

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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REPORT OF THE WORKING PARTY ON THE ACCESSION OF PARAGUAY

1. At its meeting on 6 March 1989 the Council took note of Paraguay's request to resume negotiations for accession to the General Agreement and established procedures for the resumption of Paraguay's accession negotiations. The terms of reference of the Working Party are as follows: "To examine the application of the Government of Paraguay to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession."

2. The Working Party met on 8-9 July and 17-18 October 1991, 11-12 June 1992 and 30 April 1993 under the chairmanship of H.E. Mr. J. Seade (Mexico). The terms of reference and membership of the Working Party are set out in document L/6472/Rev.5.

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.

4. In an introductory statement, the representative of Paraguay referred to the substantial reforms in the country's economic system which had been introduced recently. The aim of the reforms had been to liberalize the economy and in particular the foreign trade sector, ensuring the full operation of the market mechanisms within a free and democratic political structure. The public sector was being rationalized and put on an equal footing with the private sector. Subsidies and monopolistic activities were being phased out. The foreign exchange policy had been modified to permit the exchange rate to float freely. Tariff rates had been lowered substantially and the country's National Tariff had been set in the Harmonized Commodity Description and Coding System. Law 60/90 had established certain fiscal incentives for capital investments. The taxation system was being reformed in order to ensure a fair allocation of resources and the widening of the tax base of a significantly reduced number of taxes. The foreign and domestic trade sectors had been liberalized, price controls for sugar, bread and alcoholic beverages had been abolished and freedom to import had been instituted. The financial sector had also been freed and at present the supply and demand situation of money determined the level of interest rates. Paraguay, a member of the Latin American Integration Association (ALADI), had recently signed the "Treaty of Asuncion" which established the MERCOSUR (Southern Common Market). Upon accession Paraguay would comply fully with the obligations of a developing country under the General Agreement.

General Comments

5. Noting that Paraguay had been implementing far reaching reforms aimed at liberalizing the foreign trade régime, members of the Working Party expressed their welcome and support for Paraguay's accession to the General Agreement. It was expected that these reforms when pursued resolutely would help to rationalize the use of Paraguay's resources, increase production and trade and accelerate the pace of economic development. In welcoming Paraguay's application for accession to the General Agreement, some members of the Working Party who participate in regional trade arrangements with Paraguay stressed that these arrangements were complementary and mutually reinforcing with multilateral trade relations under the General Agreement. These members expressed the hope that the process of accession of Paraguay to GATT would be carried out expeditiously and would be concluded promptly and fairly, and that the terms of accession would be commensurate with Paraguay's financial, development and trade situation.

Tariff negotiations

6. A number of members expressed their interest in carrying out tariff negotiations relating to accession with Paraguay. Some members indicated that the tariff negotiations were already underway. The Working Party invited members who had not yet done so to submit their request lists to Paraguay at an early date and to make every effort to conclude the tariff negotiations as soon as possible. The representative of Paraguay said that

in the context of the cariff negotiations his Government would undertake an across the board ceiling binding of 35 per cent, as of the date of accession. The Working Party took note of this statement.

Foreign trade régime

7. The Working Party reviewed the foreign trade régime of Paraguay and the possible terms of a draft Protocol of Accession. The views expressed by members are summarized in paragraphs 8 - 39 below.

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 cannot 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, but was no longer in force. 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 were subject to the documents tax, including one related to the export of unprocessed agricultural products; the other thirty-three acts and documents were unrelated to international trade.

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 three consular visas remaining in force for commercial invoices, bills of lading and certificates of origin for which consular fees vary between US\$15 and US\$25.

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 6 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.

Customs régime

21. Some members of the Working Party said that in their view Paraguay should accede to the MTN Customs Valuation Code at the time of accession to the General Agreement. Questions were also raised concerning Paraguay's use of values submitted by local businessmen for vehicles and electronic equipment and the valuation rules that would be applied by the MERCOSUR. The representative of Paraguay said that Paraguay currently applied the Brussels definition of value for all import regardless of origin. He added that the decisions of the customs authorities concerning customs classification or customs valuation could be appealed to the respective Councils and to an administrative tribunal. The use of reference prices for certain products had been discontinued more than two years ago and there were no lists of values in effect. Paraguay was not in a position to anticipate the valuation rules which would be adopted by MERCOSUR.

Transparency

22. The representative of Paraguay stated that Paraguayan legislation determined that every law, decree, regulation and measure of an economic nature must be published before its application, and that Paraguay would apply the provisions of Article X from the date of accession to the General Agreement. The Working Party took note of this assurance.

