

SUBMISSION ON REGIONAL TRADE AGREEMENTS

Paper by Chile

The following submission, dated 23 April 2004, is being circulated at the request of the Delegation of Chile.

GATS ARTICLE V

1. Paragraph 29 of the Doha Ministerial Declaration gives us a mandate to clarify and improve “existing WTO provisions applying to regional trade agreements”. The term “regional trade agreements” refers to “all bilateral, regional and plurilateral trade agreement of a preferential nature”.¹ It is obvious that we are dealing not only with GATT Article XXIV but also with GATS Article V.

2. The Committee on Regional Trade Agreements discussed some systemic issues on Article V. Those discussions are reflected in the Compendium of issues prepared by the Secretariat of the WTO.² Although Australia and the EC³ identified this as a key issue at the beginning of this negotiation, we have not started substantive nor transparency discussions yet.

3. GATS Article V enables its members to be party to, or to enter into preferential agreements on trade in services provided they comply with a number of substantive and procedural requirements. The basic conditions are:

- Substantial sectoral coverage: This condition is to be understood in terms of number of services sectors, volume of trade affected and modes of supply. The agreement should not exclude *a priori* any mode of supply.
- Limitation of substantially all discrimination among its parties in the sectors it covers, by eliminating existing measures and or preventing the introduction of new discrimination within a reasonable time frame.
- The agreement should not raise the overall level of barriers to members outside those FTAs.

4. A general question that might be explored is possible similarities between GATT Article XXIV and GATS Article V. These similarities should be analyzed not only with respect to the transparency mechanism but also with respect to various substantive issues (such as “substantially all the trade” v/s “substantial sectoral coverage”; “level of duties and other regulation of commerce” v/s “level of barriers”, “reasonable time–frames” etc.).

1 Document WT/L/127.

2 Document TN/RL/W/8/Rev.1.

3 TN/RL/W/2 and TN/RL/W/14 respectively.

5. We also should analyze and clarify, in particular, the following substantive issues⁴: “substantial sectoral coverage” (Article V.1(a)) and how to assess it; “elimination of substantially all discrimination”, “reasonable time-frame” and how to address discriminatory measures on market access as defined in Article XVI (Article V.1(b)); meaning of “wider process of economic integration”(Article V.2); flexibility for developing countries (Article V.3(a)); requirements to avoid rising “the overall level of barriers trade in services” (Article V.4) and how to assess it; meaning of substantive business operations” (Article V.6).

6. With respect to transparency issues, a particular aspect that could be analyzed is the obligation of notification of Recognition Agreements between members of a RTAs, within the context of those RTAs (GATS Article VII and GATS Article V).

7. Due to the fact that we will start in-depth discussions on several substantive issues, Chile wants Article V to be clarified and improved and therefore, we would like it to be included in the “road map” for such discussions.

⁴ The list of issues raised is non-exhaustive, and is without prejudice of Chilean position on the subject.