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TRADE POLICY REVIEW

VENEZUELA

Report by the Secretariat

This report, prepared for the Trade Policy Review of Venezuela, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the Government of Venezuela on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mr. Angelo Silvy (739 5249) and Mr. Raymundo Valdés (739 5346).

Document WT/TPR/G/108 contains the policy statement submitted by the Government of Venezuela.

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SUMMARY OBSERVATIONS

(1) INTRODUCTION

1. Since Venezuela's first Review in 1996, trade policy formulation and implementation have taken place against the background of major changes to the institutional and legal framework. Venezuela has continued to consolidate the process of implementation of its commitments under the multilateral trading system, which has resulted in market opening and liberalization in some areas. While tariffs have remained at an average of some 12 per cent, there has been an increase in the use of non-tariff measures, including contingency measures, the active use of local preferences in government procurement, preferential credit schemes, technical regulations, and minimum local requirements. This points to a policy of protection for selected sectors, which is probably no more than a second-best solution to longstanding structural distortions.

2. Economic performance has been erratic since 1996, reflecting both long-term problems and the complex interaction of domestic and external developments. The economy has grown ever more dependent on the oil sector, the fiscal deficit and public debt are large, and the net foreign capital account is negative. Low investment is an entrenched problem, which should have been partially alleviated by the steps taken in recent years to relax foreign direct investment restrictions and generally grant national treatment to foreign investment. However, little additional investment has been attracted so far. This suggests the need to address the perception of insufficient predictability in Venezuela's institutional and legal framework, which could be done in part by following stricter practices on the use of trade instruments, binding multilaterally the liberalization measures already adopted, and taking on new commitments.

(2) ECONOMIC ENVIRONMENT

3. The hydrocarbons sector, particularly petroleum, continues to be the backbone of the Venezuelan economy. Despite efforts to diversify economic activity, the sector's share of GDP increased during the 1996-2002 period, while the shares of manufacturing and agriculture declined. Changes in domestic petroleum output and world prices have been reflected in the relatively large GDP fluctuations. After two years of moderate growth in 2000 and 2001, real GDP shrank by 7 per cent in the first half of 2002 compared with the same period the previous year.

4. Linked to its high dependency on petroleum, Venezuela's economy shows clear symptoms of an anti-export bias, and "Dutch disease" appears present. The international competitiveness of its non-oil tradeable sector was reduced by a real currency appreciation up to February 2002. Reflecting the above, exports show little diversification. Hydrocarbons exports account for over 80 per cent of total merchandise exports; almost 60 per cent of total exports (mostly petroleum products) are directed to the United States. Imports consist of a wide range of manufactured goods, which account for over 80 per cent of the total, as well as of primary goods.

5. GDP changes have been largely the result of inventory and investment swings, particularly in the petroleum sector. Venezuela has a low investment/GDP ratio, which seems to be a structural trait of the economy, reflecting low private investment. The latter is in turn the result of the considerable State involvement in the economy, in particular in such vital sectors as hydrocarbons, mining, electricity and other activities, implying that the bulk of investment is in public sector hands. To succeed in diversifying its economy, Venezuela needs to attract more private investment.

6. Venezuela adopted a floating exchange rate system in February 2002 to replace the previous regime based on fluctuation bands. Although the latter was instrumental in reducing inflation, it led to a significant real appreciation of the bolivar. The introduction of a flexible exchange rate led to a 90 per cent depreciation of the bolivar. The new system is, however, an important step towards regaining competitiveness and stimulating production while, by abandoning the use of the exchange rate as an instrument against inflation, enhancing monetary policy effectiveness.

7. Monetary policy is geared at achieving price stability, with the Central Bank of Venezuela setting annual inflation targets. Inflation declined considerably between 1996 and 2001, but the cumulative CPI reached some 20 per cent in the first eight months of 2002 in the wake of the currency depreciation.

