

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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REPORT OF THE WORKING PARTY ON THE ACCESSION OF VENEZUELA

1. At its meeting on 21-22 June 1989, the Council appointed a Working Party to examine the application of the Government of Venezuela to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession.

2. The Working Party met on 15 December 1989, 5 February, 12 and 28 March, 13, 15 and 27¹ June 1990, under the Chairmanship of H.E. Mr. H. Ewerlof (Sweden).

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Venezuela (L/6565), and the questions submitted by contracting parties on the Venezuelan trade régime together with the replies of the Venezuelan authorities thereto (L/6599 and Add 1, 2 and 3). In addition the representative of Venezuela made available to the Working Party the following material:

- Customs Act
- Regulations of the Customs Act
- Decree 239 establishing provisions governing Venezuela's trade policy
- Joint resolution of the Ministries of Finance, Development and Agriculture on export licences for certain products
- Customs Tariffs June and September 1989 and March 1990
- Resolution of the Ministry of Transport and Communications on the Tariff Régime of the National Port Authority
- Partial revision of the Export Incentive Act
- Decree 395 concerning the partial revision of the Regulations of the Export Incentive Act
- Resolution No. 177 of the Ministry of Foreign Affairs concerning the rules for the calculation of national value-added
- Export Financing Fund Act
- Regulations of the Export Financing Fund Act
- Cartagena Agreement
- Quito Protocol
- Decision 249 of the Cartagena Agreement concerning approval of NANDINA
- Decision 235 of the Cartagena Agreement on rules for preventing or correcting unfair competition
- Decision 231 of the Cartagena Agreement on special rules of origin for goods

¹The membership of the Working Party is set out in document L/6558/Rev.4.

- Technical Standards and Quality Control Act
- Act concerning rules for the creation of free zones
- Regulations of the Act concerning rules for the creation of free zones
- Regulations of the Margarita Island Free Port
- Decree 1307 on the creation of the Paraguana Industrial Free Zone
- Decree 580 on the nationalization of the iron-ore industry
- Act reserving the hydrocarbon industry and trade to the State
- Plant and Animal Health Protection Act
- General Regulations on Foods
- Decree 1182 on rules guiding demand for works, goods and services in projects executed and financed by the State
- Decrees 1336 and 2633 on tax exemptions
- Ministry of Finance Resolution No. 431 of 15 May 1973 concerning customs valuation
- Ministry of Finance Resolution No. 631 of 3 November 1975 concerning customs valuation
- State enterprises in Venezuela
- Trade participation of public sector enterprises 1984-1988
- Non-traditional exports
- Prohibited imports (Note 1)
- Imports reserved for the National Executive (Note 2)
- Imports subject to permit from the Ministry of Health (Note 3)
- Imports subject to sanitary certificates (Note 5)
- Imports subject to sanitary permits from the Ministry of Agriculture (Note 6)
- Imports subject to permit from the Ministry of Defense (Note 7)
- Imports subject to permit from the Ministry of the Interior (Note 9)
- Average tariff rates by tariff chapters
- Non-tariff measures in the agricultural sector January 1990
- Imports and exports according to Nabandina 1987-1988
- Data on tariff and non-tariff measure protection 1989
- Products included in the Petrochemical Programme of the Cartagena Agreement
- Venezuela's list of exceptions under the Cartagena Agreement
- Non-observance of the Minimum Common External Tariff 1989
- Partial scope agreements under ALADI with non-member countries
- Preferences under the GSTP
- Trade of Venezuela with members of the Cartagena Agreement and ALADI 1987-1988
- Geographical distribution of non-traditional exports 1987-1988
- List of administered trade within the Cartagena Agreement
- Trade shares of the main State-owned enterprises 1986-1988
- Products included in the basic basket
- State-owned enterprises entitled to exemptions
- Imports of the items in the basic basket January-September 1989
- List of products subject to export licensing

4. In an introductory statement, the representative of Venezuela said that his Government welcomed the willingness of contracting parties to conduct the accessions negotiations as expeditiously as possible. He noted

that the budgetary, fiscal, financial and public sector policies as well as the current trade policies described in the Memorandum on Foreign Trade Régime constituted an homogeneous approach to economic reform and development. The Government of Venezuela believed that the accession to the General Agreement would be an important component of the substantial reforms of the country's economy undertaken recently. Foreign trade had to play a central rôle in Venezuela's development providing markets for Venezuela's exports as well as allowing imports to stimulate the efficiency and competitiveness of national industries and to attend to the needs of consumers. Recent measures restructuring Venezuela's foreign trade régime had been implemented in the following areas of the economy: (i) elimination of the multiple exchange rates in effect in Venezuela since February 1983 and introduction of a single floating exchange rate with complete freedom to purchase and transfer foreign exchange abroad; (ii) complete elimination of price controls except with respect to those seventeen consumer goods indispensable to the needy sectors of the population which constitute the basic basket; (iii) adoption of an integrated commercial policy approach for the manufacturing sector which includes the promotion of non-traditional exports, a progressive reduction of tariffs and the gradual elimination of non-tariff measures.

5. In the context of the import liberalization policies implemented by Venezuela, the tariff had become the main trade policy instrument. Tariff rates had been lowered from levels as high as 135 per cent to 80 per cent and are currently at 50 per cent and would continue to be lowered over the next four years. The structure of the Customs Tariff had started to be simplified by reducing the number of rate levels from 30 to the current 18 levels, and would be further reduced in the future. Non-tariff measures which prior to the foreign trade reform covered to 55 per cent of the manufacturing sector were eliminated to a large extent; at present, only 15 per cent of the manufacturing production was subject to licensing requirements or prohibitions. Having regard to the special characteristics, specificities and sensibilities of the agricultural sector which was very important to a large segment of the Venezuelan population and taking into account the existing distortions in world markets, and developments in the Uruguay Round, Venezuela was examining the terms and conditions for extending the trade régime reform to the agricultural sector with a view to initiating it by March 1991. Other areas that would be covered by the trade reform currently underway related to the establishment of mechanisms to cope with unfair trade practices and the transformation and modernization of the Venezuelan customs administration.

6. The Government of Venezuela expected that the above mentioned reforms would be recognized as a positive contribution by his country to a fair and open multilateral trading system. The increasing recourse to protectionism, bilateralism and unilateralism coupled with a lack of consensus concerning the principles and rules had undoubtedly weakened the system. Venezuela was aware that the system was currently in a stage of transition. Thus, full participation in the concluding stages of the Uruguay Round appeared to be an urgent necessity for a developing country such as Venezuela.

7. The representative of Venezuela concluded by emphasizing that for a democratic society based on consensus and social participation, the implementation of economic reforms took time and had to be in harmony with the country's political and economic realities. His authorities expected that in the accession negotiations contracting parties would give appropriate recognition to Venezuela's unique characteristics as a developing country. He stressed that Venezuela would be adhering to the existing GATT principles, rules and disciplines and would not accept additional obligations which might in any way prejudice the results of the Uruguay Round. Finally, the representative of Venezuela recalled his country's commitment to regional and sub-regional economic integration in the framework of the Cartagena Agreement and LAIA. This commitment was considered as complementary to and consistent with the strengthening of multilateral trade relations in the framework of the General Agreement.

8. Recalling that tariff negotiations were required for accession to the General Agreement under Article XXXIII, the Chairman noted that as of 4 September 1989, Venezuela had invited contracting parties wishing to enter into tariff negotiations to contact the Venezuelan authorities (L/6563 and GATT/AIR/2833). Some members of the Working Party indicated that they had been in touch with the Venezuelan delegation and that negotiations with a view to the exchange of tariff concessions were currently taking place. The Working Party agreed that contracting parties which had not yet done so should notify their interest in entering into negotiations with Venezuela not later than 30 December 1989 and that efforts should be made to conclude the tariff negotiations not later than end March 1990 (GATT/AIR/2900 and GATT/AIR/2951).

I. General comments

9. Members of the Working Party welcomed the application of Venezuela for full accession to the General Agreement and noted that Venezuela was one of the few major developing countries not yet members of GATT. In their view, Venezuela's decision to accede to GATT would contribute both to the strengthening of the multilateral trading system and to the consolidation of the economic reforms already undertaken by Venezuela. Venezuela's bold decisions and recent trade liberalization measures should be a factor to be taken into account in the accession negotiations and in the drafting of the Protocol of Accession. These members noted that such positive developments should be borne in mind in the appropriate bodies when considering Venezuela's request to be associated with the final stages of the Uruguay Round and thus to take part in the process of formulating the GATT of the future.

10. Some members recalled that their respective countries had been for many years closely associated with Venezuela in the framework of regional or sub-regional economic integration arrangements. In supporting and welcoming Venezuela's application, these members said that they expected that Venezuela's accession to GATT in addition to strengthening the region's voice in GATT would increase regional and sub-regional cooperation and development. These members recognized that notwithstanding serious

socio-economic tensions and structural difficulties, Venezuela had undertaken a significant, irreversible and dynamic process of trade liberalization whose consolidation would be facilitated if contracting parties accepted a flexible time-frame to bring certain measures into full conformity with the General Agreement. Having regard to Venezuela's developing country status, in their view, the accession negotiations should be concluded as expeditiously as possible.