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 pursuant to Article 10 b) of Law 1095/85, the Government of Paraguay was authorized to establish régimes and special measures, whether or not temporary, with respect to imports and exports for reasons of national interest, including reasons of national security. The representative of Paraguay also 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, including those noted in paragraph 23. 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.

Balance of payments

25. With reference to section 4 - Fiscal matters of the Questions and Replies to the Memorandum on the Foreign Trade Régime (documents L/6468/Add.1 and 2), members requested information on the nature of the restrictions that might be applied for balance of payments purposes and if there were any such restrictions currently in place. The representative of Paraguay said that at present Paraguay did not apply restrictive measures in foreign trade for balance of payments reasons nor were there legislative provisions to that effect. The representative of Paraguay recalled that decree 216/89 had established a floating rate for foreign exchange. Imported goods were not subject to licensing and Paraguay did not apply import restrictions for balance of payments purposes.

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.

Unfair trade practices

27. Concerning unfair trade practices, some members of the Working Party said that there did not appear to be a requirement in Paraguay's laws concerning unfair trade practices for a finding of material injury before the application of countervailing or anti-dumping duties, or limiting the size of the charge to be applied to remedy these practices. It was also noted that there was no requirement in legislation permitting the application of measures to safeguard Paraguayan industry for a finding of serious injury before taking such measures, as required by Article XIX. These same members stated that the Paraguayan authorities should take action to provide for respective findings of material or serious injury before applying countermeasures to unfair trading practices or safeguard actions, in order to bring their practices in these areas into line with the relevant GATT provisions. In response, the representative of Paraguay indicated that his Government would apply, from the date of accession, its measures taken for anti-dumping purposes or regarding subsidies and countervailing duties in conformity with the provisions of Article VI, and its safeguard measures in conformity with Article XIX, including the serious injury test. The Working Party took note of the commitments made by the representative of Paraguay.

Technical regulations and standards

28. The representative of Paraguay stated that his Government applied the same controls and rules regarding technical regulations, standards, certification, and labelling requirements to imported and domestic goods, and did not consider the use of such regulations to restrict imports as being in its best commercial interests. In this regard, he stated that Paraguay would ensure that after its accession to the General Agreement, the technical regulations, standards, certification and labelling requirements would not be applied to imports in an arbitrary manner, in a way that discriminated between supplier countries where the same conditions apply, or as a disguised restriction on international trade. He stated that his Government would also ensure that certification requirements would be administered in a transparent and expeditious manner. The representative of Paraguay confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these requirements on their trade with a view to resolving specific problems. The Working Party took note of these assurances.

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 (Administración Nacional de Navegación 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 producing and exporting sugar cane based alcohol. It is not involved in the import or retail sale of other alcoholic beverages which can be imported freely. 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). Paraguay would notify pursuant to Article XVII of the General Agreement APAL, INC and PETROPAR.

30. The representative of Paraguay stated that his Government would apply, from 31 December 1994, the laws and regulations governing the State-trading activities of the enterprises mentioned above, in conformity with the provisions of Article XVII, including provisions for non discrimination, the application of commercial criteria for trade transactions, notification and other procedures. Purchases by these agencies for the manufacturing process or for resale were not considered government procurement under the General Agreement. The Working party took note of this assurance.

Investment incentives

31. With reference to decree law 27/90 and law 60/90, a member asked whether these laws established export performance or local content requirements for the output of producers to qualify for the incentives provided therein. The representative of Paraguay said that the National Development Plan set out the objectives, targets and strategies for the development of industrial sectors. In order to pursue these objectives laws to encourage investments had been enacted. He added that law 60/90 had replaced decree law 27/90. The purpose of the law was to attract investments which would generate the production needed to meet the internal demand of certain products. The law made no distinction as to the origin of the capital nor required the carrying out of exports in order to qualify for these incentives. These incentives included fiscal and municipal tax exemptions for the creation of enterprises and companies; tariff exemptions, taxes and charges on foreign loans; a temporary exemption of 95 per cent of the revenue tax on gross sales; tax exemptions on rents, royalties, patents, etc.; exemptions from the seals and stamp tax, etc. Under certain conditions these exemptions could be granted for a period of five to ten years if the investments were in compliance with plans approved by the Technical Planning Secretariat.

