

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Communication from MERCOSUR (Argentina, Brazil, Paraguay and Uruguay)¹

The following communication, dated 31 December 2002, has been received from MERCOSUR (Argentina, Brazil, Paraguay and Uruguay).

1. At the Fourth Ministerial Conference of the WTO, Ministers agreed on the following broad and ambitious mandate for negotiations on non-agricultural market access:

“MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.”

2. The Members of Mercosur – Argentina, Brazil, Paraguay and Uruguay – fully support the ambitious nature of this mandate and are committed to engaging constructively in negotiations with a view to achieving a substantial and balanced outcome, results that will have to be measured both in terms of the specific negotiating mandate contained in paragraph 16 of the Doha Ministerial Declaration² and taking into account in particular the need to secure an overall balance in the outcome of all WTO negotiations. Mercosur would like to emphasize that effective liberalization of world trade will not be achieved unless liberalization of world agricultural trade is fully taken into account.

3. In this respect, and in light of the agreement reached within the Negotiating Group that “...participants will aim at...reaching an agreement on...modalities by 31 May 2003”, Mercosur presents the following considerations on the distinct elements that comprise the development of modalities for negotiation.

¹ This proposal is not a legal text. It is submitted solely for the purpose of negotiation and does not prejudice the position of Mercosur or its States Parties regarding the issues raised in it. Mercosur and its States Parties reserve their right to modify or complement the contents of this proposal at a later stage.

² WT/MIN(01)/DEC/1.

Base Rates and Base Period

4. Schedules of concessions of each Member of the WTO are an integral part of the WTO Agreement³, and as such reflect the balance of rights and obligations entered into among them in the context of tariff concessions, ensuring the predictability and transparency of the multilateral trading system. Therefore, bound tariffs of all WTO Members, whenever they are available, are the only viable starting point for the negotiations. The base period for the negotiations should, in principle, be the most recent year for which there is up-to-date statistical information available for the majority of Members. Mercosur underlines the need for Members to maintain their submissions to the Integrated Data Base (IDB) as current as possible, while recalling that the Consolidated Tariff Schedules (CTS) database, recently put into operation with data on bound rates for all Members, will be the primary instrument for negotiations. With a view to improving the transparency of the negotiating process, it will be essential to have precise *ad valorem* equivalents of all specific duties in the databases kept by the WTO. Additionally, during the negotiating process, Members should commit to converting their specific duties into *ad valorem* tariffs.

Tariff Peaks and Tariff Escalation

5. Mercosur understands that the inclusion of tariff peaks and tariff escalation in the Doha mandate responds to the development dimension of the multilateral trade negotiations launched at the IV Ministerial Conference, as these are distortions that affect in particular the products of export interest to developing countries. Modalities to be agreed must therefore build in mechanisms to reduce or eliminate tariff peaks and tariff escalation.

Less than Full Reciprocity

6. The mandate given by Ministers in Doha is clear in establishing that the “negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments”. The concept of less than full reciprocity is unambiguous, requiring deeper reduction commitments from developed country partners than those undertaken by developing countries as well as other modalities which include, *inter alia*, differentiated staging periods. This clear instruction from Ministers must be fully incorporated into the modalities to be agreed before negotiations are begun.

Special and Differential Treatment

7. Special and differential treatment (S&D) measures are also to be considered in the elaboration of modalities, and shall include, *inter alia*, deeper reduction commitments for products of export interest to developing countries and differentiated staging periods, in order to “take fully into account the special needs and interests of developing and least-developed country participants”.

Nuisance Tariffs

8. Mercosur considers that the elimination of nuisance tariffs has a negligible impact on effective additional market access and therefore should not be considered as a concession equivalent to reductions of higher tariffs.

Modalities

9. The mandate to incorporate the concept of less than full reciprocity as an integral part of modalities for negotiations, coupled with the differences in the tariff structures of WTO Members –

³ GATT 1994, Article II:7.

which in broad lines reflect the differences in their respective economic contexts – limit the range of possible modalities for non-agricultural market access negotiations.

10. One option would be to adopt a formula approach. The potential of an unbalanced impact of this approach on different tariff structures could be overcome by the use of differentiated coefficients for developing and developed country participants, and could be complemented with additional approaches, especially for the reduction and elimination of national tariff peaks that could not be effectively reduced using the formula. An alternative or complementary option is a request and offer approach, which could allow in principle for a balanced treatment of tariff peaks, tariff escalation and high tariffs, taking into account the needs of developing countries in an effective manner.

Environmental Goods

11. The term "environmental goods" has a subjective nature and lacks a universally accepted definition. Negotiations on environmental goods might be jeopardised by the absence of specific tariff lines that could distinguish "environmental goods" from other similar goods. Mercosur considers that product differentiation in light of "environmentally healthy" processes would bring a complicating element into the negotiations, since the Harmonised System does not foresee such differentiation. Mercosur suggests that the Negotiating Group on Market Access should seek input from the CTE on the definition of the concept of "environmental goods" so that the NGMA may evaluate the possible requirement of specific modalities for these goods.

Non-Tariff Barriers

12. Non-tariff barriers constitute the principle obstacle, more so than tariffs, in the enhanced access of developing country exports to developed country markets. Therefore, Mercosur attaches priority to the Ministerial mandate to reduce or eliminate NTBs in the context of the current negotiations. We fully support the initiative to initiate the consideration of this aspect through a process of notifications in order to provide the Negotiating Group a basis with which to begin consideration of the matter with a view to develop modalities for negotiations in order to achieve the effective reduction or elimination of non-tariff barriers.

Antidumping/Countervailing Measures

13. Tariff concessions aim at improving effective and predictable market access opportunities for participants. In this respect, the results of WTO negotiations in appropriate fora must ensure that such opportunities are not undermined by excessive recourse to trade remedy instruments.
