



International Chamber of Commerce

The world business organization

Regional trade agreements and the multilateral trading system

Prepared by the Commission on Trade and Investment Policy November 2002

The primacy of the multilateral trading system

ICC considers multilateral agreements in the World Trade Organization (WTO) to be the preferred instruments for liberalizing international trade. Such agreements ensure a non-discriminatory approach with potential mutual benefits for all parties. They reduce trade distortions and simplify administration. The eight rounds of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT) have made major contributions to economic growth and higher living standards around the world since World War II. The most recent Uruguay Round resulted in substantial improvements, including establishment of the WTO, inclusion of agriculture and services in the multilateral trade regime, and multilateralization of most of the GATT's plurilateral codes. ICC strongly supports the new broad-based round of multilateral trade negotiations launched in November 2001 at the 4th Ministerial Conference of the WTO in Doha, Qatar. World business is particularly encouraged by the new mandate agreed at Doha to pursue "...negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements..."

Regional trade agreements as building blocks

It is to be expected that trading partners and neighbours will try to advance liberalization through regional and bilateral trade agreements. There is an array of such initiatives in progress or contemplated at the present time. A total of 162 regional trade agreements notified under the GATT and the WTO are in force today. Between 100 and 200 new regional trade formations are anticipated by 2005. Regional or bilateral agreements may bring faster results than the multilateral process, may enable parties to conclude levels of liberalization beyond the multilateral consensus, and may be able to address specific issues that do not register on the multilateral menu. The resulting achievements in trade liberalization can be substantial complements to the WTO system, and they can be important building blocks for future multilateral liberalization.

Potential negative effects of regional trade agreements

The most powerful economic arguments against regional and bilateral trade agreements are that they can cause trade diversion and trade distortions and ultimately undermine the multilateral system because of their discriminatory nature. In some cases, preferential rules of origin have proven to stifle technological developments, networks and joint manufacturing, and to unduly restrict third-country sourcing, leading to trade diversion. Moreover, they can create obstacles to trade facilitation by increasing administrative complexity at customs. One specific example is the proliferation of different preferential rules of origin -- a prominent source of trade costs and complexity in today's global marketplace in which companies depend on the rapid delivery of products and components from multiple overseas sources. Such effects are costly to business and detrimental to the regional trading areas. Harmonization and simplification of preferential rules of origin and the cumulation of origin could alleviate some of these obstacles to trade facilitation.

The need for improved WTO disciplines

The founders of the GATT understood the positive and negative potential of sub-multilateral trade agreements, and included provisions to address the formation of agreements aimed at closer integration through customs unions and free trade areas. Besides Article XXIV of the GATT, the Uruguay Round Understanding on Article XXIV and Article V of the General Agreement on Trade in

International Chamber of Commerce

38 Cours Albert 1er, 75008 Paris, France

Tel +33 (0)1 49 53 28 28 Fax +33 (0)1 49 53 29 42

E-mail icc@iccwbo.org Website www.iccwbo.org

Services set out discipline s aimed at ensuring compatibility of such agreements with GATT/WTO rules. In this context it should be noted that of the 162 regional agreements officially notified to the WTO and in force today, only one -- the customs union between the Czech and Slovak Republics formed in 1992 -- is formally acknowledged to be in conformity with GATT Article XXIV. All other regional agreements reviewed and assessed by the WTO are subject to differing opinions by practitioners and examiners. Because of the high level of political commitment to regional and bilateral agreements, there have been few, if any, successful challenges to breaches of GATT/WTO rules. The provisions under Article XXIV concern above all customs tariffs, whereas the evolution of the trading system has brought to the fore the trade restrictive effects of non-tariff barriers. The decision taken at Doha to review WTO provisions for regional trade agreements therefore responds to a timely need for bringing these up to date.

While continued reduction of barriers to trade under the WTO will erode preferential trade arrangements over time, regional trade agreements must maintain and strengthen momentum towards global economic integration. ICC firmly supports the WTO principle that such agreements be in concordance with WTO rules and that objective assessment to that effect takes place. This principle is particularly important in the current climate of active regional and bilateral trade negotiations.

ICC recommendations

- The WTO Committee on Regional Trade Agreements should conduct its assessments with a view to ensuring compatibility of regional agreements with WTO rules, including in areas like agriculture, technical barriers to trade, and sanitary and phytosanitary measures. Negotiations launched at Doha aimed at clarifying and improving existing disciplines and procedures should address these aspects, in particular.
- In cases where regional agreements increase protection against non-parties, compensation must be in accordance with Article XXIV.6.
- In cases where regional agreements do not meet GATT criteria for customs unions and free trade agreements, the parties should at least respect the Most Favoured Nation (MFN) principle and lower trade barriers on an MFN basis [e.g., tariff cutting agreements in the Asia Pacific Economic Cooperation area (APEC)].^{1,2,3}
- While bilateral agreements offer opportunities to handle issues that cannot be addressed through multilateral agreements, WTO members should be circumspect about creating the potential for precedents on non-commercial, domestic governance issues that will hamper multilateral trade liberalization.
- WTO members should seek to develop multilateral disciplines to simplify and harmonize preferential rules of origin including the cumulation of origin.
- Recognizing that regional trade agreements will continue in view of the considerable potential benefits that they can bring, the overarching goal of WTO negotiations in this area should be to minimize the scope for such agreements to divert trade with or discriminate among non-parties.

ICC submits these recommendations to all WTO members as input into their timely negotiations on this important issue for the multilateral trading system.

About ICC

ICC is the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. ICC promotes an open international trade and investment system and the market economy. Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment policy as well

as on vital technical and sectoral subjects. ICC was founded in 1919 and today it groups thousands of member companies and associations from over 130 countries.

Document n° 103 / 226 final EN
27 November 2002

1. ICC India is of the view that there should be a "time bound" mechanism for integrating regional trade agreements in the multilateral trading system; and that MFN tariff rates should not exceed preferential rates applying to trade within regional trade agreements by more than 3-4% in order to minimize trade distortion with third countries.

2. ICC Thailand is of the view that regional trade agreements do not have negative effects on the members of such agreements, as they increase trade among members. However, ICC Thailand recognizes that potential negative effects on non-members should be mitigated and that non-member countries may require negotiations to restore benefits. ICC Thailand considers that there should be a monitoring system to ensure respect for preferential rules of origin. Members of regional trade agreements should have the right to agree on the privileges and special treatment among themselves, and that regional trade agreements should be acceptable even if written without regard to GATT/WTO rules as their key function is to promote trade liberalization.

3. The Canadian Council for International Business (CCIB) views regional agreements in a positive fashion, noting their value to Canada and other countries. NAFTA has demonstrated that regional and plurilateral agreements have their own intrinsic value and can accomplish much that is far off or unattainable in the WTO context (e.g., investment). Similarly, bilateral agreements between Canada and specific trade partners have provided both parties with positive outcomes. Moreover, the evolving Free Trade Area of the Americas may be able to accomplish quicker progress than the WTO in the near future. In short, regional agreements are more than simply "building blocks" for the multilateral system, as noted in the statement. If constructed properly and in a manner consistent with WTO rules, regional agreements complement multilateral agreements and lay the groundwork for even greater progress on a multilateral basis.