

SUBMISSION ON REGIONAL TRADE AGREEMENTS

Paper by Turkey

The following communication, dated 21 November 2002, has been received from the Permanent Mission of Turkey.

1. Introduction

Turkey welcomes the efforts within the DDA trade negotiations towards enhancing the disciplines and procedures regarding the regional trade agreements. In this regard, Background Note TN/RL/W/8/Rev.1 of the WTO Secretariat and the submissions of several Member countries on the subject are highly appreciated.

Considering the RTAs as an essential component of its liberal trade policy aiming at trade creation, Turkey in addition to the Customs Union with the EC, has concluded 15 free trade agreements, 13 of which are fully in force. Therefore, Turkey strongly believes that the RTAs are a reality authorized by the WTO, as clearly set out in Article XXIV of the GATT 1994, to contribute to its objective of trade liberalization and they found the sound basis at their Members economic, political and legal integration interests going beyond the elimination of classical trade measures, even to the extent of establishing common regulatory frameworks.

It is to be borne in mind that the proliferation of the RTAs depends directly on some geographical and economic realities and in fact they serve as complementing elements for their Members' participation in the multilateral trading system.

However, this does not mean that the primacy of the multilateral trading system is not to be maintained. Just on the contrary, the unique rule-making position of the WTO in the role played by the RTAs, in promoting trade expansion and in fostering development should be further clarified.

Taking into account the fact that the CRTA has been unable to fulfil its mandate of overseeing the level of the RTAs to meet the WTO rules and reviewing their implementation, Turkey believes that priority should be given to the improvement of the current RTA examination procedures.

Having said that, the following are the views of Turkey on several groups of debated issues concerning the regional trade agreements.

2. Clarification of the legal framework applying to regional trade agreements

Firstly, Turkey reiterates its support to the inclusion in the Doha Ministerial Declaration of paragraph 29, whereby negotiations aiming at clarifying and improving disciplines and procedures

under the existing WTO provisions applying to regional trade agreements are agreed to. This is mainly because of the inadequacy of the existing rules both in the procedural and systemic matters. The clearer and objective WTO criteria applicable to the RTAs will definitely provide an opportunity for all the Members to evaluate the RTAs' compliance with the WTO requirements.

Accordingly, the split of the sub-headings as "procedural and systemic issues", in a way enabling the transfers from one to another, may ease the progress to be gained in the negotiation process. In other words, Turkey supports the idea that the Group could start by addressing procedural aspects, without excluding the possibility of addressing systemic issues as well. As it is seen, trying to reach a rigid set of definitions for the key concepts involved in the systemic issues has become the biggest procedural problem to be dealt with.

As to the procedural issues, basic transparency requirements such as the notification requirements, scope of information to be submitted, periodical reporting, the examination process and the determining of the legal status of the CRTA examination reports appear to be agreed upon more easily. Therefore, this group of issues would be considered as a good starting-point for the negotiations.

3. Improving the effectiveness of the CRTA

It is getting more apparent that the need to improve the effectiveness of the CRTA is increasingly shared by the Members. Although many relevant issues for overcoming the blockage faced by the CRTA have already been discussed in the Committee itself, to reach a consensus could not be possible during these discussions.

Turkey believes that the simplification of the general rules of examination and the greater application of the "grandfathering" of the currently existing RTAs will accelerate this process. As a concrete suggestion towards the improvement of the grandfathering approach, determination of an "expiry date" which could presumably be the date of completion of the DDA negotiations, for the retroactive application of stricter new rules to the lately notified RTAs, will increase the number of un-notified RTAs becoming part of the multilateral system. As to the question of RTAs to be concluded after that date, apparently the new rules are to be applied; however, the ultimate objective of simplifying the overall system and the adoption of less complex rules will consequently have some other positive effects for their examinations.

Furthermore, grouping of certain set of existing agreements could be done by the CRTA prior to their examinations towards facilitating the process. These groupings could be done on several basis such as the geographical separations, RTAs forming up through the enlargement of existing ones, and in the cases of overlapping RTAs.