11. The Working Party carried out an examination of various aspects of the Venezuelan foreign trade régime and the possible terms and conditions of a protocol of accession. During this examination, the delegation of Venezuela provided additional information on, and clarification of, Venezuela's economic and commercial policy. The main points brought out in the discussions are set out below in paragraphs 12 to 89. The report comprises the following sections: I. General comments; II. Trade policy reform programme; III. Agriculture; IV. Export policy; V. State enterprises; VI. Integration agreements; VII. Other policies related to trade and VIII. Conclusions.

II. Trade policy reform programme

Tariff system

12. In response to a request for information concerning the 1989 Customs Tariff and the further changes to tariffs that would be introduced in 1990, the representative of Venezuela said that the new Customs Tariff in force since 28 September 1989 had simplified the management of import policy. The most important modifications introduced in the Customs Tariff had been as follows: (a) elimination of most specific or mixed tariffs; (b) reduction of the maximum tariff to 80 per cent and reduction of the tariff levels from thirty to eighteen; (c) elimination of most non-tariff measures on manufactured products; (d) elimination of tariff exemptions for imports of manufactured goods with the exception of products included in the basic basket, CKD régime and the imports of certain public entities; (e) correction of certain negative effective protection rates; (f) splitting of the tariff nomenclature on eighty products. The average tariff rates by tariff chapters appear in Annex 1 of document L/6642. Data on tariff protection appears in Annex 4 of document L/6642. In conformity with Articles 6, 11 and 12 of Decree 239 (Annex 3 of document L/6565), the Tariff was modified in March 1990 in the following respects: (a) adoption of the Common Andean Nomenclature (NANDINA), based on the Harmonized System; (b) establishment of a maximum ad valorem tariff of 50 per cent; (c) reduction of tariff rates in the manufacturing sector to the following five levels according to the degree of processing of the products 50, 40, 30, 20 and 10 per cent; (d) reduction of the coverage of non-tariff measures to a maximum of 15 per cent of manufacturing production. Venezuela planned to carry out further reductions of maximum tariffs in the manufacturing sector as follows: in March 1991, 40 per cent with four tariff levels; in March 1992, 30 per cent with three tariff levels; and in March 1993, 20 per cent with two tariff levels.

13. In response to questions concerning the ability of the Executive to alter tariff rates and set tariffs at nil, the representative of Venezuela said that in accordance with Article 4, Ordinal 13, of the Customs Act, the Minister of Finance had the authority to modify customs tariffs. In the exercise of this authority, it may be decided that imports of any product will not be subject to a tariff. As provided for in Article 83 of the Customs Act, all tariffs would be fixed within the maximum and minimum limits established by this provision. These provisions as well as Article 3 in conjunction with Article 84 of the Customs Act set the powers of the National Executive to modify tariffs without legislative approval.

14. The representative of Venezuela indicated that his Government did not consider Article XVIII:B provisions regarding the use of import restrictions to protect the balance of payments as offering an opportunity to provide protection for specific industries. Moreover, if quantitative restrictions were applied on specific products to foster the development of domestic capacity output, these restrictions would not be justified by Venezuela on balance-of-payments grounds. If the need to use trade restrictions for balance-of-payments purposes should arise, such restrictions would only be applied on a temporary basis, in conjunction with appropriate corrective macroeconomic adjustment measures. He added that, in accordance with the Declaration adopted by the CONTRACTING PARTIES on 28 November 1979, when applying such measures, Venezuela would give preference to those measures which have the least disruptive effect on trade, i.e., price-based measures, and that whenever practicable, it would also publicly announce a time schedule for the removal of the measures. The representative of Venezuela confirmed that his Government intended to notify any restrictions taken for balance-of-payments purposes to the Balance-of-Payments Committee, and would consult with the CONTRACTING PARTIES according to the relevant provisions of Article XVIII and other GATT instruments.

15. Some members stated that transparency with regard to tariff exemptions was desirable and requested information on the public sector entities benefiting from these exemptions including their production activities, if any. The representative of Venezuela said that most tariff exemptions had been eliminated and that among the public enterprises involved in production which benefited from tariff exemptions on the basis of their own legal statutes were PEQUIVEN, a petrochemical producer, and SIDOR, a metallurgical company. Other State enterprises involved in the production of goods which benefited from tariff exemptions granted at the discretion of the Ministry of Finance were included in the list reproduced in Annex VI of document L/6599. The list of State-owned enterprises entitled to tariff exemptions together with relevant import data is reproduced in Annex 15 of document L/6642.

16. In response to questions concerning the transposition of Venezuela's tariff nomenclature to the Harmonized Commodity Description and Coding System, the representative of Venezuela confirmed that in accordance with the decision adopted by the Commission of the Cartagena Agreement, his country introduced a common tariff nomenclature called NANDINA in March 1990. NANDINA was based on the six-digit Harmonized System except for ten items which would be converted in the future.

17. With reference to the bilateral tariff negotiations with interested contracting parties and whether bindings would be across-the-board or item-by-item, the representative of Venezuela said that this matter was under consideration. Prior to making an offer, Venezuela would have to analyze and evaluate carefully the requests put forward by contracting parties. He hoped that the outstanding requests would be submitted shortly. The representative of Venezuela undertook to provide interested contracting parties the concordance between the present tariff and the NANDINA tariff nomenclature and indicated that GATT tariff concessions would be based on the NANDINA.

Tariffs and Uruguay Round Credits

18. The representative of Venezuela indicated that, subject to a satisfactory outcome in the accession negotiations, his Government was willing to bind its entire tariff schedule at a ceiling rate. This binding would apply immediately upon accession. The question of tariff bindings on specific items below the ceiling level would be taken up bilaterally in the tariff negotiations. Venezuela considered that this represented a significant contribution, bearing in mind that there were very few contracting parties, and no developed countries among them, that had bound all their tariffs under GATT. Members of the Working Party agreed that Venezuela, as a participant in the Uruguay Round following its accession to GATT, would receive appropriate recognition in that forum for the liberalization measures it has adopted since 1 June 1986.

Taxes and surcharges

19. The representative of Venezuela stated that Venezuela does not currently apply any tariff surcharges even though in accordance with the Customs Act, the National Executive retains the authority to do so.

20. The representative of Venezuela stated that the authority of his Government described in paragraphs 13 and 33 of this report to levy taxes and surcharges on imports, and to suspend imports and exports would, from the date of accession, be applied in conformity with the provisions of the General Agreement, in particular Articles II, III, VI, VIII, XI, XII, XVIII, XIX, XX, and XXI.

21. The representative of Venezuela stated that his Government has proposed the introduction of a value-added tax (VAT), and that when the tax is implemented intends to apply it equally to imports and domestic goods, in accordance with the provisions of Article III of the General Agreement.

Customs service fees and storage charges

22. In response to questions concerning the 5 per cent ad valorem customs service fee on imports, the representative of Venezuela said that the customs service fee corresponded to the services rendered by the Customs Administration which consisted of the receipt of goods and their documentation, physical identification, determination of the régime

applicable, and settlement of duties. The customs service fee was applied to all imports on the basis of the c.i.f. value. As of 21 December 1989, imports under the temporary admission régime were exempted from the fee. State enterprises paid the same fees as private enterprises. In 1987, 1988 and 1989, the following amounts had been collected as customs service fees (in millions of Bolivares): 1987 Bs. 5,846; 1988 Bs. 8,217; 1989 (January-September) Bs. 7,658. With reference to Article VIII:i(a) of the General Agreement, and the 1988 Panel Report on Customs User Fee, the representative of Venezuela indicated that recent experience had shown that the application of any system other than an ad valorem fee would be extremely complex and bring in an element of administrative discretion which might lead to undesirable delays or obstacles to imports. Moreover, the administrative cost of operating a transaction-based fee would be very high.

23. In response to a further question, the representative of Venezuela confirmed that exports were subject to the same customs service fee as imports. However, as an incentive to non-oil exports, half of the fee could be waived. One member of the Working Party believes that the exception from normal and customary export charges on selected exports as an incentive to non-traditional exports is an export subsidy, and that this practice should be eliminated by Venezuela within a relatively short period of time after accession.

24. In noting that Article VIII of the General Agreement covered all fees and charges imposed by governmental authorities in connection with importation and exportation, a member said that in the view of her Government, the 5 per cent fee on imports, the 2 per cent postal import fee established in Article 37 of the Regulations of the Customs Law, and the 1 per cent fee on imports into the free trade zones, consistent with a 1987 panel recommendation concerning customs user fees, are customs charges which should conform to Article VIII of the General Agreement.

25. In response to questions concerning the storage charges, the representative of Venezuela said that these were normally ad valorem charges corresponding to the safekeeping of the merchandise while the customs formalities were being carried out. In order to prevent the cumulation of merchandise at the port of entry, the charges were based on length of stay and became effective if the merchandise remained in customs warehouses or other premises more than twelve days. After the merchandise had completed forty-five days in storage, a penalty charge became effective. He stressed that customs clearance was carried out expeditiously and that there was no minimum stay or charge. He also pointed out the existence of private storage facilities to which the merchandise could be removed for storage in bond and thus avoid storage and penalty charges in the ports. These private facilities charged commercial rates. Pursuant to Article 34 of the Regulations of the Customs Act, storage charges could be reduced in the case of involuntary delays in the customs clearance process.