8. The Central Government accounts have shown a deficit since 1998, countered, in 1999 and 2000, by a surplus in the rest of the public sector, due mainly to the operational surplus of the state petroleum company. As of 2001, however, partly due to lower revenue from oil and partly to a substantial increase in expenditure, this surplus has been insufficient to offset the Central Government's deficit. The fiscal deficit has led to a substantial increase in internal debt, which reached US$13.8 billion or 11 per cent of GDP in 2001. The reliance on internal debt has been putting further pressure on the fiscal accounts, since this debt is at a high cost and short maturity, and increased the internal debt service from 3.2 per cent of GDP in 1996 to 5.5 per cent in 2001.

9. Venezuela traditionally runs a current account surplus in the balance-of-payments, due to a significant merchandise trade surplus. The current account surplus peaked at 10.8 per cent of GDP in 2000, but fell to 3.2 per cent of GDP in 2001, due mainly to a reduction in oil prices and an increase in imports partly fed by the real appreciation of the bolivar. The services balance traditionally shows a deficit, which was between 2.5 per cent and 4.6 per cent of GDP in 1996-2001. The capital account generally shows a deficit.

(3) TRADE AND INVESTMENT POLICY; INSTITUTIONAL FRAMEWORK

10. Venezuela adopted a new Constitution in 1999. Since then, a large number of laws have been passed under the umbrella of Enabling Laws that granted the President the right to legislate in economic areas. In 2001, 49 new laws, involving a wide range of economic activities, were adopted under the Enabling Law of November 2000. The numerous legislative changes introduced since 1999 have generally aimed to modernize the legal framework, but there has been strong opposition to a number of those changes. Following an attempted coup d'état in April 2002, the Government has embarked on a process of consultation and dialogue which includes the revision by the National Assembly of laws passed under the Enabling Law of November 2000.

11. Venezuela is an original Member of the WTO and participated in the multilateral negotiations on financial services and basic telecommunications. The implementation of WTO Agreements has not led to major changes in legislation; these Agreements prevail in case of conflict or discrepancy with national legislation. Venezuela has been directly involved in two disputes in the WTO, once as a plaintiff and once as a defendant.

12. Venezuela participates in several regional integration agreements. It is a member of the Andean Community and of the Free Trade Agreement of the Group of Three (G-3), in which Colombia and Mexico also participate. As a member of the Latin American Integration Association (LAIA), Venezuela participates in a number of preferential trade agreements with countries in the region.

13. Since its last Review, Venezuela has sought to adopt policies to attract larger inflows of foreign direct investment. To this end, it has liberalized its investment regime, by relaxing restrictions. Foreign investors are granted national treatment, except in some specific areas.

(4) MARKET ACCESS

14. Venezuela passed a new Customs Law in 1999 and has started to automate its customs procedures. A new customs valuation regime was introduced in March 2001 to implement the provisions of the WTO Agreement on Customs Valuation. The new regime was notified to and examined by, the WTO Committee on Customs Valuation in 2002.

15. Venezuela applies the Andean Community Common External Tariff, with some exceptions. The average applied MFN tariff in 2001 was 12 per cent, the same level as in 1996. Including variable levies, the average tariff was 12.4 per cent in 2001. The applied MFN average for non-agricultural goods was 11.6 per cent, while the average for agricultural goods (WTO definition) was 14.6 per cent. Preliminary calculations for 2002 show that the average MFN tariff increased marginally, to 12.2 per cent, due to higher tariffs on a number of steel products, some of which were raised up to their WTO bound levels. The tariff shows moderate dispersion and is characterized by escalation. Venezuela has bound in the WTO its entire tariff at a general level of 35 per cent for non-agricultural products, and of between 10 per cent and 135 per cent for agricultural goods.

16. Venezuela grants tariff preferences on imports from other Latin American and Caribbean countries. Imports from other Andean Community members enter Venezuela duty-free, while imports from Mexico, Chile, Brazil and Argentina benefit, in this order, from preferences on a wide range of their exports. Apart from the tariff, Venezuela applies a customs service charge of 1 per cent on all imports, including those from other Andean Community countries. In November 2001, an additional tariff surcharge of 1 per cent of the f.o.b. value of imports was introduced but had not been implemented up to September 2002.

