

Committee on Regional Trade Agreements

DRAFT REPORT (1998) OF THE COMMITTEE ON REGIONAL TRADE AGREEMENTS TO THE GENERAL COUNCIL

Chairman: Mr. Jean-Marie Noirfalisse (Belgium)

I. INTRODUCTION

1. At its first meeting in 1998, the Committee on Regional Trade Agreements (CRTA) elected Mr. J.-M. Noirfalisse (Belgium) as Chairman of the Committee. Mr. C. Bouah-Kamon (Côte d'Ivoire) served as Vice-Chairman throughout the year. Changes took place in the other Vice-Chairmen of the Committee: Mr. Chul-Ki Ju (Korea) succeeded Mr. S. Harbinson (Hong Kong, China) and Mr. C. Pérez del Castillo (Uruguay) succeeded Mr. E. Loizaga Caballero (Paraguay), who in turn had replaced Mr. M.-J. Berthet (Uruguay).

2. The Committee continued its work in 1998 in accordance with its Terms of Reference.¹

3. By the year's end, the Committee will have held five sessions, each of which included both examinations of individual regional trade agreements (RTAs) and discussions of systemic and general matters. The minutes of those meetings are available in separate documents (see Attachment 1). A large number of informal consultations has also been held, generally associated with the examination process.

II. OBSERVER STATUS

4. At the Committee's nineteenth session, consideration was given to the question of inter-governmental observership, as decision was pending on a number of requests since 1997² and on additional requests received in the course of 1998. Discussion will continue at the Committee's twentieth session, on the basis of an updated list of such requests³ and a communication received in support of the request for observership by the Latin American Integration Association.⁴

III. EXAMINATION OF REGIONAL TRADE AGREEMENTS

5. Under item 1(a) of its Terms of Reference, the Committee is mandated to examine RTAs referred to it by the Council for Trade in Goods (CTG), the Council for Trade in Services (CTS) or the Committee on Trade and Development (CTD), depending on the type of agreement.

¹ Document WT/L/127 contains the Decision of the General Council which established the Committee on Regional Trade Agreements and provided its Terms of Reference.

² Document WT/REG/W/11.

³ Document WT/REG/W/11/Add.1

⁴ Document WT/REG/W/30: Communication received from the delegation of Uruguay, on behalf of the Group of Latin American and Caribbean Countries (GRULAC).

6. In 1998, the Committee endeavoured to accelerate the examination of agreements which had already commenced, as well as to handle new agreements referred to it. The Committee has currently under its purview a total of 62 RTAs. [To date, the examination of 54 RTAs have been referred to the Committee by the CTG, seven by the CTS and one by the CTD.](#) Draft reports on the examination of 27 agreements are currently under consideration; for 14 other agreements, reports are being drafted or factual examinations are well engaged, while the first round of examination for the remaining 21 RTAs is scheduled for either the Committee's twentieth session or early in 1999. (See Attachment 2). [Thus far, no report has been adopted.](#)

7. [In examining individual agreements,](#) the Committee worked on the basis of [examination](#) reports consisting of four parts: A. Background; B. Factual Report of the Examination; C. Outcome of the Examination in Accordance with the Terms of Reference; and D. Conclusions.

8. [The Committee encouraged Members that had not done so to notify RTAs under the relevant WTO rules.](#)

IV. REPORTING ON THE OPERATION OF AGREEMENTS

9. To fulfil item 1(b) of its Terms of Reference, the Committee adopted, on 20 February 1998, recommendations to the CTG, CTS and CTD with respect to how the required reporting on the operation of RTAs should be carried out. The nature of these recommendations is essentially procedural and their implementation would not entail any change in Members' legal rights and obligations. The recommendations are geared toward standardizing, as much as possible, the presentation of reports on regional trade agreements to WTO Members; ensuring the provision of consistent information to the CRTA on developments in such agreements, which may be useful to the Committee's work under its terms of reference; and making operational the implementation of reporting requirements contained in WTO legal texts.

10. Following the adoption of these recommendations, and on the basis of an Informal Note by the Secretariat distributed in March 1998, discussions were held on how to operationalize such recommendations, in particular regarding RTAs in the goods area. Agreement on that by all Members was secured at the Committee's nineteenth session in September. The recommendations have been transmitted to relevant bodies. At its twentieth session, the Committee was due to consider a schedule for the submission of the periodic reports.

V. PROCEDURES TO FACILITATE AND IMPROVE THE EXAMINATION PROCESS

11. Regarding item 1(c) of the Committee's Terms of Reference, the Committee acknowledged that both the "Standard Format for Information on Regional Trade Agreements" used in the area of goods and the "Standard Format for Information on Economic Integration Agreements" used in the area of services had served in moving the examination process forward.

VI. SYSTEMIC IMPLICATIONS OF REGIONAL TRADE AGREEMENTS AND INITIATIVES FOR THE MULTILATERAL TRADING SYSTEM AND THE RELATIONSHIP BETWEEN THEM

12. Work on item 1(d) of the Committee's Terms of Reference progressed along three distinct lines. First, through RTA examinations, systemic discussions or written submissions, the Committee updated and refined its identification of issues requiring consideration from a systemic viewpoint.