26. A member said that having regard to the fee structure described in the Regulation to the Customs Law no distinction could be made in practice between the ad valorem warehouse charges and the penalties applied for non-expeditious customs clearance; both charges were customs charges and should conform to Article VIII of the General Agreement concerning correspondence with the approximate cost of services rendered. Furthermore, in setting the level of penalty charges, the provisions of Article VIII:3 concerning substantial penalties should be observed. Some delegations registered the difficulties they have encountered with the present practice of calculating customs fees on the basis of c.i.f. (as opposed to f.o.b. basis).

27. The representative of Venezuela stated that his Government intends to apply the customs, wharfage, and warehousing charges described in paragraphs 22-26 of this report in accordance with Articles II and VIII of the General Agreement. In this regard, these fees will be adjusted by 31 December 1993, so that they will not exceed the approximate cost of services rendered. The representative of Venezuela also stated that if these customs, wharfage, and warehousing charges were still in effect after this date without the above-mentioned action having been taken, the matter will be reviewed by the CONTRACTING PARTIES. He further confirmed that his Government would, if requested, consult with interested contracting parties concerning the effect of these measures on their trade.

Customs valuation

28. With reference to the customs valuation procedures, a member said that Venezuelan law gave the administration a great deal of discretion to adjust import values. When the import value was considered to be lower than the normal competitive prices, probable or effective prices could be set, and in certain cases, even an official price valuation could be applied. The circumstances and criteria under which an up-lift of valuation would be carried out had to be specified. In her Government's view, the multiplicity of valuation rules was inconsistent with a tariff based system and with the spirit of Article VII of the General Agreement which commits contracting parties to make customs valuation understandable and transparent to importers and exporters. Her Government believed that the use of reference or official prices was not allowed under the provisions of Article VII of the General Agreement. Venezuela should undertake not to employ official prices in its customs valuation administration in the future once it had become a GATT member. This member added that, in the view of her Government, it was essential for Venezuela to amend the valuation rules in the context of accession. Contracting parties' concerns in this regard could be addressed if Venezuela would commit to joining the Customs Valuation Code and altering its practices accordingly.

29. The representative of Venezuela said that Venezuela's customs valuation procedures were based on CCC rules and regulations and were deemed to be consistent with the provisions of Article VII of the General Agreement. At the present time there were no official prices in effect in Venezuela, even though they were permitted by the Regulations of the

Customs Act. Official prices should correspond to the usual competitive prices obtained in normal commercial circumstances and arbitrary practices would not be tolerated. Venezuela's position concerning the MTN Agreements appears in paragraph 89 below.

30. The representative of Venezuela stated that it is the intent of his Government to apply Venezuela's customs practices and procedures, including customs valuation, in accordance with the provisions of Articles VII and X of the General Agreement. In this regard, he confirmed that his Government did not at the present time apply "official prices" for customs valuation purposes, and has no intention to introduce them in the future. He also stated that his Government would not engage in the practice of arbitrary valuation "uplift", in accordance with the provisions of Article VII:2 of the General Agreement. The representative of Venezuela stated that his Government is undertaking a major review and reform of its customs service operations. His Government intends that these reforms will bring Venezuela's customs practices and procedures into line with the relevant provisions of Articles VII and X, and that these reforms would be implemented no later than 31 December 1993. If such measures were still in effect after that time without the above-mentioned actions having been taken, or without the approval of the CONTRACTING PARTIES, the matter will be reviewed by the CONTRACTING PARTIES. In response to a question, the representative of the secretariat said that it was understood that the maintenance of customs practices and procedures not in line with the provisions of the General Agreement after the expiration of the above-mentioned time-limit would require the consent of the CONTRACTING PARTIES.

Other customs matters

31. Referring to the modernization plans for the Customs Service, a member said that Venezuela should simplify its procedures to remove the possibility that the customs régime itself could be a trade barrier. Moreover, Venezuela should also use this opportunity to bring its practices into full conformity with Article X of the General Agreement which required the publication of trade regulations and established the right to independent review of administrative action relating to customs matters. The representative of Venezuela said that all laws and regulations had to be published in the Official Gazette prior to entry into force. The existing provisions concerning judicial review of customs decisions were considered consistent with Article X. Pursuant to the Administrative Procedures Act, appeal procedures were resolved promptly and there was no backlog of cases. In 1988, the chamber for customs appeals of the Ministry of Finance had considered 354 appeals against decisions adopted by the Customs Directors. In 1989, there had been 211 appeals only. There was no detailed information available but it was possible that some cases might have referred to customs valuation. In Venezuela, notwithstanding the appeal procedure, the merchandise could be cleared by the customs through the posting of a bond or some other guarantee.

32. The representative of Venezuela noted that in accordance with its national laws, all regulations and measures of an economic nature must be

published in the "Gaceta Oficial" prior to implementation, and that Venezuela intends to apply the provisions of Article X from the date of its accession to the General Agreement. The Working Party took note of this assurance.

Non-tariff measures

33. Some members questioned the multilayered system of protection in force in Venezuela. These members said that, if justifiable under GATT provisions, Venezuela should apply import licences and quantitative restrictions in a transparent, non-discriminatory and liberal manner in conformity with Articles XI and XIII of the General Agreement. The representative of Venezuela said that the programme for the elimination of non-tariff measures had made substantial progress. Previously, 55 per cent of manufacturing production had been covered by non-tariff measures; this coverage was down to 15 per cent. At present, licensing requirements apply to only 288 tariff lines and the number of tariff lines subject to prohibitions has been reduced. He added that in the overall 75.9 per cent of all non-tariff measures applied prior to the commencement of the tariff reform had been removed. At the present time, most non-tariff measures apply to the agricultural and agro-industrial sectors. Up-to-date information on the coverage of the remaining non-tariff import restrictions appears in annexes 1 and 4 of document L/6642. In September 1990 the coverage of non-tariff measures would drop to five per cent of the manufacturing production. The elimination of non-tariff measures which would take place in September 1990 would basically affect Notes 1 and 2, given that restrictions covered by other Notes had already been eliminated, such as Notes 4 and 8, and that although the Government of Venezuela has eliminated the use of Notes 4 and 8, the National Executive retains the authority to reinstate such measures. Restrictions in order to protect public health, hygiene, security and national defense covered legitimate concerns. The representative of Venezuela confirmed that pursuant to the Customs Act the establishment, modification or elimination of the import restrictions contained in the Notes listed in the Customs Tariff were subject to the discretion of the Ministry of Finance.

Note 1 of Venezuela's Customs Tariff

34. The representative of Venezuela confirmed that the items subject to Note 1 import prohibitions could not be imported. He recalled that the application of certain import restrictions had been linked to the access to preferential foreign exchange. As the foreign exchange régime had been liberalized, plans for the elimination of Note 1 import prohibitions which related essentially to luxury goods might be advanced further once the value-added tax (VAT) had entered into force. The draft VAT legislation had been submitted to Congress and would enter into force at least 60 days after its enactment by Congress and signature by the President of the Republic. Once the value-added tax became effective, Venezuela did not anticipate the necessity of maintaining import prohibitions under Note 1, although such possibility which was foreseen in Articles 2 and 12 of

Decree 239 should not be entirely discarded. Some members said that these prohibitions, unless specifically justified under GATT provisions, should be eliminated prior to accession. For the contracting parties to accept commitments to their elimination, a precise time-table for Venezuela's anticipated phase-out of Note 1 import prohibitions would be needed.

Note 2 of Venezuela's Customs Tariff

35. Recalling that Note 2 reserved certain imports to the National Executive, some members asked that Venezuela state the reasons for applying to certain items Note 2 import restrictions, the criteria for selecting importers for these items, the value of imports and the relationship between Note 2 and the basic basket. Noting that these restrictions appeared to be inconsistent with the General Agreement, they also requested information on plans to phase-out Note 2. The representative of Venezuela said that some of these restrictions were also linked to the preferential foreign exchange régime in effect in 1983-1989. He added that in general the National Executive did not have a monopoly in either external or domestic trade in the products still subject to Note 2. The products subject to Note 2 were imported by private parties, not by the Government who "delegates" his authority under Note 2 to private importers. Statistical data concerning these items appears in Annex 1 of document L/6642. The products or sectors currently covered by Note 2 basically included: (a) the agricultural and agro-industrial sectors, where the trade policy reform had not been initiated yet; (b) products included in chapter 27 of the Customs Tariff, whose importation was reserved to the State in accordance with the Act Reserving Production and Trade of Hydrocarbons to the State; (c) chemical products, products subject to controls for security and defense reasons, control of drug trafficking and environmental protection. Import rights under Note 2 were granted for specific quantities. In the case of (a) agricultural and agro-industrial products, the quantities were determined on the basis of the market share of the enterprise concerned and the share of domestic consumption to be covered by imports. Imports of products under (b) were undertaken exclusively by the national petroleum industry. Products covered by (c) were subject to discretionary approval by the State. There was no relation between Note 2 and the basic basket, except that a significant number of the products included in the basic basket were subject to Note 2 because they are agricultural or agro-industrial products. The time-table for the elimination of Note 2 would depend on the trade reform in the agricultural sector, whose terms were currently under study.