17. Under the Andean System of Price Bands, Venezuela can apply variable levies on imports of a number of agricultural products other than from Andean Community countries. The resulting applied tariff levels can be high in case of a sharp decline in international prices; however, applied rates may not exceed WTO bound rates. For products that are also subject to tariff quotas under the WTO Agreement on Agriculture, Venezuela applies the in-quota bound rate (with maximum rate is 40 per cent).

18. Tariff quotas are applied on 17 products corresponding to 70 HS subheadings. Most of these quotas have been administered since 2000 through the use of non-automatic import licences. Venezuela also maintains import-licensing requirements for health, safety, and environmental reasons.

19. Venezuela's legislation on anti-dumping and countervailing measures predates the WTO, but the Anti-Dumping Agreement is used in investigations involving WTO Members. Since 1996, 12 anti-dumping investigations have been initiated by Venezuela, resulting in most cases in the application of provisional and definitive anti-dumping duties. In mid 2002, there were 19 definitive antidumping duty orders in place, affecting products from a range of industries, including steel, chemicals and footwear. Three countervailing duty orders are in place, all on cheese from the European Union. Venezuela introduced legislation on safeguards in 1999. Up to mid-2002, five investigations had been conducted, and the application of measures had been recommended in one case, although not yet applied.

20. Venezuela does not participate in the WTO Plurilateral Agreement on Government Procurement. Venezuela's government *procurement exceeds US$10 billion annually. Despite a margin of preference of 5 per cent granted to domestic suppliers, and due to the substantial weight of inputs and capital goods, the share of purchases to foreign suppliers is large, some 80-85 per cent of the total. The Government is thus trying to increase the share of domestic suppliers through temporary measures such as those introduced in July 2002, which grant additional preferences of up to 20 per cent depending on domestic value added and the type of enterprise.*

21. Standards and technical regulations are generally adapted from international norms. Venezuela has adopted some 300 technical regulations but, as at late September 2002, had notified only 24 to the WTO Committee on Technical Barriers to Trade. Current legislation on technical regulations and standards dates from 1979; a new law was drafted and notified to the WTO for comments in 2001, but by mid 2002 had not been yet implemented. Venezuela applies a relatively large number of sanitary and phytosanitary measures, but up to September 2002 no notifications had been made to the WTO Committee on Sanitary and Phytosanitary Measures.

(5) OTHER MEASURES AFFECTING TRADE AND INVESTMENT

22. Venezuela has a number of fiscal incentive programmes in place that grant tariff and tax reductions and exemptions. There are also a number of preferential credit and guarantee schemes, and technical assistance and training programmes. Some of these schemes and programmes are geared towards supporting higher value added or export activities and are financed through the resources of state funds or development banks. A programme is also in place, through agreements with private banks, for a certain percentage of credit to be channelled for agricultural activities at preferential conditions.

23. Venezuela is an advocate of multilateral rules for competition policy. Competition policy is regulated both at the national and the subregional levels. The Constitution forbids conduct or agreements geared at establishing a monopoly or a cartel, or which may lead to an abuse of dominant position. A bill is under examination by the National Assembly to create a body with stronger enforcement and supervisory power than the current supervisory entity, Pro-competencia. Most of the cases taken up by Pro-competencia between 1997 and 2001 dealt with abuse of dominant position and other discriminatory practices in services. Pro-competencia must submit an opinion in safeguard investigations.

24. The TRIPS Agreement came into force for Venezuela as from 1 January 2000. Although Venezuela did not modify its legislation on intellectual property after the Uruguay Round, the TRIPS Agreement is part of national legislation. It also applies the Andean Community's legislation on intellectual property rights protection. Parallel imports are generally allowed. Compulsory licensing is envisaged in certain cases but, up to mid 2002, had not been used.

