RTAs and WTO Compatibility: Catch Me If You Can?  
The Case of EPA Negotiations

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Abstract

There is an ongoing debate about best ways to assess the compatibility of RTAs with WTO rules and the possible negative impact that the proliferation of RTA formation may have on individual members and on the stability of the multilateral trading system as a whole. Therefore, rules defining the WTO compatibility of RTAs are one of the issues in the WTO Doha negotiations. Taking the current EPA negotiations between ACP and EU as an example, this paper examines two sorts of questions: (i) the implications for developing country members of the current proposals to tighten the rules on WTO compatibility of RTAs; (ii) the impact that the proliferation of RTA formation may have on non-RTA members and on the stability of the multilateral trading system as a whole. More specifically, the paper assesses quantitatively using a partial equilibrium framework the implications for ACP countries of some of the proposals to reform GATT Art. XXIV, in particular the “substantially all trade” criteria. Based on a CGE approach, the paper then

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looks at the implications of EPA negotiations on third countries and its linkages with the ongoing Doha negotiations, in particular on how the future EPA agreements could be non-trade diverting, in line with Ohyama-Panagariya-Krishna version of the Kemp-Wan theorem.

- **JEL classification:** F13, F15, F17
- **Key words:** ACP, EPA, Kemp-Wan, partial equilibrium analysis, CGE, GATT

I. Reforming the GATT Art. XXIV: Catch Me If You Can?

Regional trade agreements (RTAs) continue to proliferate unabated in parallel, and apparently with greater success than the Doha round of multilateral negotiations. The exact number of RTAs currently in operation worldwide is not known precisely. However, various assessments (including WTO estimates) place the total number of RTAs between 250 and over 300. One reason for this proliferation is that RTAs are seen as an important development strategy for many developing countries to foster regional trade and economic integration. But, at the same time, RTAs have to be consistent with the WTO rules then prevailing in order to contribute to building an open, predictable and transparent equitable multilateral trading system. These new developments in RTA formation have led to a renewed interest in RTAs, with many academics questioning the impact RTAs have had on members and third countries.

In parallel with the proliferation of RTAs, the WTO members have been for the most part unable to use the provisions contained in Art. XXIV to reach consensus on whether an RTAs is compatible with WTO rules and principles or not. Furthermore, with a few notable exceptions (like the Turkey Textile case), WTO rules have not been used to "catch" those RTAs that fall short of the conditions imposed to make them compatible with the other WTO rights and obligations.

Therefore, given the systemic implications of RTA proliferation and *de facto* lack of enforceability of the current Art XXIV, and the ability of most WTO members to "free ride" on this relative legal deficit, WTO members agreed that one objective of the current round of negotiations should be the clarification and strengthening of the rules governing the WTO compatibility of RTAs. Hence as part of this process, several WTO members have submitted proposals for the strengthening of several critical aspects for the enforceability of Art. XXIV, such as "substantially all trade" (SAT) criteria, transition periods, etc. However, despite this