36. Some members expressed concern at the discretionary nature of restrictions covered by Note 2, and questioned their consistency with the provisions of the General Agreement, in particular Articles III and XI. Some members said that if Venezuela intended to continue using a prior import licensing scheme, it should join the Agreement on Import Licensing Procedures at the time of accession. Venezuela's position concerning the MTN Agreements appears in paragraph 89 below.

37. The representative of Venezuela declared that his Government is committed to the progressive elimination of the use of quantitative restrictions to regulate imports, and will continue to remove import prohibitions, restrictive import licensing requirements, and other quantitative measures on imports in all sectors and in accordance with its programme of trade policy reform, with the goal of eliminating their use in respect of manufactured products by 31 December 1993 and in respect of agricultural products by 31 December 1995. During this period, the scope of the protection afforded by such measures will not be increased, nor will new measures be applied, unless in conformity with the provisions of the General Agreement. He further stated that quantitative restrictions, import licensing requirements, and import prohibitions remaining after these dates will be notified and justified within six months thereafter in accordance with relevant provisions of the General Agreement, in particular Articles XI, XII, XVIII, XIX, XX, and XXI. If such measures were still in effect after that time without the above-mentioned actions having been taken, or without the approval of the CONTRACTING PARTIES, the matter will be reviewed by the CONTRACTING PARTIES. For certain items, these restrictive measures will be eliminated as indicated on the Schedule attached to the Protocol. In addition, he stated that Venezuela will ensure that remaining restrictions and import permit requirements will be 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 Venezuela further confirmed that his Government would, if requested, consult with interested contracting parties concerning the effect of these measures on their trade.

38. The representative of Venezuela informed members of the Working Party that agriculture was a priority sector as regards the country's social and economic policy objectives. This would be fully reflected in the reforms to be introduced in the agriculture sector with effect from March 1991. The pace and content of the reforms would also reflect the international trading situation and the policies of Venezuela's trading partners in the years ahead.

Unfair trade practices

39. Concerning the development of Venezuela's anti-dumping legislation, information was requested on the decision-making process of the Board of the Cartagena Agreement and the existence of potential areas of conflict with Article VI of the General Agreement. Some members stated that, in their view, the Government of Venezuela should join the Anti-Dumping Code and should commit to prompt notification of anti-dumping laws once they were established. The representative of Venezuela said that the Board of the Cartagena Agreement was a technical body comprised of three members. Following an analysis of the relevant documentation, its decisions in the area of anti-dumping, like any other decision were adopted by a simple majority. The Board only dealt with trade among member countries and had no jurisdiction over trade relations with third countries.

40. The representative of Venezuela indicated that his Government is in the process of developing legislation and regulations to deal with unfair trade practices. He stated that his Government will ensure that these laws and regulations conform to the provisions of Article VI, including application of an injury test. Venezuela's position concerning the MTN Agreements appears in paragraph 89 below.

III. Agriculture

41. Some members expressed concern that agricultural products had not yet been included in the liberalization programme and sought a commitment from Venezuela that it would follow a similar programme of tariff reductions in this sector. They also asked Venezuela to explain the consistency of the current agricultural régime with Articles XI, XIII, XVIII, XX and XXI and the 1979 Decision on Safeguard Action for Development Purposes. On the understanding that trade reforms in the agricultural sector would start in March 1991, these members requested information on the reforms and instruments currently planned for the agricultural sector. The representative of Venezuela noted that the agricultural sector which contributed only 6 per cent to the GDP was structurally weak. The representative of Venezuela said that there were a multiplicity of reasons for the restrictions remaining in this sector: many were linked with the distortions that exist in world agricultural markets, others responded to the need to satisfy the dietary requirements of a large sector of the population, while still others were intended to ensure specific price levels for agricultural products, to encourage production, to improve land usage, social welfare considerations, etc. Venezuela was a substantial importer of agricultural products, per capita imports of foodstuffs were exceptionally high and developed contracting parties were the main suppliers of many important items. In 1988 agricultural imports had reached US\$ 940 million. This amount represented approximately 12 per cent of petroleum income. Decree 239 of 24 May 1989 provided for a study of the impact of the commercial régime on the agricultural sector in order to harmonize the reforms in this area with the pricing, financing, and marketing policy. The comprehensive reform of the agricultural trade régime would begin in March 1991; as of that date the restrictions, exemptions and adjustments to the corresponding tariff system would be abolished gradually with the objective of achieving to the fullest extent possible a tariff based import régime. Nevertheless, Decree 239 had brought about certain changes in the tariff régime for approximately 50 per cent of the agricultural tariff items as follows: (i) abolished specific duties for eighty-eight items; (ii) reduced import duties for 298 items lowering their average to 26 per cent; (iii) lowered the ceiling on ad valorem duties to 80 per cent; (iv) suspended the exemptions from import duties except for products included in the basic basket; (v) excluded 41 items from Note 1 (prohibited imports) and 165 items from Note 2 (imports reserved to the National Executive that may be delegated to third parties). Of the total of tariff headings that relate to the agricultural sector, 81 had Note 1 coverage (prohibited imports); 87 were Note 2 (imports reserved to the National Executive that may be delegated to third parties); 120 were Note 6 (plant-health certificate required) and 19

could be imported freely. This meant that quantitative restrictions were applied to only about half the agricultural tariff headings (53 per cent). Detailed information concerning the régime in effect in Venezuela for foreign trade in agricultural and agro-industrial products has been circulated in document L/6599/Add.3. The tables annexed to document L/6599/Add.3 show, by tariff chapter, the amount of imports for 1987 and 1988 and the current import régime applied to the main agricultural imports. Additional data appears in Annexes 2 and 16 of document L/6642. The representative of Venezuela recalled that in the Uruguay Round Multilateral Trade Negotiations contracting parties were seeking to establish more adequate disciplines for world trade in agricultural products. As had been indicated, Venezuela was currently undertaking studies to define the terms and conditions of trade policy reforms in the agricultural sector and would inform the contracting parties of relevant decisions as soon as they were adopted. It is Venezuela's goal and intent to bring its trade régime in the agricultural sector into conformity with the GATT provisions.

Notes of Venezuela's Customs Tariff affecting agriculture

42. Some members said that in their view some of Venezuela's current practices in the agricultural sector were not in keeping with the provisions of Articles XI, XVIII, XX and XXI of the General Agreement. Venezuela had still a long way to go in its reform programme as only 7 per cent of the agricultural sector was at present free from import restrictions. Additional information was requested on the outstanding quantitative restrictions, the operation of Notes 1 and 2, the announcement of quota levels for milk, rice, grain, live animals and animal products, the policies concerning cotton, sisal, oilseeds, sugar and confectionary, tobacco, cocoa, wood, etc.

43. The representative of Venezuela said that the aim of the remaining quantitative restrictions was to ensure adequate supplies for the domestic market regardless of the origin of the products. Note 1 was a transparent and mandatory prohibition without exceptions or discretionality. Its eventual elimination when conditions permitted was not related causally to the VAT introduction. Note 2 applied to imports reserved to the National Executive that could be delegated. The criteria to apply Note 2 varied from item to item. This Note could be assimilated to discretionary licensing. The application of Note 2 would conform to the provisions of Articles XI and XIII of the General Agreement. Notes 1 and 2 were not related to the attainment of self-sufficiency levels. As explained earlier in paragraphs 34-35 above, these Notes had been established to administer the preferential exchange rate system which had been in operation during the period 1983-1989. At present their application was aimed at ensuring an adequate use of domestic production capabilities, promoting efficiency and increasing competitiveness. Quota levels were not announced in advance. Restrictions would be eliminated gradually and there was no intention of reinstating earlier restrictions. In this respect the situation of wheat and soja had been exceptional. In 1989 imports had represented a large share of total domestic consumption for items such as wheat 99 per cent, milk 81 per cent, vegetable oils and fats 75 per cent,

sorghum 68 per cent, sugar 42.5 per cent, etc. In his view, at present 47 per cent of agricultural items were either free of restrictions or subject to GATT consistent measures. Recalling some of the proposals put forward by contracting parties in the Uruguay Round Negotiating Group on Agriculture, he said that for reasons of equity and equality of treatment, Venezuela would need a flexible period of time to bring its agricultural trade régime into full conformity with the General Agreement.

44. Some members stressed that in order to ensure security, predictability and openness for trade in agricultural products, quantitative restrictions should be fully justified or phased-out within an agreed time-frame. These members said that Venezuela should bring its agricultural régime into conformity with present GATT provisions at the time of accession to the General Agreement. In their view, the accession negotiations should focus in the application of the current GATT rules by Venezuela independent of developments in the Uruguay Round negotiations which were a separate exercise.

45. In the view of some members, the Report of the Working Party should recognize Venezuela's needs and allow it to use the provisions of the General Agreement dynamically and flexibly in order to apply the necessary policies and satisfy the needs of its agricultural sector.

46. A member questioned the need to apply at least four different methods of non-tariff control on agricultural imports (i.e. Notes 1, 2, 4 and 8). This member requested a list of the remaining items subject to Notes 4 and 8 and the plans to eliminate these restrictions for agricultural products. She said that as with the other non-tariff barriers, her Government believed that these restrictions should be eliminated prior to Venezuela's accession to the GATT, or be explicitly justified under the appropriate GATT provisions. The representative of Venezuela said that all items previously in Notes 4 and 8 had been eliminated, including those relating to the agricultural sector.

