WORLD TRADE ORGANIZATION

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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.

PRELIMINARY IDEAS FOR SUBSTANTIVE DISCUSSIONS

1. The mandate of Paragraph 29 states that negotiations should aim at "clarifying and improving disciplines and procedures under existing WTO provisions applying to regional trade agreements". This should be seen in the light of the imprecision and vagueness of present disciplines of GATT Article XXIV and GATS Article V and of the increasing number of Regional Trade Agreements (RTAs).

2. The mandate reflects the shared interest of all Members to have clear and better rules. Most members are now involved in RTAs with an increasing impact on trade flows. If members fail to achieve a consensus on such rules, the risk is that eventually a member will bring a complaint against a RTA that affects its commercial interest forcing the dispute settlement system to interpret the rules. Thus, negotiations must move beyond transparency.

3. As a point of departure, we should ask ourselves whether the Committee on Regional Trade Agreement (CRTA) will ever be in a position to "approve" or "not to disapprove" a particular RTA. Even with very clear rules, if there is the slightest doubt or concern, it will probably lead one or more members to prevent a consensus. The parties to an agreement, in turn, could hardly be expected to agree to a consensus "disapproving" of their agreements.

4. Would it not be more appropriate for the CRTA to conduct a thorough examination of a notified RTAs and simply take note of members' statements and the Secretariat Report? Provided, of course, that **increased transparency with better examination procedures and clear and improved disciplines are achieved**, it would then be up to any member who considers that there is nullification or impairment of its rights to pursue the matter under the DSU.

5. On matters of substantive disciplines, we should aim at having reasonable standards that RTAs should meet. This requires to work on the interpretation of concepts such as: "substantially all the trade", "other regulation of commerce"; "preferential rules of origin"; relation between the various WTO rules on RTAs (GATT Article XXIV, GATS Article V, Enabling Clause).

6. In addition, it should be made clear that in this negotiation nothing should affect or diminish the rights that developing countries enjoy under the Enabling Clause. Thus the agreements notified under the Enabling Clause could benefit from improved transparency and examination in the CRTA, but they would not be subject to the disciplines of GATT Article XXIV as far as tariff preferences are

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concerned. In this regard, it is useful to recall that the Enabling Clause refers only to tariff preferences,[1] while increasingly agreements between developing countries cover non-tariff measures, as well as services, investment and intellectual property.

[1] Paragraph 2.c of the Enabling Clause states: "Regional or global arrangements entered into amongst less developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the Contracting Parties, for the mutual reduction or elimination of non-tariff measures, on product imported from one another".