13. Second, the Secretariat prepared two informal papers, providing factual information on RTAs to serve as a tool for the Committee's discussion on systemic issues (see Attachment 3). At the sixteenth session, a list was distributed showing the status of all RTAs notified to the GATT/WTO (under Article XXIV, the Enabling Clause and Article V of the GATS) and in force. At the nineteenth session, the Secretariat circulated an informal note "mapping" RTAs, which included details on historical developments, as well as the regional dimension, depth of integration and frequency of RTAs. In order to give a more accurate picture of what regional integration might mean ten years from now, the note also included available information on RTAs which had not yet been notified and regional initiatives under negotiation.

14. Third, the Committee **considered** some of the issues identified as requiring consideration from a systemic viewpoint through legal and economic analyses, as well as horizontal comparisons of RTAs:

- Discussions on "substantially all the trade" (SAT), **in particular, whether SAT should be interpreted in a quantitative or qualitative manner**, continued in 1998; written contributions were made by the Secretariat and the delegations of Australia and Hong Kong, China. The proposals that the SAT requirement be measured in terms of tariff lines as well as trade flows and that preferential rules of origin be related to a quantitative definition of SAT allowed the Committee to explore whether it would be appropriate and practical to apply a specific standard or a formula to define the concept. **While recognizing the contribution to the debate, not all delegations agreed with the proposals put forward in these two papers.**
- The Committee pursued its consideration of the scope of the term "other regulations of commerce" (ORCs) as contained in GATT Article XXIV provisions, on the basis of written contributions by the delegations of Australia; Hong Kong, China; Japan and Korea, and by the Secretariat. During the first part of 1998, consideration **was given** mainly to the legal **and economic** aspects of the term **and** discussions evolved around the following topics: the relationship between the different parts of Article XXIV, in particular paragraphs 4, 5 and 8; the relationship between Article XXIV and other GATT/WTO provisions; the identification and analysis of measures or regulations covered by the term ORC; and the difference between free-trade areas and customs unions. In the second half of the year, the Committee **began** to address ORCs also from an horizontal approach, on the basis of **an inventory prepared by the** Secretariat of non-tariff provisions governing trade in goods. This document presented, in aggregate form and through statistical frequency tables (i.e. without identification of individual agreements), the results of analysis made on 69 RTAs notified to the GATT/WTO concerning the way these agreements made use of different non-tariff measures. For presenting the information, the Secretariat grouped RTAs according to a number of descriptive parameters so as to highlight trends, recurrent features or patterns. The Secretariat has been requested to conduct further analysis on rules of origin, contingency instruments and standards along similar lines.

VII. FINAL REMARKS

15. During 1998, the Committee completed all the formal steps for the system of reporting on the operation of agreements to become fully operational in 1999. Despite its heavy workload and delays in the submission of relevant material, the Committee also made progress in examining RTAs. Although some delegations indicated their willingness to move forward to the adoption of reports on the basis of the existing rules, the examinations were impeded, *inter alia*, by a lack of consensus on the interpretation of the WTO rules relating to RTAs.⁵ On systemic issues, the Committee held discussions on some important topics and identified different approaches to these subjects.

16. During 1999, the CRTA will continue its work on the examination of individual agreements. It will also continue to examine systemic issues, and, as appropriate, make recommendations to the General Council on issues that may need to be clarified, in order to provide a clearer understanding on the rules with which regional trade agreements should comply, both in goods and services.

⁵ In order to help the consensus-building process, the Chairman of the CRTA made a statement at the General Council meeting held on 15 July.

ATTACHMENT 1

Minutes of the Meetings held in 1998

Sixteenth Session - 16-18 and 20 February

WT/REG/M/16

WT/REG11/M/2
WT/REG33/M/2
WT/REG41/M/2
WT/REG42/M/2
WT/REG32/M/1
WT/REG50/M/2
WT/REG51/M/2
WT/REG52/M/2

CEFTA
Slovenia-Bulgaria
Czech-Bulgaria
Slovak-Bulgaria
EC-Slovenia
EC-Hungary, Services
EC-Poland, Services
EC-Slovak, Services

Seventeenth Session - 4-5 and 7-8 May 1998

WT/REG/M/17

WT/REG3/M/7
WT/REG11/M/3
WT/REG33/M/3
WT/REG38/M/1
WT/REG39/M/2
WT/REG41/M/3
WT/REG42/M/3
WT/REG50/M/3
WT/REG51/M/3
WT/REG52/M/3

EC Enlargement
CEFTA
Slovenia-Bulgaria
Canada-Chile
European Union, Services
Czech-Bulgaria
Slovak-Bulgaria
EC-Hungary, Services
EC-Poland, Services
EC-Slovak, Services

