

SCHEDULE VII – CHILE

Article XXVIII:3 – Notification by Brazil

Addendum

The following communication, dated 17 September 2001, has been received from the Permanent Mission of Brazil.

With reference to the communication of the Government of Chile, of 14 September 2001 (document G/SECRET/12/Add.1), containing the notification of modifications to Schedule VII-Chile, under the terms of Article XXVIII of GATT 1994, with regard to tariff lines 1701.1100; 1701.1200; 1701.9100; and 1701.9900, represented by an increase in the bound tariff rate and the establishment of a tariff quota, the Government of Brazil understands that the Government of Chile has not appropriately followed the provisions of Article XXVIII.2 of GATT 1994.

Specifically, it is the view of Brazil, as a "contracting party concerned", that, in the process of consultations held under Article XXVIII, Chile did not "endeavour to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided for in this Agreement prior to such negotiations". The level of compensation offered for the 200% increase of the bound tariff rate for sugar in the modification to Schedule VII – Chile, amounts to coverage of less than 30% of the average exports of that product from Brazil and contains no compensatory adjustment with respect to other products. Such a proposal does not, in the view of Brazil, constitute adequate compensation and its acceptance would represent a solution that is more restrictive to trade and therefore contrary to the letter and spirit of Article XXVIII.

The Government of Brazil further understands that the replacement of an unlimited tariff concession by a tariff rate quota, as is the case with the present modification, should be governed by the terms of paragraph 6 of the Understanding on the Interpretation of Article XXVIII of GATT 1994, which specifies the basis for the calculation of the compensation to be provided. It is the view of Brazil, therefore, that these criteria should have been adhered to with regard to compensation, with the aim of maintaining the general level of reciprocal concessions.

In light of the above considerations, the Government of Brazil reserves its rights in this matter under the provisions of the relevant WTO Agreements, including Article XXVIII.3 of GATT 1994.