

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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COMMUNICATION FROM CHILE

The following communication, dated 5 March 1987, has been received from the delegation of Chile with the request that it be circulated to members of the Group.

ARTICLE XVII

State trading confronts the existing trading system with serious and complex problems.

Article XVII imposes an obligation to grant non-discriminatory treatment (on the line of the most-favoured-nation clause). There has been discussion about the inclusion in Article XVII of an obligation to grant national treatment, but some writers (such as Jackson) and the report of a panel (FIRA) seem to have come to the conclusion that such treatment is not included.

Article XVII also excludes governmental purchases.

The provisions of Article XVII concerning transparency might be of some use, but existing practice robs those procedures of any real value.

Chile would like to see Article XVII and present State-trading practices completely revised in order to ensure that the rules are expanded, made more stringent and adapted so as to attain the objectives of the multilateral trade negotiations (MTN) and of the General Agreement. The premise would be that, in the absence of more effective and operative rules, State trading has a bias against, and discourages, the liberalization of trade. Consequently the main purpose of this exercise would be to make it possible for State-trading enterprises and practices to co-exist with substantial liberalization of trade. Otherwise the countries which have State-trading enterprises would be in a more advantageous bargaining position in the multilateral trade negotiations, thus upsetting the balance of the results.

The following questions, for example, might be considered (the list is not exhaustive):

(a) To what extent is the obligation on the lines of the most-favoured-nation clause imposed by Article XVII complied with? What could be done to make this rule more effective?

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(b) Is it desirable and appropriate explicitly to expand the rules laid down in Article XVII in order to include an obligation to grant national treatment?

(c) A total or partial waiver of the exclusion of GATT from government purchases, or generalized expansion of the Tokyo Round code.

(d) Transparency becomes a key point in these suggestions. The language of Article XVII leaves much to be desired, and questionnaires answered by a few contracting parties call for clarification and revision. Governments need to know exactly what is notifiable, and care must be taken to ensure that questionnaires and forms present a complete picture of the trade carried on in State trading and of the policies and administrative practices pursued by the contracting parties. Similarly it is essential to envisage periodic review and examination of those notifications.

(e) Where State trading means an import monopoly or import restrictions, how should negotiations for market access be carried on and what form should the results of those negotiations take?

(f) Where State trading means the monopoly, control or restriction of exports, what are the implications of the rules laid down in Article XVI (Subsidies) which, in their turn, will be revised in the new Round?

(g) Where State trading means subsidizing domestic production (for example through the suspension of taxes or the supply of inputs at prices below international market prices), what are the consequences in terms of market access or distortions in third markets? How can market access be improved in these circumstances?

(h) State trading and compensatory trading prompted or demanded by the government.

PROCEDURES

A first step would be to secure supporting documentation: description of the subjects and problems; legal analyses; relationship of Article XVII to other provisions of the GATT system; estimates in figures of the value and volume of trade affected; a sectoral analysis where State trading seems to be more frequent, etc. This should be a task for the GATT secretariat.

It should be borne in mind that a part, perhaps a substantial part, of State trading is connected with agriculture.

In a second stage, Article XVII would be discussed and examined in the competent group of negotiations, having in view the submission of proposals leading to a third stage of negotiations on the relevant rules. In this context it might perhaps be useful to have an idea of the extent of the need to develop procedures for negotiating and techniques for securing access to markets where and when there are State-trading enterprises operating in the market.