47. Questions were raised concerning domestic purchase requirements in force in Venezuela with respect to oilseeds, fruit and vegetables and sugar and confectionary. Some members expressed concern at the discretionary nature of these restrictions covered by Note 2, and questioned their consistency with the provisions of the General Agreement, in particular Articles III and XI. They requested that these practices, which provided unlimited protection to domestic production, be eliminated in the context of Venezuela's accession to the GATT. The representative of Venezuela emphasized that the trade liberalization effort encompassed all products and productive stages. Having regard to the need to guarantee supplies and to avoid distortions resulting from excessive price differentials, a domestic purchase requirement was in force for a limited number of products. With participation from interested sectors, the Note 2 mechanism guaranteed adequate supplies and the allocation of import permits on the basis of objective criteria without discretionality. The results of this policy had been satisfactory in maintaining rural employment and increasing traditional production without any detriment to imports, however since these domestic purchase requirements are implemented by Note 2, they are

included in the programme for the elimination or justification of the use of quantitative restrictions mentioned in paragraph 37 of this Report.

Basic basket

48. A number of questions were asked concerning the operation of the domestic price controls applied to the products included in the basic basket, whether the price control system established a price support or a price limiting régime, the relationship between minimum producer and maximum consumer prices, the application of the price régime to imports, the subsidization of basic basket products and the possible liberalization of the items in the basic basket. The representative of Venezuela said that the preservation of a democratic society required suitable social and political conditions. The basic basket was aimed at protecting the more vulnerable sectors of the Venezuelan population and guaranteeing them adequate food supplies. The prices of the seventeen essential consumer goods included in the basic basket were maximum sales prices to the consumer established by Resolutions of the Ministry of Development. The reference to minimum prices fixed for some agricultural products indicated that the producers of such products enjoyed guaranteed prices (as decided by the Ministry of Development or the Ministry of Agriculture and Livestock), and these prices applied to purchases made by agro-industrial enterprises. In practice, the minimum guaranteed price to agricultural producers was the price at which the producers sold their production. These prices might be considered as a price support régime. The maximum prices of the products included in the basic basket constituted a mechanism for limiting consumer prices, in order to promote an adequate diet for the low income population. As regards the mechanism by which the maximum prices were set it was necessary to distinguish between the products contained in the basic basket, whose prices were fixed by the National Executive, and other products whose sale prices to the public were fixed by agreement between the Executive and the industry concerned. The prices of all other products were established freely by the market. In establishing the prices of products included in the basic basket account was taken of the production costs of the enterprises concerned, plus a profit margin. The maintenance of the prices of the products included in the basic basket was ensured through controls, inspections and penalties imposed by the Superintendence of Consumer Protection of the Ministry of Development. Any product included in the basic basket that was imported would be subject to the established maximum sale prices in the domestic market.

49. The representative of Venezuela said that the import restrictions on wheat and corn were unrelated to the basic basket. He added that the basic basket products were completely exempt from import duties. Apart from milk, the only other subsidized product included in the basic basket was fertilizers. These subsidies ensured that consumer prices did not exceed the levels established by the State.

50. In response to questions concerning the Law on Consumer Protection and import restrictions in force with respect to imports of goods in the basic basket, the representative of Venezuela said that these measures were

maintained because the trade policy reform had not yet been initiated in the agricultural sector. Once the parameters of this reform had been defined, it would be possible to justify the remaining restrictions, taking into account the international trading situation in the agricultural sector. While the Government of Venezuela did not have any plans at present to add to the current list of products in the basic basket, it could not commit itself to make no such additions in the future. He confirmed, furthermore, that quantitative restrictions were applied on a non-discriminatory basis and said that the specific measures employed by the Government of Venezuela to restrict imports of each of the products in the basic basket were as follows:

<u>NABANDINA Code</u>	<u>Products</u>	<u>Note</u>
11.05.00.00	Flours of wheat for industrial and domestic use	1
19.03.00.00	Wheat based pasta (determined by Resolution)	2
10.06.89.03	Bleached rice	2,5,6
11.01.89.01	Flour of maize precooked	2,5
16.04.04.00	Sardines, canned (determined by Resolution)	1,5
04.02.02.02	Milk in powder	2
17.01.01.02	Sugar	2
15.07	Vegetable oils, mixed	2
04.04.01.99	White cheese	1
Chapter 7	Leguminous (determined by Resolution)	
21.05.03.00	Infants' formulas	6
21.05.01.00	Dehydrated soup preparations (determined by Resolution)	6
30.03	Essential medicines (determined by Resclution)	3,6
48.05.02.00	Toilet paper type	C 2
Chapter 31	Fertilizers (excluding item 31.01.00.01 which is subject to Note 1)	6,7

51. In response to a question concerning the reasons for the utilization of licences for the products listed in the basic basket, the representative of Venezuela said that agricultural exports were not subject to export taxes. The requirement of export licences was designed to avoid the diversion of goods to export markets when export prices were higher than internally-controlled prices. He confirmed that all products which complied with the value-added conditions specified in Chapter IV below were entitled to the export bonus.

52. Some members said that to the extent that they could not be justified under specific GATT provisions, Venezuela's import restrictions should be eliminated at the time of accession; a reasonable and precise time-frame for the removal or justification of other import restrictions might be inserted in the Protocol of Accession. A member also noted that to the extent that Venezuela used import licences or quantitative restrictions whose application was justifiable under GATT provisions, it should commit to do so in a transparent, non-discriminatory and unrestrictive manner in conformity with Articles XI and XIII of the General Agreement. If

Venezuela intended to continue using a prior import licensing scheme, it should join the Agreement on Import Licensing Procedures at the time of accession. Venezuela indicated its intention to administer its licensing system in accordance with the principles embodied in the Code.

Other Notes of Venezuela's Customs Tariff

53. A list of all non-tariff measures regulating imports for health, security and defense reasons including the inspection or quarantine procedures in force was requested. The representative of Venezuela said that these measures were identified in the Customs Tariff under column 5, in the following Notes: 3 (Permit from the Ministry of Health and Social Security); 5 (Sanitary Certificate from the country of origin); 6 (Sanitary Permit from the Ministry of Agriculture and Livestock); 7 (Permit of the Ministry of Defense); and 9 (Permit from the Ministry of the Interior). Information on products to which each of these Notes applies appears in Annex 1 of document L/6642. The sanitary, security and defense measures were applied in the same manner throughout the country without any differentiation in respect of free zones.

54. Information was requested with respect to the procedure for obtaining the health and sanitary and social welfare permits, appeal procedures and the percentage of applications denied in a recent representative period. The representative of Venezuela said that since 1941 sanitary and phytosanitary permits were required in order to protect animal and plant health and to prevent the introduction of plagues and diseases. Upon submission of a written application for an import permit, the competent health office had twenty days to decide. If the Director of Animal or Plant Health did not approve the request within this period, the interested party could introduce an appeal to the competent General Director. This situation had only occurred once. An appeal could be taken up to the competent Minister. In accordance with the Administrative Law every recourse had to be decided within twenty days.

55. Some members asked whether the health and sanitary permits and certificates would be maintained after the phasing-out of other requirements. One member noted that, in the past, her Government had received complaints that Note 6 requirements were being used as a form of discretionary licensing to direct trade to domestic or selected suppliers. The representative of Venezuela said that Notes 3, 5 and 6 were applied for legitimate health and sanitary reasons and not for protectionist purposes. Note 3 which was administered by the Ministry of Public Health applied to products of direct human use such as medicines, soap, etc. Note 5 which required sanitary certificates from the country of origin applied to products that could be contaminated by plagues or diseases such as flours, canned goods, etc. This note was applicable to sawn wood. Note 6 which was administered by the Ministry of Agriculture was applied to many agricultural items in particular foodstuffs to safeguard human, animal and plant health. To this effect inspections or quarantines could be required. The issuance of permits or the registration procedures were carried out expeditiously and the cost was symbolic. Normally permits were valid for

six months. Only the conditions for domestic transportation of certain products were regulated. Venezuela's health and sanitary régime for imports was in essence comparable to the one applied by several contracting parties to Venezuela's exports. He added that the procedures to grant phytosanitary certificates had been simplified and expedited; consular visas served to ensure the authenticity of the documentation and the fee was nominal. In this respect, Venezuela would pay due regard to the improvements that might be agreed in the Uruguay Round negotiations.

Technical standards

56. A member noted that the Government of Venezuela did not accept the certification of the United States Bureau of Alcohol, Tobacco, and Firearms (BATF) for the certification of analysis of United States wine products. As a consequence, individual types of wine had to be separately certified, at great expense and delay. She added that it could take up to two years for a label for a wine bottle to be approved.

57. The representative of Venezuela stated that his Government applies the same controls and rules regarding technical regulations, standards, certification, and labelling requirements to imported and domestic goods, and does not consider the use of such regulations to restrict imports as being in its best commercial interests. In this regard, he stated that Venezuela would ensure that after its accession, its 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. It would also ensure that certification requirements would be administered in a transparent and expeditious manner. The representative of Venezuela 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.