(6) SECTORAL POLICIES

25. The Venezuelan economy is strongly reliant on the hydrocarbons sector, which generated about a quarter of GDP and over 80 per cent of merchandise exports earnings in 2001. This reliance has increased since 1996. The hydrocarbons sector is largely in the hands of the State, which in recent years has found it difficult to sustain the high level of investment required to implement petroleum projects. With this in mind, a new Hydrocarbons Law was passed in 2001, enhancing investment opportunities for the private sector and introducing changes in taxation. Although private investment and control are allowed in new refineries, existing refineries and primary activities are reserved for the State or must be under State control. The gas industry has its own legislation and is open to the private sector.

26. The existence of a leader sector such as the extraction and refining of petroleum has affected considerably the development of all other economic activities in Venezuela. Input and service costs for activities geared to the domestic market have been pushed up and activities producing tradeable goods or services have been adversely affected by the real currency appreciation triggered by foreign exchange revenues from oil. The effects of the anti-export bias have been felt particularly by the manufacturing sector, but have also spread to agriculture and agroindustry.

27. Agriculture accounts for a small share of GDP. Tariffs are higher than for other sectors and variable levies can be applied on a number of products when prices fall. Much of the support granted to agriculture takes the form of implicit transfers. The Producer Subsidy Equivalent (PSE) for 1998, the last year available (as calculated by the Andean Community) was 24.8 per cent of total output, with aid taking mainly the form of price support. The effective PSE, which takes into account the effect of exchange rate distortions on transfers was, however, negative in the same year, suggesting real transfers to the rest of the economy. Agricultural activities are exempt from income tax and have access to subsidized credits. In 2001, new legislation was passed that introduced changes in the use and tenure of land for agricultural production, and penalized the non- or sub-utilization of productive land. The new law is currently been revised by the National Assembly.

28. Venezuela has experienced a process of de-industrialization since its last Review. Manufacturing production (excluding oil refining) fell by 12.7 per cent in real terms between 1995 and 2000, losing share in GDP, partly as a result of reduced competitveness and strong import competition. Although the average tariff applied on manufactured products was about 12 per cent in 2001, higher tariff rates were applied for motor vehicles, textiles and clothing, footwear, steel products and electrical appliances. In 2002 tariffs on a number of steel products were increased up to their WTO bound rate of 35 per cent. A number of steel products also face antidumping duties: imports of these and any other similar products from any source must be accompanied by a certificate of origin.

29. The automotive sector benefits, until 2010, from protection stemming from a 35 per cent Andean Community's Common External Tariff. Since late 1999, the Venezuelan auto industry has also benefitted from the Family Vehicle Programme, which grants tax concessions and access to preferential credit for the purchase of some small vehicles with a certain domestic or Andean subregional content.

30. Since 1996, Venezuela has made considerable progress with respect to the liberalization of service, in particular telecommunications and financial services, where liberalization has gone well beyond Venezuela's WTO commitments. In 2001, 62 out of 72 banks in operation were private; 15 of these, accounting for over 60 per cent of total assets were foreign banks. There has also been an increase in mergers and acquisitions in the banking sector and a resulting reduction of the number of banks. New laws with respect to banking and insurance were introduced in 2001; these laws enforced more stringent capital requirements and strengthened supervision. This was followed by a rise in the degree of coverage. However, following an increase in interest rates in the first months of 2002, there has been an increase in badly performing loans.

31. A substantial unilateral liberalization of the telecommunications market has taken place since the last Review. In 2000 a new telecommunications law was introduced and the monopoly on basic telephony granted to the privatized company CANTV, was terminated. Since then the market has been open to competition and measures to reform the regulatory environment have also been introduced.

32. New laws with respect to maritime and air transport were passed in 2001. Although both activities are now more open to foreign participation, some limitations remain. In maritime transport, cabotage is not open to foreign operators, but is subject to reciprocity. In air transport, domestic service is reserved for Venezuelan enterprises.