

WORLD TRADE ORGANIZATION

RESTRICTED

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Committee on Regional Trade Agreements

GUIDELINES ON PROCEDURES TO IMPROVE AND FACILITATE THE EXAMINATION PROCESS¹

Note by the Chairman

The Committee on Regional Trade Agreements (RTAs) has been mandated "to develop, as appropriate, procedures to facilitate and improve the examination process" (item 1(c) of its Terms of Reference).

The Guidelines, which have been drawn up on the responsibility of the Chairman of the Committee, define some procedural steps which might facilitate and improve the examination process. These Guidelines are to be considered evolutionary and can be reviewed, in light of experience.

For ease of reference, procedural steps have been grouped, when feasible, according to the following four phases to which relations of a RTA with the WTO may be linked:²

- I. Notification by the Parties
- II. Initial information on the RTA
- III. Examination according to relevant terms of reference
 - (a) Exchange of views on the RTA's conformity to relevant WTO rules
 - (b) Supplementary written and oral information on the RTA
 - (c) Elaboration of the report on the examination
- IV. Decision on appropriate action by the relevant body

¹The Committee on Regional Trade Agreements, at its meeting on 2 May 1997, took note of the Guidelines on Procedures to Improve and Facilitate the Examination Process.

²"Reporting on the operation of RTAs" would constitute a fifth phase (please refer to document WT/REG/W/3). The Committee has also been mandated "to consider how the required reporting on the operation of [RTAs] should be carried out and make appropriate recommendations to the relevant body" (item 1(b) of the Terms of Reference).

PROCEDURES TO IMPROVE AND FACILITATE THE EXAMINATION PROCESS

Chairman's Guidelines

1. With the aim of enhancing transparency and assisting the Committee in its work, WTO Members engaged in the process of establishing a RTA are invited to share with the Committee relevant information in the early stages of such process, prior to making the formal notification.
2. Opportunity will be provided at meetings of the Committee, separately from the process of examination, for Members to seek information on RTAs that have not yet been notified.

I. Notification by the Parties

3. WTO Members' notification obligations for RTAs are contained in the following provisions:

GATT 1994 "Any contracting party deciding to enter into a customs union or free-trade area, or an interim agreement leading to the formation of such a union or area, shall promptly notify the CONTRACTING PARTIES and shall make available to them such information regarding the proposed union or area as will enable them to make such reports and recommendations to contracting parties as they may deem appropriate." *Article XXIV:7(a)*

"Any contracting party taking action to introduce an arrangement pursuant to paragraph ... 3 above or subsequently taking action to introduce modification or withdrawal of the differential and more favourable treatment so provided shall notify the CONTRACTING PARTIES and furnish them with all the information they may deem appropriate relating to such action."³ *Enabling Clause, para. 4(a)*

GATS "Members which are parties to any agreement referred to in paragraph 1 shall promptly notify any such agreement and any enlargement or any significant modification of that agreement to the Council for Trade in Services. They shall also make available to the Council such relevant information as may be requested by it."⁴ *Article V:7(a)*

³Paragraph 3 reads as follows: "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 products imported from one another".

⁴Paragraph 1 refers to agreements "liberalizing trade in services between or among the parties to such an agreement".

4. The Parties to a RTA should supply the relevant treaties or agreements to the Secretariat together with the text of the notification for circulation to Members as official WTO documents. After consideration by the relevant WTO body,⁵ the terms of reference for the examination of a notified RTA, if any, are adopted by that body and the examination is referred to the Committee.

5. A register of the information provided to WTO Members on each RTA will be maintained by the Secretariat and made available to the Committee periodically.

II. Initial information on the RTA

6. The Committee, before proceeding with a first round of examination of a notified RTA, may require some initial, basic information, to be conveyed by the Parties:

- (i) according to the Chairman's Guidelines on a "Standard Format for Information on RTAs" (document WT/REG/W/6) or those on a "Standard Format for Information on Economic Integration Agreements on Services" (document WT/REG/W/14);
- (ii) in the form of written replies to written questions submitted by interested Members.

7. Though optional, the use of the Standard Formats by the Parties is strongly encouraged, as a means of supplying initial information on RTAs in a structured and comprehensive way.

8. Once the examination of a RTA has been referred to the Committee, the Chairperson, in consultation with the Parties, should establish a work programme for the examination of the individual RTA, in particular with respect to the format and timing of the submission of initial information, and the scheduling of the first examination meeting. The Committee should be informed, as soon as possible, of that work programme.

9. Information made available under the corresponding Standard Format, or resulting from the preliminary questions-and-replies process, should be circulated to Members as a formal document at least three weeks before the first round of examination of the RTA.⁶

III. Examination according to relevant terms of reference

10. In the case of RTAs notified under both GATT 1994 and GATS provisions, examination of the "goods" and "services" aspects should be dealt with back-to-back, wherever possible.

11. With respect to the period devoted by the Committee to the examination of a RTA, or the number of meetings for treating a single RTA, flexibility should be allowed. More expedient examinations could take place on an *ad hoc* basis, once all interested Members agreed that there was no need to pursue issues further or pose further questions to the Parties to an RTA.

⁵The Council for Trade in Goods, the Council for Trade in Services or the Committee on Trade and Development, as the case may be.

⁶To speed up the processing and dissemination of information (including trade data), delegations should submit it electronically, whenever possible.

(a) Oral supply of information on the RTA and exchange of views on its conformity to relevant WTO rules

12. The Secretariat shall elaborate summary minutes for Committee deliberations related to the examination of individual RTAs.⁷ These should be made available to Members at least three weeks before another round of examination is scheduled for the corresponding RTA.⁸

(b) Supplementary written information on the RTA

13. Supplementary information on individual RTAs may be required throughout the examination process. Members should endeavour to submit written questions sufficiently in advance to enable the corresponding replies by the Parties to be made available to the Committee at least three weeks before the meeting scheduled for examining the RTA.

(c) Elaboration of the report on the examination

14. The report would consist of a "factual record" of the examination and the "conclusions" reached by the Committee. The summary minutes of CRTA meetings devoted to the examination of individual RTAs (paragraph 12 above) would constitute the factual account of the examination report, embodying all comments and views expressed by delegations in the course of the examination. The Committee's assessment of a RTA, according to the mandate, would constitute the "conclusions" part of the report, to be presented to the Committee in draft form for consideration and agreement.

15. The report on the examination of each individual RTA could follow the draft format outlined below:

A. Background

1. Notification of the RTA to the relevant body/bodies.
Brief description of the main features of the RTA.
2. Terms of reference of the examination.

B. Factual Record of the Examination

1. Dates of meetings devoted to the examination and Chairmanship
2. List of basic documentation, to be annexed
3. Summary minutes of deliberations, to be annexed⁹

C. Conclusions of the Examination of the RTA in Accordance with the Agreed Terms of Reference and in the Light of the Relevant Provisions of the WTO

16. Annexes to the examination report, in particular those listed under B.2 and B.3 above, would form an integral part of the report to be adopted by the Committee and then transmitted to the relevant body, according to the terms of reference of the examination.

IV. Decision on appropriate action by the relevant body

⁷The use of the Standard Formats to present preliminary information would allow examination discussions at meetings to become more structured along the headings there identified and assist with the timely preparation of summary minutes.

⁸Factual corrections of summary minutes will be dealt with through Corrigenda to the original document and incorporated in the final, consolidated version annexed to the examination report.

⁹Summary minutes annexed to the report would take the form of one consolidated document, whenever practical.