

NEGOTIATIONS ON REGIONAL TRADE AGREEMENTS: KEY ISSUES FOR CONSIDERATION

Communication from Australia

The following communication, dated 23 April 2002, has been received from the Permanent Mission of Australia.

BACKGROUND

While the WTO recognizes the legitimacy of pursuing economic development through regional trade agreements (RTAs), the relevant disciplines and procedures lack clarity. Consequently, it has been difficult to assess the compliance of RTAs with these disciplines and the Committee on Regional Trade Agreements (CRTA) has been unable to carry out effectively its functions of review and oversight of the implementation of RTAs.

Ministers at Doha therefore agreed to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements.

PROPOSAL

Work to clarify and improve relevant RTA provisions should start by a consideration of (1) procedural issues and (2) systemic issues. Many relevant issues have already been identified during discussions in the CRTA, and are reflected in the systemic paper on regional trade agreements (WT/REG/W/37). Other suggestions should emerge from the consultations among participants in the negotiations.

Some detailed suggestions of issues for consideration follow.

1. Procedural issues

Improve the efficiency and effectiveness of the Committee on Regional Trade Agreements

- notification requirements, particularly in terms of time frames and trade statistics;
- legal status of CRTA examination reports;
- requirements of periodic reporting.

2. Systemic Issues

A. Issues specifically related to WTO provisions on RTAs

- thresholds for meeting the requirement that RTAs cover “substantially all the trade” (GATT Article XXIV) or have “substantial sectoral coverage” (GATS Article V), including the GATS requirement that “agreements should not provide for the *a priori* exclusion of any mode of supply”;
- scope of “other regulations of commerce” (GATT Article XXIV) and “substantially all discrimination” (GATS Article V), including scope of the lists of regulations permitted/exceptions;
- ways to measure “level of duties and other regulations of commerce” (GATT Article XXIV) and “level of barriers” (GATS Article V);
- extent to which WTO rights and obligations for “regulations of commerce” (eg. anti-dumping, countervailing duties and safeguards provisions) can be derogated in RTAs;
- other thresholds for RTAs, e.g. by linking the extension of preferences under a proposed RTA to a reduction in trade barriers on an MFN basis;
- relationship between the various WTO rules on RTAs (GATT Article XXIV and its understanding, GATS Article V, Enabling Clause);
- extent to which agreements covered by the Enabling Clause (1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries) should be subject to the provisions of GATT Article XXIV.

B. General issues

- relationship between WTO provisions on RTAs and WTO accessions;
 - extent to which the enlargement of existing RTAs should be regulated;
 - extent to which provisions of overlapping RTAs can coexist;
 - extent to which compensation should be provided on the enlargement/formation of RTAs;
 - extent to which provisions on preferential rules of origin should be developed.
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