

WORLD TRADE ORGANIZATION

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Negotiating Group on Market Access

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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

Agreement on Eliminating Non-Tariff Barriers related to Non Trade Issues

Communication from Cuba

The following communication, dated 1 November 2007, is being circulated at the request of the delegation of Cuba.

Introduction

Between 1997 and the end of 2001, 59 new unilateral measures, including many trade sanctions, were imposed by only one State¹ and between 2002 and June 2006, 125 new unilateral sanctions, were imposed against 47 nations.²

Unilateral trade measures imposed against many countries violate obligations under various international legal instruments.

They are adopted upon the judgement and unilateral decision of the country that imposed the measures due to various causes of different nature, such as political, environmental, religious, domestic politics, migration and other excuses that obviously, in most of the cases are not commercial reasons.

Their effects on trade are considerable, as they limit or prohibit, inter alia, the imports and exports, bilateral or multilateral credits and access to advanced technologies.

Little attention has been given in the WTO to such measures, despite the fact that the number of affected Members is not insignificant and that they are contrary to the principles and provisions of the WTO Agreements and to the objectives expressed in the Marrakech Agreement.

In order to establish consistency between the commitments taken at the international level and the rules and commercial practices of all Members in the WTO, the Republic of Cuba submits to the following proposal:

¹ Carter Study, 2002.

² Study of New Unilateral Sanctions, 1997-2006 by Michael P. Malloy.

Proposal

Agreement on Eliminating Non-Tariff Barriers related to Non Trade Issues

Members,

Recalling the Marrakech Agreement desires of contributing to WTO objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to Cuba asks that this proposal that we have presented today in this small group be circulated to the rest of the Members. trade and to the elimination of discriminatory treatment in international trade relations;

Also recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non-agricultural products, in particular on products of interests to developing countries;

Considering that the international community has firmly and widely rejected the imposition of laws and regulations and all other forms of coercive economic measures, including unilateral sanctions and has reiterated the urgent need to eliminate them immediately;

Emphasizing that such actions not only undermine the principle of Most Favoured Nation of the WTO Agreements and the principles enshrined in the charter of the United Nations and international law, but also severely threaten the freedom of trade and transit;

Stressing that the international community has repeatedly called for urgent and effective measures to ensure that its members refrain from adopting and applying and to eliminate unilateral coercive economic measures;

Recognizing that the WTO Agreement does not establish any distinction between WTO Members;

Underlining that there are several provisions in the WTO Agreements which impede these types of measures;

Agree as follows:

1. Members shall refrain from adopting or implementing any unilateral economic or trade restrictive measures against any other member for reasons of non commercial nature inconsistent with the WTO Agreements;
2. Members shall ensure that any restrictive measures do not affect commercial interests and rights and obligations of third parties;
3. Urges all Members to remove any existing discriminatory unilateral commercial measures and to enhance market access opportunities for all Members, especially for developing countries;
4. Members shall review regularly their non-tariff measures with a view to ensure that they do not constitute disguised restrictions on international trade,
5. Members shall also refrain from to using Article XXI of GATT 1994 arbitrarily unless there is a common international understanding about the causes of any relevant issue;

6. Members are obliged to report in advance to the General Council - to take into account its considerations - of their intentions to apply any unilateral coercive commercial measures;

7. The General Council through the Council on Trade in Goods, shall review yearly Members' progress in enhancing market access opportunities by eliminating non tariff barriers.
