THE WTO AND REGIONAL TRADE AGREEMENTS

Rohini Acharya
RTA Section, TPRD
World Trade Organization
### What is an RTA in the WTO?

#### Types of preferential trade liberalization:

<table>
<thead>
<tr>
<th>Concessions</th>
<th>Members</th>
<th>Examples</th>
<th>RTA?</th>
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<tbody>
<tr>
<td>Reciprocal</td>
<td>Selective</td>
<td>EU, NAFTA, Mercosur, EPAs</td>
<td>✅</td>
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<tr>
<td>Unilateral</td>
<td>Selective</td>
<td>Cotonou, AGOA</td>
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<tr>
<td>Unilateral</td>
<td>Generalized</td>
<td>GSP</td>
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Regional Trade Agreements and the Multilateral Trading System

As of 7 February 2019, 292 RTAs had been notified to the WTO. These correspond to 469 notifications (goods, services, accessions) of RTAs that are currently in force.

Evolution of Regional Trade Agreements in the world, 1948-2019

Note: Notifications of RTAs: goods, services & accessions to an RTA are counted separately. Physical RTAs: goods, services & accessions to an RTA are counted together. The cumulative lines show the number of notifications/physical RTAs that were in force for a given year.

Source: RTA Section, WTO Secretariat, February 2019.
Types of RTAs

- FTAs account for the great majority of RTAs notified and in force.

**Notified RTAs in force**

- Free Trade Agreement: 87%
- Partial Scope Agreement: 6%
- Customs Union: 7%

Source: RTA Section, WTO Secretariat, February 2019.
The global landscape of RTAs

Which Regions are most active?

CARIBBEAN
WEST ASIA
OCEANIA
MIDDLE EAST
AFRICA
CENTRAL AMERICA
NORTH AMERICA
CIS
SOUTH AMERICA
EAST ASIA
EUROPE

- Intra-Regional RTAs in force
- Cross-Regional RTAs in force
- Early Announcements of RTA Negotiations

Note: RTAs involving countries/territories in two (or more) regions are counted more than once.
Source: RTA Section, WTO Secretariat, February 2019.
THE MULTILATERAL RULES ON RTAs

GATT Article XXIV, the Enabling Clause and
GATS Article V
Common Principles*

• The purpose of an RTA is to facilitate trade among the parties

• The attainment of internal trade liberalization must not entail placing barriers towards third parties higher than those existing before the formation of the RTA

• The RTA must provide for mutual/reciprocal trade concessions

*GATT Art. XXIV:4; “Enabling Clause” para. 3(a); GATS Art. V:4
GATT Article XXIV & Understanding

Provides for agreements which result in the establishment, among WTO Members, of 2 types of trade relations:

- Customs unions
- Free-trade areas

It also provides for:

- Interim agreements

Customs unions or free-trade areas implemented in stages, over a transition period
GATT Article XXIV & Understanding

Establishes two fundamental conditions with which RTA parties must comply in order to benefit from the exception provided:

1. That the RTA qualifies as a customs union, a free-trade area, or leads to one or the other.

According to definitions in XXIV:8

2. That formation of the RTA does not imply the application of more restrictive trade measures vis-à-vis other, non-party WTO Members.

XXIV:5
1. Under which criteria can an RTA be deemed to be:

- A customs union?
  - Tariffs and other restrictive trade measures are eliminated on substantially all (originating) trade among the parties (Article XXIV:8)

- A free-trade area?
  - Tariffs and other trade measures are substantially harmonized among the parties (Article XXIV:8(a)(ii))
GATT Article XXIV & Understanding

2. How can compliance with the criterion of “trade policy neutrality” vis-à-vis non-parties be assessed?

Parties to a free-trade area

- Standstill in MFN (applied) duties and “other regulations of commerce” (Article XXIV:5(b))

Customs union

- On average, no increase in applied MFN duties (Article XXIV:5(a))
- Possible individual analysis of “other regulations of commerce”
Enabling Clause

Authorizes, in its paragraph 2(c), WTO developing country Members to depart from the MFN clause (Article I), when concluding:

1. among themselves
2. preferential regional or global arrangements
3. containing mutual concessions
4. on (reduced or zero) tariffs
5. and non-tariff measures (subject to WTO guidelines, in principle).