IV. Export policy

58. Information was requested about Venezuela's plans for industrial reconversion under the direction of the Ministry of Development, the measures being planned to make enterprises more efficient and competitive, and the provision of subsidies. The representative of Venezuela said that his Government had aimed at reaching macro-economic equilibria and industrial reconversion through structural adjustment and reforms in areas such as the public sector, enterprise legislation, tax systems, financial mechanisms, labour policy and human resources, transfer of technology, foreign investment, intellectual property, trade liberalization and export promotion. Lower taxes, accelerated amortization and depreciation of assets, exemption from local taxes, drawback, and others were some of the fiscal measures contemplated to achieve the objectives set out in Venezuela's VIIIth Plan. The representative of Venezuela continued that, concerning customs incentives, exemptions from export charges would be addressed as indicated in paragraphs 23 and 27 of this Report. He

confirmed that rebates for import charges and taxes were limited to imports physically incorporated in exports.

59. Some members expressed concern with respect to Venezuela's export subsidy programmes in relation to the new economic policy and questioned their compatibility with Article XVI and other provisions of the General Agreement. Noting that the Government of Venezuela maintained a number of domestic subsidies to promote key industrial sectors and that many of these domestic subsidies were applied in a discriminatory manner between State enterprises and private firms, these members were particularly interested in the trade effect of such subsidies in the sectors of aluminium, steel and petrochemicals. In their view the subsidization of fully developed sectors was inappropriate. They added that the need for contracting parties to resort to Article VI remedies in such cases could be mitigated if Venezuela addressed these concerns in the context of Article XVI and its GATT accession including possible accession to the Subsidies Code.

60. The representative of Venezuela said that there were no domestic subsidies affecting trade. He added that, in his opinion, the export incentives including in particular the fiscal credits, special tariff régimes and export financing were compatible with Article XVI of the General Agreement. The representative of Venezuela indicated that the following programmes were in place for the purposes of encouraging non-traditional exports: the fiscal credit, the Export Finance Fund (FINEXPO), and certain customs-based incentives, including partial exemption from export customs fees and the rebate of charges on imported goods incorporated in export products. The provisions of these programmes are described in Venezuela's Memorandum on Foreign Trade Régime (L/6565), and in the responses to questions contained in L/6599 and its addenda. He said that in the case of a developing country such as Venezuela the obligations under Article XVI were to notify subsidization programmes, their justification and effects and, upon request, to discuss with the contracting parties concerned. With respect to primary products, he noted that Venezuela only had marginal shares of world trade in primary products. With respect to manufactured products, as a developing country Venezuela would not be bound by the developed contracting parties' commitment not to subsidize manufactured products. He added that notwithstanding the protectionist measures which certain key sectors encountered in the markets of some developed countries, Venezuela had undertaken a programme to rationalize tariffs and non-tariff measures and to gradually eliminate subsidies as of March 1990. The export subsidies whose progressive elimination was foreseen in Decree 239 were the fiscal incentives described in detail in paragraphs 93 to 98 of document L/6565 and in the replies to questions 113, 115 and 116 of document L/6599. Venezuela would evaluate the Subsidies Code, and in due course, advise contracting parties of its intentions with regard to accession. One member said he attached importance to receiving further information on how subsidies affecting the agriculture sector would be treated, and over what time-frame.

61. Some members indicated that they disagreed with the interpretation of Venezuela that obligations under Article XVI were limited to the provisions

of paragraph 1, and urged Venezuela to undertake specific commitments to observe all of Article XVI, and to eliminate its export subsidies, particularly in connection with the output of sectors in which Venezuela was fully competitive, such as steel, aluminium, and petrochemicals. Some members stated that Venezuela should undertake appropriate commitments to progressively eliminate all export subsidies discussed. During the period in which these programmes were being eliminated, the margin of subsidy afforded by such measures to exports should not be increased and any measures once eliminated would not be re-introduced. Venezuela should indicate that no new export subsidy programmes will be instituted. These members also sought assurances from Venezuela concerning the application of export subsidies on exports from sectors that, in their Governments' view, cannot be considered "developing" within the meaning of the terms established in Article XVIII and the Enabling Clause. They stated that their Governments would not recognize the aluminium, petrochemical, and steel industries in Venezuela as "infant industries", or as "in development" within normal GATT consideration, and they sought Venezuela's assurances that export subsidies applied to the exports of these industries would be eliminated as rapidly as possible after accession, optimally by the end of 1990. These members indicated that they would consider any intensification of the existing Venezuela export promotion programmes described in this section or the adoption of new export subsidy programmes as inconsistent with Article XVI:1 and that, if that were to occur, these members would have recourse to their rights in this regard.

62. Some members expressed concern with respect to the proposal aimed at the progressive elimination of all export subsidies granted by Venezuela. They noted that export subsidies were not forbidden by the General Agreement, least of all in the case of developing countries. These members supported the interpretation given by Venezuela to the provisions of Article XVI, in particular with regard to developing countries. The concept of sectoral development would deny the rights and obligations provided by the General Agreement for certain industries of developing countries. These members recalled that subsidies were governed in the main by Article XVI which does not include the concept of sectoral development. In their opinion there were no economic, legal or practical grounds for accepting the early application of the concept of sectoral development for developing countries even though some discussions were proceeding in the Negotiating Group on Subsidies in the framework of the Uruguay Round.

Fiscal credits

63. In response to questions concerning the fiscal credits to exports in effect in Venezuela, the representative of Venezuela said that fiscal credits or export bonuses were fixed with reference to domestic value-added. For products having domestic value-added of between 30 and 90 per cent, the credit was 30 per cent; for products having domestic value-added between 91 and 100 per cent, the credit was 35 per cent of the net f.o.b. value of the exports. Given that other incentives had not been operational, exporters of non-traditional exports had made widespread use of fiscal credits. As from March 1990 the amount of the credit was lowered

from 30 per cent and 35 per cent to 15 per cent and 18 per cent, respectively, and certain exports of services were excluded. Several members said that their Governments considered Venezuela's practices in this area GATT inconsistent insofar as the fiscal credits were granted to exports of non-primary products, and that these programmes should be considered for elimination within a reasonable period of time after Venezuela's accession to the GATT.

Exemption from income taxes

64. The representative of Venezuela confirmed that Decree 1336 which had provided income tax exemptions for industrial enterprises in connection with their exports was no longer in force. Even though this incentive was not being accorded to new enterprises, industrial enterprises which had made the investments required by Decree 1336 would continue to enjoy the income tax exemptions for a period of five years following the year in which the investment had been made. Therefore, this incentive would be completely phased-out by 31 December 1993. One member indicated her Government was pleased to receive Venezuela's confirmation that the export subsidies provided for in Decree 1336 would no longer be available after 31 December 1993. In relation with Decree 1058, the representative of Venezuela confirmed that although the Decree contemplates tax exemptions for investments in the petrochemical and coal industries they are not related to export requirements and are solely for the purpose of promoting investment in those sectors. He also confirmed that there are tax exemptions applicable to industries that are set-up in the Paraguana industrial free-zone; the purpose of this measure is to stimulate regional growth in a depressed area of the country and has no export requirements. So far it has had very limited effect with only a few light manufacturing industries having been established. He added, however, that his Government did not intend to modify the incentives applied in the industrial free zones. One delegation noted that her Government viewed income tax exemptions of the sort provided in Decree 1336 as GATT-inconsistent export subsidies and urged that they be rapidly phased-out and eventually eliminated.

Export financing

65. In response to questions concerning export financing and the future of FINEXPO, the representative of Venezuela said that the National Government did not intend to discontinue FINEXPO whose activities were considered to be consistent with the General Agreement, including Article III:8(b) which authorizes the payment of subsidies exclusively to domestic producers, and Article XVI. He expressed that the financial terms of FINEXPO credits were supplied in the answer to question No. 124 in document L/6599, adding that loans for working capital and pre-shipment operations mentioned in such answer are denominated in Bolívares and those for import financing are in US dollars. At present, in the case of bolívar-denominated loans, the interest rate is 6 percentage points below the discount, rediscount and borrowing rate set by the Central Bank, which is the one at which the Central Bank lends money to the banks, being one of its main instruments

for monetary and banking control purposes. He also expressed that the Venezuelan Investment Fund (VIF), a governmental agency which directs resources from oil exports revenues to developmental ends lends money to FINEXPO for import financing loans. In these cases FINEXPO applies to its loans an interest rate equal to the interest rate charged to FINEXPO by the VIF plus 1 or 2 percentage points, depending on the period of the loan. FINEXPO may also grant US dollar denominated loans to exporters for working capital and pre-shipment operations, at LIBOR for 6 months plus up to 1 per cent according to the loan period. He added that the plans for VENEXPORT have been delayed indefinitely. As a result, FINEXPO continued to finance exports. Venezuela did not maintain any programme of preferential prices for exporting firms.

66. A member said that her Government considered FINEXPO financing provisions for exports constituted countervailable subsidies inconsistent with Article XVI of the General Agreement. She added that, to the extent such credits are granted at "below market" rates of interest, the margin of subsidy as afforded by FINEXPO credit lending should be reduced progressively, and fully eliminated by 1 May 1992.

