

**SUBMISSION ON REGIONAL TRADE AGREEMENTS**

Joint Communication from Australia; Chile; Hong Kong, China; Korea and New Zealand

The following communication, dated 10 June 2003, has been received from the Permanent Mission of Australia.

**TRANSPARENCY OF RTAS**

1. There appears to be a consensus within the Negotiating Group on Rules, in support of higher levels of transparency in relation to regional trade agreements. Some areas where views differ are in relation to when and where notifications should be made and what they should contain. At present there are significant inconsistencies in the practices of Members.

2. This paper presents preliminary views on the questions posed in the Chair's aide-memoire dated 29 January 2003 on notification, when, what, and where to notify. The positions in this paper do not prejudice in any way our views on substantive legal issues to be discussed at a later stage of the negotiations.

**I. NOTIFICATION**

3. All RTAs concluded by WTO Members require notification. These obligations are found in:

- (a) GATT Article XXIV:7(a): "Any [Member] deciding to enter into a customs union or free-trade area, or an interim agreement...shall promptly notify".
- (b) Paragraph 4(a) of the Enabling Clause: "Any [Member] taking action to introduce an arrangement...shall: notify..."
- (c) GATS Article V:7(a): "Members which are parties to any agreement referred to in paragraph 1 shall promptly notify..."

4. We consider these notifications to be of importance. They shed greater light on individual RTAs and, through this greater understanding, allows WTO Members to better assess the implications for their own trade interests of RTAs involving other Members. It can also provide useful information to public and private sectors.

**II. WHEN TO NOTIFY**

5. It is important that Members comply with the notification obligations found in the various WTO Agreements. To assist with this, we propose a two-stage process for consideration. Firstly

would be the preliminary notification on the signing of an Agreement by the Parties then as a second step there would be a full notification before entry into force or before preferential treatment is actually applied, whichever is earlier. In the case of Customs Unions, to allow time for negotiations required under GATT Article XXIV:6 and para 4(4) of the Understanding on the Interpretation of Article XXIV of GATT 1994 and to align with the time frame for negotiations under GATS Article V:5, we suggest that the full notification be made not later than 90 days before entry into force or before preferential treatment is actually applied, whichever is earlier.

6. In addition, a subsequent notification should be made in cases of significant changes and/or developments in the Agreements. These should be reported as they occur. In the case of Customs Unions, such changes or developments must be reported no later than 90 days before preferential treatment relating to these take effect.

### III. WHAT TO NOTIFY

#### A. PRELIMINARY NOTIFICATION

7. In the preliminary notification, the Parties to the Agreement should (at a minimum) provide the following facts, on condition that they may be subject to change in the full notification.

- Name of the Agreement
- Parties to the Agreement
- Provisions of the WTO Agreements under which the Agreement is established
- Date of signature
- Provisional date of ratification, acceptance, approval or accession, if available
- Provisional date of entry into force of the Agreement, if available
- Duration of the Agreement
- Contact point including website address, if available
- Objectives of the Agreement
- Scope of the Agreement (Table of Contents, Index, or, if not available, List of chapter titles)

#### B. FULL NOTIFICATION

8. Members should provide the Secretariat with:

- the full text of the Agreement, including all Annexes, Schedules and Protocols
- on a line-by-line basis (at least 6-digit level), tariff rates and import statistics in value and quantities, by country of origin for the 3 year period preceding the notification.
- identification of which tariff lines are granted MFN, preferential or zero tariff rate.<sup>1</sup>

#### C. FACTUAL INQUIRY

9. The Secretariat should prepare a factual report based on the Draft Outline for a Factual Presentation on Individual RTAs (Goods) (Non-Paper by the Secretariat dated 28 February 2003) This draft outline document, however, needs to be clarified in relation to the heading Scope and Depth of Intra-Trade Liberalisation (point one of the Annex). We suggest that the reference to trade and

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<sup>1</sup> We see merit in further discussion of a consolidated tariff schedule that includes all applied tariffs (MFN and preferential) in electronic format. This is directly relevant to the work of the Negotiating Group on Rules on RTAs which is the appropriate fora for discussions of this issue. In doing this work we will be mindful of working closely with the Negotiating Group on Market Access.

tariff analysis be amended to include trade data on a sector by sector basis and by providing information on a tariff line basis (ie. indicating what proportion of tariffs will remain at the MFN rate, what proportion will be reduced and what proportion will be eliminated).

10. We propose that the Secretariat prepare a similar draft outline for a factual presentation on individual RTAs for the services sector.

#### **IV. WHERE TO NOTIFY**

11. There would be benefits from developing a more consistent approach in the notification of RTAs. We believe that all RTAs should be notified to the CRTA. The purpose of suggesting RTAs pursuant to the Enabling Clause be notified to the CRTA would be to increase transparency. We are not suggesting the renegotiation of the Enabling Clause, but merely that Agreements pursuant to the Enabling Clause be considered for transparency purposes in the CRTA. We would like to emphasise that this suggestion for increased transparency does not prejudice any interpretation of the mandate of the Committee on Trade and Development (the CTD), nor would it prejudice rights and obligations of Members with respect to RTAs notified under the Enabling Clause.

12. We note that the Secretariat has distributed a paper at the CTD that discusses a number of issues relating to the Enabling Clause (WT/COMTD/W/114), including that the Enabling Clause does not specify where the notification is to be made. In our view the CRTA has an important role to play. This should, of course, continue to be in close concert with the CTD.

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