SPEECH BY THE HONOURABLE CLEMENT J. ROHEE MINISTER OF FOREIGN TRDE AND INTERNATIONAL COOPERATION AT THE OPENING OF THE REGIONAL SEMINAR ON THE WTO AND REGIONAL TRADE AGREEMENTS FOR CARIBBEAN COUNTRIES SPONSORED BY THE WTO-INTAL-IDB GEORGETOWN, GUYANA SEPTEMBER 28-30, 2004

Distinguished Representatives and Officials,

Ladies and Gentlemen,

On behalf of the Government of Guyana, I am pleased to welcome you to this regional seminar and to thank in particular its organizers and sponsors, the WTO Secretariat, INTAL, IDB and CARICOM Secretariat for the efforts deployed to bring this seminar to fruition.

This Workshop is among the Technical Assistance activities, funded by the IDB-INTAL, which are being undertaken, on a regional basis, in the context of the Memorandum of Understanding between the WTO and the CARICOM Secretariats. Similar Workshops were held in Jamaica in May 2004, in Guyana 2002, Barbados in April 2003 and Saint Lucia in March 2004.

As the CARICOM WTO Ministerial Spokesperson, I have been able from my vantage point to note the contribution these seminars have made to regional preparedness and participation in international trade negotiations. This region has placed a high priority on training and there is no doubt that the region has expanded its cadre of trade specialists and trade negotiators as a result of these training activities. The initiatives of the CARICOM Secretariat on behalf of the region have thus born fruit and I would certainly wish to encourage it to continue along these lines.

The task of building negotiating skills is a long term one and for small countries it demands perseverance and sustained action to achieve the level of human resources needed to respond to the challenges. The Caribbean region in spite of its noteworthy efforts must still pursue tirelessly all opportunities that it can avail itself of to boost its WTO negotiating capacity and participation. This is

understandable in view of its limited representation in Geneva and the scarcity of financial resources in the region to actively put in place the required structures and human capacity. The funding of these seminars by the IDB and INTAL has to be therefore viewed and appreciated in this light.

As a small regional grouping, CARICOM has a very special interest in the topic chosen for analysis and discussion in this seminar. WTO rules govern regional integration bodies and therefore CARICOM has to meet WTO requirements to ensure it meets its WTO obligations. Many of these rules were set to guarantee consistency of practice across regions and non-violation of WTO liberalization commitments.

The rapid spread of regionalism today has made such a framework of rules even more desirable in view of the existing and potential conflicts between regionalism and multilateralism. Nearly all of the WTO's 133 Members have signed regional trade agreements with other countries. Some of these agreements are wide-ranging in scope; others aim to achieve trade liberalization across a limited number of sectors over time.

The number of RTAs notified to the GATT/WTO has exceeded the total WTO membership and has reached roughly166. The conclusion of RTAs continues relentlessly and has experienced an accelerated pace following the launch of the Doha Development Agenda (DDA) in November 2001. These Regional Trade Agreements are notified either under GATT Article XXIV or under the Enabling Clause or under GATS Article V. The Caribbean Community and Common Market – CARICOM- entered into force 1. August 1973 and was notified to the WTO on 14 October 1974 under GATT Article XXIV.

CARICOM is therefore part of this WTO rule making which is now caught up in a dynamism that imposes the need for constant revision and updating. Many issues that now arise were not foreseen years ago and consequently the WTO has to remain alert and poised to respond adequately. The current preoccupations of the WTO Rules Committee and Committee on RTAs are indeed a reflection of this both in terms of WTO negotiation and implementation of RTAs.

In this regard, it is useful to recall that CARICOM States noted with satisfaction the inclusion within the Doha Ministerial Declaration of negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions

applying to regional trade agreements. They also welcomed the fact that such negotiations would take into account the developmental aspects of regional trade agreements.

While the scope of negotiations will encompass all WTO provisions dealing with RTAs, there are some development provisions, such as Article XXIV of the GATT 1994, the relevant provisions of the Enabling Clause and Article V of the GATS which are of particular relevance to CARICOM countries.

The general timetable established for virtually all negotiations under the Doha Declaration applies to these negotiations. They were to end by 1 January 2005 but now have been extended as a result of the General Council decision on the July Framework Agreement. At the 2003 Fifth Ministerial Conference in Cancun, stock was taken of progress made, and some political guidance was given.

Progress however remains slow and a number of important issues for developing countries continue to be outstanding. One such issue is the relationship between Article XXIV and the Enabling Clause within GATT 1994 and The WTO Agreement.

RTAs involving developed and developing countries are subject to existing WTO provisions such as Article XXIV of the GATT and Article V of the GATS. RTAs in trade in goods between developing countries are subject to the Enabling Clause.