67. The representative of Venezuela stated that it is the intent of his Government that the programmes described in paragraphs 63 to 65 in this Report would be notified on a regular basis to the GATT CONTRACTING PARTIES as called for in Article XVI:1. He also indicated that it is his Government's intent to avoid serious prejudice to the interest of the other contracting parties, as set out in Article XVI:1, as well as to agree to requests from other contracting parties for consultations on the possibility of limiting the subsidization in any case in which it is determined that such serious prejudice is caused or threatened. He also informed the Working Party that Venezuela intended gradually to reduce the benefits of its fiscal credit programme, described in paragraph 63 of the Report. The reduction of benefits under this programme was consistent with Venezuela's trade policy reform, and it was confirmed that the benefits would be eliminated within one year of accession to GATT. In the meantime, the margin of subsidy afforded by such measures to exports would not be increased.

V. State enterprises

68. With reference to Article 97 of the Constitution and the Government's rôle in the creation and promotion of basic industries, the representative of Venezuela said that the fact that the State played a central rôle in the development of sectors such as iron and steel, oil, gas and hydrocarbons, transportation, telecommunications, forestry, sugar and salt, did not affect its capacity to grant basic GATT rights nor to apply GATT provisions in these areas. If the figures concerning the petroleum industry were subtracted, the share of the State in the country's economy would be significantly lower.

69. In response to questions concerning the concept of State enterprises, the nature of State purchases which were not State consumption, and the

trade share of State enterprises, the representative of Venezuela said that no legal definition existed of the concept of public sector enterprises in Venezuela. The list of enterprises contained in Annex VI of document L/6599 covered all the enterprises actually operating in Venezuela in which the State participation was at least 50 per cent, and which therefore were subject to the norms applying to State activity in regard to budgetary, credit, and administrative matters, and to the protection of the public patrimony. The State had a less than 50 per cent share in other enterprises, but these were not subject, in general, to the same regulations. These enterprises acted like any other private company. The trade participation of public sector enterprises in 1984-1988 is reproduced in Annex VII of document L/6599. The trade shares accounted for by the main State enterprises in 1986-1988 have been reproduced in Annex 13 of document L/6642. A list of State-trading enterprises is contained in Annex 28 of Venezuela's Memorandum on Foreign Trade Régime (L/6565).

Decree 1182

70. Referring to the purchases carried out by State enterprises, some members questioned whether the buy national provisions of Decree 1182 were consistent with the provisions of Articles XVII and III of the General Agreement. A member added that in order to conform to Article III obligations the preference provided by Decree 1182 should only be applied to imports by the State for its own consumption and not to imports by enterprises engaged in normal commerce. Moreover, in her view, the possible application of a countervailing charge in excess of 40 per cent to imports competing with domestic goods risked violating Article II as well as Article III. The representative of Venezuela stressed that in practice, only some 6 to 10 per cent (i.e. 558 million bolivares) of all purchases by the State and State-trading enterprises were domestically sourced as a result of Decree 1182. As the purchases of State enterprises were made on a non-discriminatory basis and pursuant to commercial considerations, Venezuela considered that its regulations regarding purchases by State enterprises were fully consistent with Article XVII. In confirming that Decree 1182 provided a buy-Venezuela preference, he noted that its provisions did not distinguish between Government purchases for governmental use and purchases by State enterprises for commercial purposes.

71. The representative of Venezuela stated that his Government intends that the provisions of Decree 1182 should not conflict with Venezuela's obligation under Article III of the General Agreement to accord treatment no less favourable than that accorded to like products of national origin. In this regard, he stated that by 30 June 1994, his Government would ensure that Decree 1182 will be brought into conformity with Article III of the General Agreement, and that its application to purchases other than those for ultimate consumption in governmental use would not deny the benefits of Article III to imports from other contracting parties. The representative of Venezuela also stated that if Decree 1182 was still in effect at that time without the above-mentioned actions having been taken, the matter will be reviewed by the CONTRACTING PARTIES. The representative of Venezuela

further confirmed that his Government would, if requested, consult with interested contracting parties concerning the effect of Decree 1182 on their trade.

Trade practices

72. Noting that in 1988 approximately one-fifth of Venezuela's imports and over two-thirds of Venezuela's non-traditional exports were accounted for by State enterprises, a member enquired whether these enterprises were State monopolies, if the products exported were subject to price controls and whether the domestic market was open to imports of State exported products. The representative of Venezuela said that the State had made important investments in sectors where comparative advantages made production expansion and exports easy to develop. The State enterprises which exported non-traditional products were not State monopolies. The prices of products exported by these enterprises were not fixed by the State but by the enterprises themselves and depended on conditions prevailing in international markets. In general, since non-tariff restrictions had been removed, the domestic market in Venezuela was open to imports of these products. There was only one non-traditional export by a State enterprise subject to Note 2 (Imports reserved for the State, and delegated to the private sector): liquid ammonia (Nabandina Code: 28.16.00.01).

73. Noting that Venezuela set the level of domestic and export prices of a number of products exported by State enterprises (e.g. steel, aluminium and petrochemicals), a member enquired the reasons for export price fixing, the mechanisms to establish export prices and whether price controls also applied to privately owned firms and to imports. The representative of Venezuela said that the policy of fixing prices applied to the establishment of sale prices in the Venezuelan market of goods produced by basic industries, particularly in the steel, aluminium and petrochemical industries. The aim of the price control policy was to equalize the internal prices of such goods with export prices, the latter obviously being determined by conditions in international markets and not by decisions of Venezuelan enterprises. If these products were imported, they would not be subject to prices fixed by the State.

74. In response to a member who requested additional information concerning Venezuela's plans to privatize some State enterprises, the representative of Venezuela said that the policy of privatizing State enterprises had not yet been fully defined, and therefore it was not possible to provide further information on this matter at the present time. The member who had asked this question said that in the absence of more information or commitments in this area, her Government would have to proceed on the assumption that such actions might not be taken and therefore could not be factored into the balance of rights and obligations that would emerge from the negotiations. The representative of Venezuela noted that the General Agreement set certain obligations for the operation of State enterprises but did not require their privatization. In this respect Venezuela would accept the same obligations as other contracting parties and would not enter into additional commitments.

75. The representative of Venezuela stated that it is his Government's intention to apply laws and regulations governing the State-trading activities of the enterprises listed in Annex 28 of document L/6565 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. Concerning notification, Venezuela will make an initial notification of the enterprises subject to Article XVII prior to 31 December 1990. The Working Party took note of this assurance.

VI. Integration agreements

76. Data concerning Venezuela's trade with members of the Cartagena Agreement and LAIA is reproduced in Annex 10 of document L/6642. The respective preferences are listed in the Customs Tariff of Venezuela.

Cartagena Agreement

77. In response to questions concerning the implementation of Venezuela's commitments under the Cartagena Agreement and the review of the minimum common external tariff of the Andean Group, the representative of Venezuela said that in conformity with the commitments undertaken by the Heads of State of the member countries of the Cartagena Agreement (Bolivia, Colombia, Peru, Ecuador and Venezuela) at a meeting in December 1989, the following measures would be taken to liberalize intra-Andean trade: (1) in the first three months of 1990, a reduction of at least 80 per cent in the number of products on the Register of Products Reserved for Industrial Programmes, and the beginning in the same year of the liberalization of products excluded from the Register; (2) in 1995, introduction of automatic tariff reductions, in respect of those products on the Register of Products Reserved for Industrial Programmes which by that date had not been the subject of a specific programme; (3) between 1991 and 1993, dismantling of the list of exceptions for Colombia, Peru and Venezuela.

78. With reference to the minimum common external tariff of the Cartagena Agreement, the representative of Venezuela said that this tariff had been in force in Venezuela since 1973. All member countries of the Cartagena Agreement had adopted the minimum common external tariff. However, Bolivia and Ecuador were not yet obliged to apply this tariff. The consultations referred to in Article 68 of the Agreement should lead to a decision by the Commission concerning the terms of tariff commitments. The current tariff rates applied in conformity with the minimum common external tariff varied between 5 and 50 per cent. A member recalled that the Enabling Clause specifically states that preferential trade arrangements should not prevent negotiations for m.f.n. concessions bound to all contracting parties. It was the view of her Government that Venezuela should be prepared to participate fully in tariff negotiations in connection with its accession proceedings. Venezuela's ability to participate in the tariff negotiations should not be impaired by its commitments under the Cartagena Agreement or any other agreement. The representative of Venezuela further stated that it is the intention of his Government to respect its obligations under the

Cartagena Agreement and that Venezuela does not consider that this places any constraints on its ability to conduct tariff negotiations with the CONTRACTING PARTIES in the context of its accession negotiations.

79. Concerning the products reserved for industrial development programmes indicated in the notation (R) in column 6 of the Customs Tariff, the representative of Venezuela said that the inclusion of a product in the Register of Products reserved for industrial development programmes, approved by the Commission of the Cartagena Agreement, signified the existence of a particular interest on the part of the members of the Agreement to develop the industry producing such a product. To this end, the Commission approved an Industrial Development Programme which contained a liberalization programme applicable to intra-Andean trade in the product concerned, and a common external tariff applicable to imports coming from outside the Andean sub-region. The measures indicated in column 9 of the Customs Tariff were applied only to trade with members of the Cartagena Agreement. Similar products coming from non-member countries were subject to the measures indicated in column 5 of the Customs Tariff. Nevertheless, sanitary measures, and security and defence measures were applied equally in both cases. A member said that in the view of her Government exemptions from non-tariff measures indicated in the notation in column 6, such as import licensing and other quantitative restrictions, including prohibitions, should be specifically justified under GATT provisions or eliminated. To the extent that these restrictions remained selective exemptions for regional trading preferences, they were subject to the criteria and conditions that may be prescribed by the CONTRACTING PARTIES, as indicated in paragraph 2 of the Enabling Clause.