Eighteenth Session - 6-7 and 10 July

WT/REG/M/18

WT/REG3/M/8
WT/REG32/M/2
WT/REG38/M/2
WT/REG39/M/3
WT/REG50/M/4
WT/REG51/M/4
WT/REG52/M/4

EC Enlargement
EC-Slovenia
Canada-Chile
European Union, Services
EC-Hungary, Services
EC-Poland, Services
EC-Slovak, Services

Nineteenth Session - 23-25 September 1998

WT/REG/M/19

WT/REG38/M/3
WT/REG39/M/4
WT/REG44/M/1
WT/REG/GEN/M/1

Canada-Chile
European Union, Services
Romania-Moldova
Pan-European System of
Cumulation of Origin

ATTACHMENT 2

RTAs for which draft reports on the examination are currently under consideration:

ANZCERTA (Services)	Canada-Israel FTA
EC-Bulgaria IA	EC-Czech Republic IA
EC-Enlargement (Goods)	EC-Enlargement (Services)
EC-Estonia FTA	EC-Hungary IA
EC-Latvia FTA	EC- Lithuania FTA
EC-Poland IA	EC-Romania IA
EC-Slovak Republic IA	EFTA-Bulgaria FTA
EFTA-Estonia FTA	EFTA-Hungary FTA
EFTA-Israel FTA	EFTA-Latvia FTA
EFTA-Lithuania FTA	EFTA-Poland FTA
EFTA-Romania FTA	EFTA-Slovenia FTA
Iceland-Faroe Islands	NAFTA (Goods)
NAFTA (Services)	Norway-Faroe Islands
Switzerland-Faroe Islands	

RTAs for which reports are being drafted or factual examinations are well engaged:

Bulgaria-Czech Republic FTA	Bulgaria-Slovak Republic FTA
Bulgaria-Slovenia FTA	CEFTA
Canada-Chile FTA	EC-Hungary EA (Services)
EC-Poland EA (Services)	EC-Slovak Republic EA (Services)
EC-Slovenia IA	EC-Turkey CU
European Union (Services)	EC-Faroe Islands
MERCOSUR	Romania-Moldova FTA

RTAs for which factual examination has not yet commenced:

Czech Republic-Estonia FTA	Czech Republic-Latvia FTA
Czech Republic-Lithuania FTA	EC-Palestinian Authority FTA
EC-P. of Andorra CU	Israel-Czech Republic FTA
Israel-Hungary FTA	Israel-Slovak Republic FTA
Poland-Lithuania FTA	Slovak Republic-Estonia FTA
Slovak Republic-Latvia FTA	Slovak Republic-Lithuania FTA
Slovenia-Estonia FTA	Slovenia-Latvia FTA
Slovenia-Lithuania FTA	Slovenia-F.Y.R.O.M. FTA
Slovenia-Croatia FTA	Turkey-Hungary FTA
Turkey-Israel FTA	Turkey-Lithuania FTA
Turkey-Romania FTA	

ATTACHMENT 3

List of Documents on Systemic Issues

WT/REG/W/17/Add.1	Note by the Secretariat on "Other Regulations of Commerce"
WT/REG/W/17/Corr.1	Note by the Secretariat on "Other Regulations of Commerce"
WT/REG/W/17/Rev.1	Note by the Secretariat on "Systemic Issues Related to Other Regulations of Commerce"
WT/REG/W/18	Communication from Australia on "Substantially all the Trade and Other Regulations of Commerce"
WT/REG/W/19	Communication from Hong Kong, China on "Other Regulations of Commerce and Substantially all the Trade"
WT/REG/W/21/Add.1	Note by the Secretariat on "Substantially all the Trade"
WT/REG/W/21/Rev.1	Note by the Secretariat on "Systemic Issues Related to Substantially all the Trade"
WT/REG/W/22&Add.1	Communication from Australia on "Substantially All the Trade"
WT/REG/W/24	Communication from Hong Kong, China: "An Analysis of the Term Substantially all the Trade Pursuant to the Customary Rules of Interpretation of Public International Law (VCTL Art.31)"
WT/REG/W/25	Communication from Australia on "Other Regulations of Commerce and Other Restrictive Regulations of Commerce"
WT/REG/W/26	Note by the Secretariat on "Inventory of Non-Tariff Provisions in Regional Trade Agreements"
WT/REG/W/27	Statement by Hong Kong, China: "Comments on Secretariat Inventory of NTMs in WT/REG/W/26"
WT/REG/W/28	Communication from Japan on "Other Regulations of Commerce in Article XXIV:5"
WT/REG/W/29	Communication from Japan on "Other Regulations of Commerce"
WT/REG/W/31	Communication from Hong Kong, China: "An Illustrative List of Elements in Article XXIV Requiring Clarification"

Non papers

- Non-paper by the Republic of Korea on "Preferential Rules of Origin and Other Regulations of Commerce", 8.7.98
 - Informal Paper by the Secretariat "Mapping on Regional Trade Agreements", updated on 19.11.988, Job No. 6240
 - Informal Paper by the Secretariat "Basic Information on Regional Trade Agreements Notified to the GATT/WTO and in Force", updated on 19.11.98, Job No. 6239
-