Export régime

32. With reference to export régime, the representative of Paraguay said that law 1095/84 on the Customs Tariff provided that exports were free from licensing requirements, customs charges or other levies. As of 1 January 1992, the foreign exchange retention scheme of the export taxes on cotton fabrics had been eliminated. Pursuant to law 422, decree 672 and decree 8463 of 28 January 1991, the export of products such as unprocessed forestry products and raw hides which were necessary to ensure the management of scarce resources and adequate supplies for the domestic

industry as well as conservation and environmental protection measures was subject to prior authorization. Moreover, the export of four types of tropical woods in risk of extinction was prohibited. In his view these restrictions were consistent with the provisions of Article XX of the General Agreement. Paraguay was also bound by recently agreed international aid programmes in favour of Paraguay which had specifically included the requirement to apply far reaching conservation measures with respect to the tropical forest and the remaining wildlife, and by the International Convention on the Protection of Endangered Species (CITES).

Export incentives

33. Some members of the Working Party noted that law 90/90 provided for the promotion of manufactured and non traditional exports. Articles 5, 6 and 7 of this law listed exemptions from taxes and other restrictions available to products specified as beneficiaries of the law. These members requested a listing of the taxes and customs charges exempted by law, a listing of the products subject to the tax exemptions, and whether the enterprises producing and exporting those products were exempted from corporate and income taxes. Information was also requested on the special systems commercial interchange. The representative of Paraguay said that incentives for agricultural production had been established with regard to the import of agricultural inputs, a special tax régime for agricultural production including beef and beef products. Incentives for economic development purposes were also provided by law. Law 90/90 of 3 December 1990 had freed exports of non-traditional products and manufactured products from all restrictions. Pursuant to Article 5 thereof, these exports were exempted from the seals and stamps tax, the services tax, and were not subject to the income tax withholding scheme. Moreover, up to 31 December 1991, these products were entitled to a one percent foreign exchange retention scheme. Decrees 9910 of 14 June 1991, 10804 of 5 September 1991 and 11132 of 3 October 1991 listed the some five hundred eight digit tariff items which constitute non-traditional export products and manufactured products entitled to the benefits of law 90/90. The representative of Paraguay added that the régime established by law 90/90 did not impose export taxes but rather set low tax rates in respect of the foreign exchange withholding scheme, the stamps and seals tax, etc. The law did not provide income tax exemptions. The commercial interchange mechanism was not in operation because the respective regulations have not been established.

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.

Free trade zones

35. The representative of Paraguay confirmed that, from the date of accession to the General Agreement, his Government would apply, as is being done now, all taxes, import restrictions and customs and tariff charges that are normally applied to imports into Paraguayan customs territory to the imported component of goods produced in these free trade zones when they are exported into the national customs territory.

Regional arrangements

36. In expressing support for regional integration, some members noted that in the framework of the Latin American Integration Association (ALADI), Paraguay had also become a member of the Southern Common Market (MERCOSUR). In addition to a full description of Paraguay's terms of participation in the MERCOSUR, these members requested Paraguay to notify all its preferential trading agreements to the CONTRACTING PARTIES at the time of accession and to participate in their review as provided for in the Enabling Clause and in Article XXIV of the General Agreement, as appropriate. The representative of Paraguay recalled that in documents L/6468/Add.1 and 3 and L/6498 and addenda, Paraguay had provided a complete list of all its trade agreements as well as the relevant texts. Most of the agreements signed in the context of ALADI established tariff reductions for the lists of specific products annexed to those agreements. Approximately fifty per cent of Paraguay's trade was entitled to preferential treatment under ALADI. He noted furthermore that as agreed in the Committee on Trade and Development, ALADI provided to the CONTRACTING PARTIES periodic reports of its activities. As a contracting party, Paraguay would participate in the submission of the respective reports. However, before accession to the General Agreement, Paraguay did not have the right to notify to the CONTRACTING PARTIES the Treaty of Asuncion of 26 March 1991 which had established the MERCOSUR. He noted that the Treaty of Asuncion had entered into force following the completion of the ratification procedures by all the member countries. The Ministers of Foreign Affairs of the MERCOSUR member States had already visited a number of contracting parties capitals to explain the aims and operation of this arrangement. Some members of the Working Party who are parties to the MERCOSUR recalled that a detailed presentation of the MERCOSUR had been made in the Committee on Trade and Development. They reaffirmed that the arrangement would be notified to the appropriate forum of the GATT following its entrance into force. In their view, this Working Party was not the appropriate forum to discuss the obligations of contracting parties under the MERCOSUR.

37. 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. This member added that since MERCOSUR has stated its intention to become a customs union, it had to be notified pursuant to Article XXIV of the General Agreement. 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.

38. The representative of Paraguay stated that he shared the opinion expressed by other contracting parties that the notification of the Treaty of Asunción which had already been made to the Committee on Trade and Development under the Enabling Clause constituted the appropriate instrument for the examination of its provisions. The Treaty included the following instruments: a trade liberalization programme with an exceptions list; a common external tariff; the coordination of macroeconomic policies; sectoral agreements; a general origin régime and a dispute settlement system. 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.

