



REGIONALISM AND MULTILATERALISM

Work On Systemic Issues In The WTO



Presentation of Amb. Edsel T. Custodio
at the PECC Trade Policy Forum
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The Three Pronged Approach

- Identify subjects to be placed in the “Systemic Basket” for debates.
- How to structure the Systemic Debates.
- What emphasis to give different components.

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Structure of Debates

- Legal Analysis
of Relevant WTO Rules on RTAs
- Economic Aspects of RTAs
- Other Considerations

Legal Analysis of Relevant WTO Rules on RTAs

Paragraphs 5 - 8

A. In the case of Customs Unions

- Duties and Other Regulations of Commerce (ORC) imposed on non-members not on the whole higher or more restrictive [Article XXIV, 5(a)]
- Duties and Other Restrictive Regulations of Commerce (ORRC) are eliminated on “substantially all the trade” [Article XXIV, 8(a)]

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B. In the case of FTAs

- Duties and ORC maintained by each constituent territory not higher or more restrictive [Article XXIV 5(b)]
- Duties and ORRC eliminated on “substantially all trade” [Article XXIV 8(b)]

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C. In the case of Interim Agreements, 5(c)

- A plan and schedule of formation
- within reasonable length of time

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Paragraphs 6

Modification and Renegotiation
of Tariffs under Article XXVIII

Paragraph 7

Notification

Paragraph 10

Approval by 2/3 majority
of non-fully compliant proposals

1994 Understanding of Interpretation

- RTAs to be consistent with Art. XXIV must satisfy, inter alia, provisions of paras. 5,6,7 & 8
- On 5(a) evaluation of the ‘*general incidence of duties & ORRC...*’ shall be based upon an overall assessment of weighted average tariff rates applied and customs duties collected

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- On **Para. 5(c)** reasonable length of time not to exceed 10 years
- On **Para. 6** renegotiation must be commenced before tariff concessions are modified or withdrawn
- On **Para. 7** Review of Notification by Working Party

The General Agreement on Trade in Services (GATS)

Article V

GATS shall not prevent Members from entering into an agreement liberalizing trade... between or among themselves....

Provided such an agreement

- has ‘substantial sectoral coverage’ and
- provides for the absence or elimination of substantially all discrimination in the sense of Art. XVII (national treatment). In evaluating this, consideration may be given to the relationship of the agreement to a wider process of an Economic Integration Agreement (EIA)

· · Illustrative List of Themes Suggested for CRTA Consideration

Unless specified, the themes apply to RTAs in both the goods area and the services area.

However, if **marked (*)**, such themes are only applicable to RTAs in the **area of goods**. On the other hand, if **marked (**)** only applicable to RTAs in the **area of services**.

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1. Internal Trade Liberalization

- a. Coverage and Exceptions
- b. Rules of Origin Regime (*)
- c. Denial-of-Benefit Rules (**)
- d. Liberalization Process
and Transitional Provisions

Three Major Consequences of the EC Diagonal ROO

- That semi-finished products originating in any country of the system and which are processed or assembled in any other partner country may always be considered as originating products
- That originating products can be traded between any of the countries involved and
- A 'general tolerance' rule provides for more flexibility for third country materials to be considered originating

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2. Trade Regulatory Provisions

- a. Anti-dumping (*)
- b. Countervailing Duties (*)
- c. Technical Barriers to Trade (*)
- d. Sanitary and Phytosanitary Regulations (*)
- e. Safeguards (global and intra-RTA)
- f. Subsidies and State Aid

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3. Other Provisions

- a. Government Procurement
- b. Intellectual Property
- c. Competition Policy
- d. Investment
- e. Development

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4. Institutional Framework

- a. Decision-making
- b. Accession
- c. Dispute Settlement Provisions



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