTAINING OFFICIAL SPANISH TEXTS REFERRED TO POINT 2, FOR CONSIDERATION BY OFFICIAL AND PRIVATE TECHNICAL BODIES WHICH WILL NECESSARILY BE REQUIRED STATE THEIR OPINIONS. FOURTH, IN VIEW ABOVE CIRCUMSTANCES WOULD APPRECIATE IF YOU WOULD CONSULT AS SOON AS POSSIBLE SIGNATORIES PROTOCOL PROVISIONAL APPLICATION WITH REGARD TO POSSIBILITY SIGNING PROTOCOL AT LATER DATE UNDER SAME CONDITIONS AS BEFORE ABOVE MENTIONED DATE. FIFTH, IN FIXING NEW CLOSING DATE REQUEST YOU POINT OUT TO SIGNATORIES THAT THE NECESSARY PRELIMINARIES AND TECHNICAL AND PARLIAMENTARY STUDIES REFERRED TO COULD NOT TAKE LESS THAN SIX MONTHS. WOULD APPRECIATE QUICK REPLY. I HAVE THE HONOUR ETC.

(signed) GERMAN VERCARAN  
MINISTER FOR FOREIGN AFFAIRS OF CHILE"

/Whilst

Whilst the majority of the replies received from the contracting parties were sympathetic to the Chilean request almost all expressed the desire that the question be placed on the Agenda of the Second Session of the contracting parties.

The Protocol of Provisional Application contains no provision for amendments or for an extension of the closing date for signatures. There would, however, appear to be three possible means of meeting the Chilean request:

1. Provision to sign the Protocol might be granted by a unanimous decision of the contracting parties;
2. Article XXX, paragraph 1, relating to amendments to the Agreement, might be applied, by analogy, to the amendment of the Protocol of Provisional Application. In that case the amendment would become effective, in respect of those contracting parties which accept it, upon acceptance by two-thirds of the contracting parties. If the Protocol were so amended, and Chile subsequently signed the Protocol, the signature would not automatically bring the Agreement into provisional application as between Chile and a contracting party which had not accepted the amendment.
3. The Chilean request might be treated as an application to accede under Article XXXIII or by analogy thereto, Chile being regarded as "not a party to this Agreement" owing to her failure to qualify as a contracting party under Article XXXII as amended. As Chile has already negotiated, she might be permitted to accede within a specified period without further conditions.

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