80. In response to questions concerning the preferential elimination of non-tariff measures, the representative of Venezuela said that after 1991 Venezuela would continue to honour its Cartagena Agreement commitments. Noting that lately the members of the Cartagena Agreement had decided to eliminate all the remaining restrictions to sub-regional trade, he said that, in his view, this action was consistent with the provisions of the Enabling Clause and would not prevent the adoption of commitments in the context of accession to GATT.

81. Concerning the import quotas applied within the Andean agricultural régime noted in column 10 of the Customs Tariff, the representative of Venezuela said that these were maximum quotas applicable to intra-Andean trade. He recalled that for members of the Cartagena Agreement Note 1 products received Note 2 status and that almost all Note 2 restrictions had been eliminated. Products subject to quotas originating in countries which were not members of the Cartagena Agreement would be controlled by import restrictions listed in column 5 of the Customs Tariff. With reference to the exemption from Note 1 and Note 2 restrictions enjoyed by members of the Cartagena Agreement, a member noted that at the time of accession, GATT inconsistent non-tariff measures should be eliminated with respect to all contracting parties; if Venezuela could justify these measures in GATT terms they would have to be examined as called for in paragraphs 2 and 4 of the Enabling Clause Decision and the CONTRACTING PARTIES might prescribe criteria or conditions concerning their application.

82. In response to a member who asked what level of local ownership was required for an enterprise to benefit from the preferential tariff and non-tariff measure treatment, the representative of Venezuela said that according to Decision 220 of the Commission of the Cartagena Agreement, a foreign enterprise is one in which more than 49 per cent of the shares are owned by foreigners. In order to benefit from trade liberalization on intra-Andean trade, the foreign enterprises must undertake to transform themselves into mixed enterprises (at least 51 per cent of the shares owned by nationals of the sub-region) over a period of fifteen years. These fifteen years run with effect from 29 August 1986 (the date when this rule entered into force) in the case of enterprises existing at that date, or with effect from the date of the establishment of the enterprise in the case of enterprises established after that date. However, if foreign enterprises were operating in sectors reserved for national or mixed enterprises, they had to transform themselves into national or mixed enterprises (whichever is required) within a period of 7 to 10 years respectively, with effect from 31 December 1987. The sectors reserved for national and mixed enterprises were listed in Article 23 of Decree 727. Foreign enterprises existing on 29 August 1986 were exempted from the transformation requirements if they exported more than 60 per cent of their production. Foreign enterprises subsequently exporting more than 50 per cent of their production (that is, not doing so on 29 August 1986) may also benefit from this exemption if the respective national authorities so decide. Foreign investments in which the Venezuelan Government or parastatal entities have at least a 30 per cent share may also be exempted from the transformation requirements provided that the relevant State body plays an important rôle in the basic decision-making of the enterprise. Also exempted from the transformation requirement were foreign investments in tourism, agriculture, agro-industry, construction, electronics, informatics and biotechnology. A member said that it was the view of her Government that the provisions of the Enabling Clause dealing with regional trade preferences among developing countries did not sanction these practices.

83. With respect to the State organizations which supervised the issuance of certificates of origin under the Andean rules of origin, the representative of Venezuela said that the review of decisions of the duly authorized Chambers of Commerce and the Venezuelan Exporters Association would be the responsibility of the Institute of External Trade. In general, the Ministry of Development was responsible for supervising the above-mentioned chambers and associations. The exporters concerned could apply to the Institute of Foreign Trade or the Ministry of Development which could issue the relevant certificates of origin. No decision of the above-mentioned entities in regard to rules of origin had been subject to appeal.

84. With reference to Annex 12 of document L/6642, the representative of Venezuela said that, in the context of the Cartagena Agreement, administered trade was a provisional mechanism which had authorized the temporary application of import restrictions to a limited number of products subject to automatic tariff reductions. This mechanism was being phased-out.

LAIA

85. In response to a request, the representative of Venezuela said that his Government was willing to provide to the contracting parties the texts of the partial scope agreements subscribed in the framework of LAIA. With reference to the partial-scope agreements with countries not members of LAIA, the representative of Venezuela said that those agreements were in conformity with the 1980 Montevideo Treaty. As a demonstration of transparency, the texts of the seven partial scope agreements subscribed by Venezuela had been submitted to the GATT secretariat for consultation by contracting parties. Venezuela would have no difficulties in submitting information periodically to the CONTRACTING PARTIES together with the other contracting parties members of LAIA.

86. The representative of Venezuela stated that his Government intends to notify to the CONTRACTING PARTIES within one year of accession any preferential trade agreements or agreements containing provisions for preferential trade access. In addition, Venezuela will coordinate with other contracting party members of these agreements to provide periodic reports on the activities of these agreements, with particular emphasis on changes in their operation that could affect contracting party trade. He further stated that his Government was prepared to consult with the CONTRACTING PARTIES concerning these agreements in the appropriate GATT forum if requested by interested contracting parties. In this regard, the representative of Venezuela stated that his Government would undertake to consult with other contracting party members of the Cartagena Agreement with a view to report periodically on its activities to the CONTRACTING PARTIES for examination in the appropriate GATT forum, in conformity with paragraph 4 of the Enabling Clause and other relevant GATT provisions. The Working Party took note of these assurances.

87. Some contracting parties members of the Cartagena Agreement informed that the Commission of the Cartagena Agreement had decided to notify on its activities directly to the GATT under the provisions of paragraph 4 of the Enabling Clause.

VII. Other policies related to trade

Free zones

88. In response to a question, the representative of Venezuela confirmed that the products imported into the free zones were subject to the regular tariffs and charges when exported to the customs territory of Venezuela with the following exception: if the enterprise exported 80 per cent or more of its production outside of Venezuela, the remaining 20 per cent could be exported to Venezuela free of duties, taxes and charges. However, it was understood that the proposed VAT would not contemplate exceptions. He confirmed that for imports into the processing zones the customs service fee was 1 per cent. One contracting party representative indicated that her Government believed that Venezuela should eliminate the practice of exempting from normal import duties and restrictions, taxes, and customs

charges imports from the free-trade zones, as described above. She stated that, in the view of her Government, such exemption from customs restrictions, tariffs, and other charges constituted unequal application of trade measures. Venezuela should apply all import restrictions and charges that are normally applied to imports into Venezuelan customs territory to the imported component of goods produced in these free-trade zones when they are exported into the national customs territory.

MTN Agreements

89. The representative of Venezuela indicated that his country will be willing to join the Code on Customs Valuation within a year of its accession to the General Agreement. He added that his Government was giving positive consideration to other Tokyo Round Codes, in particular the Codes on Licensing and Technical Barriers to Trade. He noted that certain provisions of some of these Codes were subject to negotiation in the Uruguay Round, and indicated that Venezuela would actively participate in those negotiations with a view to be in a position to notify its intention to adhere to the above-mentioned Codes within one year of the date of accession. The Working Party took note of these assurances. A number of delegations commended the Venezuelan decision to join the Code on Customs Valuation, recognizing it as a significant indication of their commitment to the principles of the GATT.

VIII. Conclusions

90. The Working Party took note of the explanations and statements of Venezuela concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by Venezuela in relation to certain specific matters which are reproduced in paragraphs 20, 21, 27, 30, 32, 37, 40, 57, 67, 71, 75, 86 and 89.

91. Having carried out the examination of the foreign trade régime of Venezuela and in the light of the explanations and assurances given by the Venezuelan representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Venezuela be invited to accede to the General Agreement under the provisions of Article XXXVIII. 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 Venezuela and contracting parties in connection with accession have been concluded, the resulting Schedule of Venezuela and any concessions granted by contracting parties as a result of negotiations with Venezuela would be annexed to the Protocol. The Decision would then be submitted to a vote by contracting parties in accordance with Article XXXVIII. When the Decision is adopted, the Protocol of Accession would be open for acceptance and Venezuela would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX

ACCESSION OF VENEZUELA

Draft Decision

The CONTRACTING PARTIES,

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

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

**DRAFT PROTOCOL FOR THE ACCESSION OF VENEZUELA
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 Venezuela (hereinafter referred to as Venezuela"),

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

Have through their representatives agreed as follows:

PART I - GENERAL

1. Venezuela 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 Venezuela shall, except as otherwise provided in this Protocol and in the commitments listed in paragraph 90 of document L/6696, 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 Venezuela 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 Venezuela 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 Venezuela.

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 Venezuela until 31 December 1990. 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 Venezuela.

7. Venezuela, 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. Venezuela 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 Venezuela 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.

Done at Geneva this [date to be inserted] day of [month to be inserted] one thousand nine hundred and ninety, 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 LXXXVI - VENEZUELA

[Text reproduced in L/6696/Add.1]