Only additional criteria are contained in para. 3(a & b).
The GATS permits Members to establish economic integration agreements and seek departures from MFN
BUT, Certain conditions apply:

1. Trade liberalization among the parties should cover a broad range of services activities.

2. No non-party WTO Member should encounter a higher overall level of barriers to its services trade as a result of the RTA.
GATS Article V

To comply with the first criterion, the agreement should:

- Have “substantial sectoral coverage”
- Not excluding, a priori, any of the 4 modes of supply for the sectors covered
- In the sectors covered, substantially all discrimination should be absent
- Elimination of existing, prohibition of new or more restrictive, discriminatory measures
- Number of sectors, trade affected, modes of supply
Developing countries participating in an agreement are granted flexibility in terms of:

- Overall and individual sectors and subsectors

When the agreement is concluded among developing countries:

- Preferences may be granted to the parties’ “own” service providers only

Para. 3a

Para. 3b
### Summing-up

When entering an RTA, a WTO Member should invoke one of the following provisions, and comply with the relevant conditions:

<table>
<thead>
<tr>
<th>RTA parties</th>
<th>Developed only</th>
<th>Developing only</th>
<th>Developing &amp; developed</th>
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<tbody>
<tr>
<td>Trade in goods</td>
<td><strong>GATT XXIV</strong></td>
<td><strong>Enabling Clause</strong></td>
<td><strong>GATT XXIV</strong></td>
</tr>
<tr>
<td>Trade in services</td>
<td><strong>GATS V</strong></td>
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Transparency Mechanism

<table>
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<tr>
<th>GATT Art. XXIV</th>
<th>GATS Art. V</th>
<th>Enabling Clause – Para. 2(c)</th>
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</thead>
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Transparency Mechanism for RTAs

General Council’s Decision of 14 December 2006 (WT/L/671)

(Provisional application pending conclusion of the Doha Round)

- improves existing RTA transparency provisions
- ensures coherence of transparency provisions for all RTAs
- outlines specific guidelines for the provision of RTA data
- charges the Secretariat with the preparation of a factual presentation of all RTAs notified to the WTO
Transparency Mechanism

Early Announcement → Notification → Subsequent Reporting

- RTA Negotiations
- RTA Signature
- WTO website

CTD
Enabling Clause

TM Process
Factual Presentation
Conclusion and Publication

CRTA
- GATT Art. XXIV
- GATS Art. V

TM Process
Factual Presentation
Conclusion and Publication

Changes to the RTA
Implementation Report
Exchange of views:
- CRTA or
- CTD

Enabling Clause RTAs notified to WTO
for Factual Abstracts
for RTAs whose “factual examination” is concluded
Transparency Process

Notification (Section B of the Transparency Mechanism)

https://www.wto.org/english/tratop_e/region_e/trans_mecha_e.htm

WT/REG/16
A WTO Database on RTAs

• **Mandate –* (Para 21 of WT/L/671)

  ➢ The aim is to provide an RTA Information System (RTA-IS), to store, maintain, analyse and disseminate factual and analytical information on RTAs

• **Objectives**

  ➢ Standardize, store, verify and maintain RTA-related textual information and RTA tariff and trade data
  ➢ Provide statistical indicators for RTA analysis
  ➢ Enhance the transparency and accessibility of information on RTAs through its dissemination on the WTO web site

• **Timeframe**

  ➢ January 2009 available to the public (http://rtais.wto.org)
  ➢ Long term goal to provide up to date information, including data on trade and tariffs covered by individual agreements.
THANK YOU

Rohini Acharya
RTA Section
Trade Policies Review Division, WTO
rohini.acharya@wto.org