MTN Agreements and Arrangements

39. Several members suggested that Paraguay should consider acceding to the MTN Agreements on Customs Valuation, Import Licensing Procedures and Anti-Dumping at the time of accession to the General Agreement or shortly thereafter. The representative of Paraguay declared that, if at all possible, Paraguay would accede to the Codes on Customs Valuation and Import Licensing Procedures at the time of accession, but in any case within one year after Paraguay's accession to the General Agreement, Paraguay would accede to the Codes on Customs Valuation and Import Licensing Procedures, and in a period of two years, to the Anti-Dumping Code. Afterwards, consideration would be given to adherence to other MTN Codes.

Conclusions

40. The Working Party took note of the explanations and statements of Paraguay concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by Paraguay in relation to certain specific matters which are reproduced in paragraphs 12, 20, 22, 24, 26, 27, 28, 29, 30, 34, 35, 38 and 39 of this report and noted that these commitments had been incorporated in Paragraph 2(a) of the Protocol of Accession.

41. Having carried out the examination of the foreign trade régime of Paraguay and in the light of the explanations and assurances given by the

Paraguayan representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Paraguay be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report. It is proposed that these texts be approved by the Council when it adopts the report. When the tariff negotiations between Paraguay and contracting parties in connection with accession have been concluded, the resulting Schedule of Paraguay and any concessions granted by contracting parties as a result of negotiations with Paraguay would be annexed to the Protocol. The Decision would then be submitted to a vote by contracting parties in accordance with Article XXXIII. When the Decision is adopted, the Protocol of Accession would be open for acceptance and Paraguay would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX

ACCESSION OF PARAGUAY

Draft Decision

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed towards the accession of the Government of Paraguay to the General Agreement on Tariffs and Trade and having prepared a Protocol for the accession of Paraguay.

Decide, in accordance with Article XXXIII of the General Agreement, that the Government of Paraguay may accede to the General Agreement on the terms set out in the said Protocol.

DRAFT PROTOCOL FOR THE ACCESSION OF PARAGUAY
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "contracting parties" and the "General Agreement", respectively), the European Economic Community and the Government of Paraguay (hereinafter referred to as "Paraguay"),

Having regard to the results of the negotiations directed towards the accession of Paraguay to the General Agreement,

Have through their representatives agreed as follows:

PART I - GENERAL

1. Paraguay shall, upon entry into force of this Protocol pursuant to paragraph 6, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties provisionally and subject to this Protocol:

- (a) Parts I, III and IV of the General Agreement, and
- (b) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the General Agreement shall be considered as falling within Part II for the purpose of this paragraph.

2. (a) The provisions of the General Agreement to be applied to contracting parties by Paraguay shall, except as otherwise provided in this Protocol and in the commitments listed in paragraph 40 of the Report of the Working Party on the Accession of Paraguay (document L/7210 dated 30 April 1993), be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which Paraguay becomes a contracting party.

(b) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement refer to the date of that Agreement, the applicable date in respect of Paraguay shall be the date of this Protocol.

PART II - SCHEDULE

3. The schedule in the Annex shall, upon the entry into force of this Protocol, become a schedule to the General Agreement relating to Paraguay.

4. (a) In each case in which paragraph 1 of Article II of the General Agreement refers to the date of the Agreement, the applicable date in respect of each product which is the subject of a concession provided for in the Schedule annexed to this Protocol shall be the date of this Protocol.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the General Agreement to the date of that Agreement, the applicable date in respect of the Schedule annexed to this Protocol shall be the date of this Protocol.

PART III - FINAL PROVISIONS

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for acceptance by signature or otherwise, by Paraguay until 31 December 1993. It shall also be open for acceptance by contracting parties and by the European Economic Community.

6. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Paraguay.

7. Paraguay, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit of the instrument of accession, whichever is the later. Accession to the General Agreement pursuant to this paragraph shall, for the purposes of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI thereof.

8. Paraguay may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 7 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

9. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each acceptance thereto, pursuant to paragraph 5 to each contracting party, to the European Economic Community, to Paraguay and to each government which shall have acceded provisionally to the General Agreement.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

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Done at Geneva this [date to be inserted] day of [month to be inserted] one thousand nine hundred and ninety three, in a single copy, in the English, French and Spanish languages, except as otherwise specified with respect to the Schedule annexed hereto, each text being authentic.

ANNEX

SCHEDULE XCI - PARAGUAY

[The Schedule will be circulated as L/7210/Add.1]