

**PROPOSAL FOR AN IMPLEMENTATION OF ARTICLE XXIV OF GATT 1994, IN  
ORDER TO HARMONIZE CURRENT WTO DISPOSITIONS ON DEVELOPMENT  
ASPECTS OF REGIONAL TRADE AGREEMENTS FOR INCLUSION AT  
THE EIGHTH MINISTERIAL CONFERENCE**

The following communication, dated 27 October 2011 has been received from the Delegation of Argentina.

**I. INTRODUCTION**

1. Economic and trade integration through regional trade agreements (RTAs) has become a cornerstone of the economic development strategy for many developed and developing countries.

2. As stated by some Members, economic and trade integration can significantly contribute to stability and development. Therefore, integration has an important role in sustaining and strengthening the multilateral system in the long-term.<sup>1</sup>

Moreover, it is fundamental for many developing countries to rely upon a multilateral framework in order to cope with their developmental strategies through regional integration.<sup>2</sup>

**Current Situation**

3. With regards to RTAs involving developing Members, unbalance exists among current WTO dispositions:

(a) On the one hand, with regards to trade in goods, Article XXIV of GATT 1994 does not include specific dispositions that take into account the necessities of developing countries in order to promote their developmental strategies through regional integration.

In a certain way, the Enabling Clause has covered this legal gap, becoming a useful and successful tool, but with a relatively limited application due to, for instance, its lack of specificity regarding the conditions for the establishment of RTAs.

(b) On the other hand, with regards to trade in services, paragraph 3 of Article V of the General Agreement of Trade in Services (GATS) contains specific dispositions which involve considerations related with development. In that paragraph a distinction is established between:

(i) agreements between developed and developing countries (paragraph 3a) of Article V); and

<sup>1</sup> See document TN/RL/W/14, European Communities.

<sup>2</sup> See documents TN/RL/W/155 of China and TN/RL/W/185 of the ACP Group.

- (ii) agreements involving exclusively developing countries (paragraph 3 b) of Article V).

In both cases flexibilities and more favorable treatment is given to developing countries.

4. Consequently, there is a certain legal asymmetry with respect to the economic and trade conditions regarding goods and services.

5. At the same time, there is an increasing number of RTAs which contains dispositions on goods and services as well. Many of them have been set up between developed and developing Members, or among developing Members only.

### **Proposal**

6. As some Members have suggested, a better coherence should exist in the dimensions of development contained in the different WTO dispositions on RTAs.<sup>3</sup>

In that regard, co-sponsors consider that the Eighth Ministerial Conference could be an opportunity to make practical recommendations that, without prejudice of the Doha Round negotiations regarding RTAs, allow a pragmatic and more harmonized application of current WTO rules, which take into account the developmental aspects and necessities of many countries that set up RTAs.

At the same time, this would be a way to comply with the Doha Ministerial Declaration that requires to take into account the developmental aspects of regional trade agreements.<sup>4</sup>

7. It is also worth noting that in debates both in the Negotiating Group on Rules and in the Committee on Regional Trade Agreements, several Members have made proposals with regards to the developmental aspects of the RTAs.<sup>5</sup>

8. In line with the abovementioned considerations, co-sponsors propose that additional flexibilities should be considered for developing countries when they are contracting parties to RTAs notified under Article XXIV of GATT 1994. These flexibilities should be similar to, for instance, those already established in Article V.3 of GATS, and the Enabling Clause.

In view of the abovementioned considerations, co-sponsors suggest that the following paragraph be included in the Ministerial Declaration:

**"Without prejudice of the final results of current negotiations on regional trade agreements, and with the objective to contribute to a greater harmonization of current rules on regional trade agreements, when at least one of the parties to an agreement of the type considered in Article XXIV of GATT 1994 is a developing country, additional flexibilities shall be foreseen with regards to all the conditions stated in that Article, taking into account similar dispositions stated in Article V of GATS and also especially the Enabling Clause."**

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<sup>3</sup> See TN/RL/W/179, document of the European Communities.

<sup>4</sup> See paragraph 29 of Doha Ministerial Declaration.

<sup>5</sup> In addition to the abovementioned communications by China (TN/RL/W/155), the ACP Group (TN/RL/W/185) and the EC (TN/RL/W/179), see also the communications by Turkey (TN/RL/W/32 and TN/RL/W/167) and Australia (TN/RL/W/180).