The Doha Mandate for negotiations on RTAs explicitly underscored the importance of the development dimension of regional agreements. This would involve not only clarifying the existing flexibility in WTO rules, but a review of the relationship between GATT Article XXIV and the Enabling Clause. Furthermore, the extent to which WTO rules governing RTAs take into account different development levels between RTA members also needs to be considered.

Small developing countries experience difficulties in adjusting to greater competition on their domestic markets. They also cannot fully exploit the new market access opportunities as they are constrained by bottlenecks on the supply side. Flexibility is needed during the transitional or implementation period of RTAs, taking into account the special needs of these small developing countries so as to facilitate their greater integration into the multilateral trading system. An appropriate length of the transitional period, the level of final trade coverage and the degree of asymmetry in

terms of timetables for tariff reduction and elimination are critically important for these economies.

In view of the difficulties being encountered recently by developing countries to obtain waivers for preferential trade agreements concluded between developed and developing countries, there is a need for new rules governing RTAs between developed and developing countries to take account of the special development needs and interests of developing, least developed countries and small developing countries. This is in accordance with the Doha Ministerial Declaration in view of the importance of these agreements to these countries

Under Article XXIV, free trade area agreements are a permitted exception to the basic principle of most-favored nation treatment (Article 1). Article XXIV allows for a degree of asymmetry in liberalization in the formation of FTAs and Customs Unions (CUs). This asymmetry however, does not currently cover the case for non-reciprocity in RTAs between developed and certain small economies over some relevant time frame. Flexibility is also required in such limited but deserving cases.

The Enabling Clause (Decision of 28 November 1979) provides for preferences that must be "generalized, non-reciprocal and non-

discriminatory". It also recognizes waivers from Article 1 of the GATT to deal with the special economic difficulties and the particular development, financial and trade needs of the least developed countries (LDCs) in paragraph 6 of the Clause. Equally, it makes provision for more favourable and differential treatment accorded by developed countries to be "designed and, if necessary, modified to respond positively to the development, financial and trade needs of developing countries" (Paragraph 3 (c)). The extent to which the Enabling Clause has satisfied the latter criterion is now under question as exemplified by the concerns raised in the Doha Mandate on S&D. Subjecting this clause to Article XXIV would further restrict its flexibility which would go against the interests of small developing countries.

Another important issue is the interpretation of paragraph 8(B): «substantially-all-trade>> contained in GATT Article XXIV. The elimination of duties and, apart from permissible exceptions, other restrictive regulations of commerce on "substantially-all-trade" in originating products is a requirement under Article XXIV for FTAs. The clarification of "substantially-all-trade" to be WTO compatible is needed in any new rules governing RTAs between developed and developing countries. Flexibility demands that more favourable consideration be given to an approach that offers an

adequate benchmark of product coverage in terms of trade flows and/or in terms of a certain percentage of tariff lines that would allow small developing countries to exclude certain sensitive sectors and adequately make provision for their adjustment.

Equally requiring attention is the definition of the «reasonable time-frame» provision. The Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994 defined a "reasonable period of time" in which trade restrictions should be eliminated on substantially all trade. "Within a reasonable period of time" is defined in the WTO as a period that "should exceed ten years only in exceptional cases". WTO compatibility remains controversial since this condition is subject to a certain degree of interpretation.

Longer time–frames are necessary for most small economies to take account of the longer duration of adjustment associated with transformation and adaptation to free trade in these economies. A time-frame is needed that would allow these economies to achieve their objective of taking advantage of additional market opportunities as well as adequately protecting their sensitive sectors

In conclusion Special and Differential treatment under Article XXIV is inadequate to meet the needs of developing countries especially in RTAs with developed countries. In addition, the existing provisions are not precise and effective allowing special and differential treatment to be negotiated on the basis of the outcome of the negotiations which in most cases will be to the detriment of small developing countries lacking political muscle.

Stricter disciplines and procedures are required with respect to product coverage, transitional periods and the degree of asymmetry in liberalization schedules that would provide a sound legal basis for RTAs between developed and developing countries. It would significantly assist developing countries negotiating FTAs with different developed regions and required to instantaneously extend MFN concessions to third developed countries.

I have focused on ways of improving the Legal Framework of Article XXIV and some potential areas of difficulty especially for small countries. The reason for this focus is that small developing countries such as those in the Caribbean and Pacific are now faced with negotiating a free trade agreement with the EU or as in the case of the Caribbean with the Americas under the FTAA. The

WTO must be made to be more supportive of these negotiations and it is in this direction that we must address our efforts.

In examining your programme, I am convinced that you will have an opportunity to examine these issues further and thus deepen your knowledge of these complex matters. This will certainly allow you to make better judgments in the negotiations ahead and act in the best interests of the region.

It is therefore with this sense of promise that I wish you all the best in your deliberations and thank you for your kind attention.