During the examination process in the CRTA, it is considered more realistic to put focus on the analysis of trade data and flows, instead of every provision included in the text of the agreement. It should be accepted as a prerequisite that the regulatory harmonization type of provisions are within the full mandate of the Members to the point that they do not violate the relevant WTO rules. To this end, improvement of the current level of information provided by the standard format regarding the agreements could be useful to shorten the pre-examination process. Having significant experience of conducting the examinations and taking into account the commonly demanded information on the specific provisions of the agreements, the CRTA could propose the additional information to be involved in the standard format. Consequently, in the course of the Doha Development Agenda negotiations, the Members will have the opportunity to determine the scope of information they attribute importance among these proposed items.

Recognizing the reality that large numbers of WTO Members were getting parties to a wide diversity of agreements, Turkey is of the opinion that all RTAs should be notified to a single body, namely the CRTA, whether they depend on Article XXIV of the GATT 1994, the Enabling Clause or Article V of the GATS.

Since the absence of clearer guidelines has been increasing the number of disputed cases relating to RTAs, adoption of less complex rules both on procedural and systemic issues will enhance the transparency and the functioning of the system.

4. Basic systemic issues

The following are the initial comments of Turkey regarding the basic systemic issues. They could further be considered and enhanced during the course of the DDA negotiations.

- **Substantially all the trade**

Turkey believes that the definitions of "substantially all the trade" is a key concept in interpreting the WTO conformity of RTAs and the lack of compromise on it was one of the main reasons of the CRTA not being able to reach final decisions.

Turkey welcomes the two alternative approaches to the concept identified by the Secretariat for the purpose of clarification. All the same, the qualitative approach which does not permit the exclusion of any sectors, or at least no major sector from the liberalization, is not considered to be in conformity with the economic realities. The concerns stating that the use of actual trade flows in this assessment would ignore potential trade, might be contradictory to the commonly shared presumption that the volume of trade created within the RTAs exceeds the possible trade diversions.

Hence, Turkey is in favour of the quantitative approach.

- **Rules of Origin**

Turkey believes that the harmonization of various preferential rules of origin used in different regional agreements constitutes an important potential for the world trade. Therefore, proposals for the improvement of the harmonization models stated in the document are welcomed. However, in the long term, Turkey is in favour of adopting a uniform type of rules of origin.

Turkey also supports the idea that, harmonization of preferential rules of origin should go along with the harmonization of the non-preferentials. Regarding the difficulties of this time-consuming process, in the first instance, we suggest the adoption of a single set of rules of origins among the members of every RTA, followed by a convergence among the rules of origins of different regional integrations.

As indicated in Turkey's assessment of the Secretariat's Background Paper, WT/REG/W/45, the forming of Pan-European Cumulation of Origin type of structures involves an encouraging feature for the participation of the non-member countries to the production realized inside the System. Eventually, the expanding nature of these structures will have a positive domino effect on the adoption of the multilateral set of principles. Furthermore, Turkey believes that this type of arrangements having uniform rules should even be welcomed by the non-members, for their implications of providing more transparency and predictability.

- **Regulatory harmonization within the RTAs**

The aforementioned ideas regarding the rules of origin issue is also true for the other regulatory harmonization intentions within the RTAs. Turkey agrees with the proposals that it would be more appropriate to refer to regulatory convergence for bilateral relations and regulatory harmonization at the multilateral level, with the concept of equivalence also being part of the process.

The convergence attained while preparing domestic regulations in conformity with the requirements of a RTA results more positively on multilateral level. Given our own experience, the setting up of rules regarding almost every aspect of the economic activities and the creation of national regulatory authorities for their surveillance as a consequence of the Customs Union with the EC provides Turkey in welcoming most of the forthcoming WTO negotiation issues.

- **Other issues**

Developmental aspects are also among the topics to be considered within the mandate of the Group. Turkey believes that the clarification of the flexibilities provided for in the existing WTO provisions will further suffice this need. In this regard, Turkey confirms its support to the proposals that such flexibilities might be provided on the length of the transitional periods, the level of final trade coverage and the degree of asymmetry in terms of timetables for tariff reduction and elimination as well as the flexibilities provided for in the course of these RTA examinations and surveillances.

Turkey is of the view that efficiently functioning dispute settlement mechanisms within the RTAs might strengthen the supervisory nature of the WTO providing that, in the event of inconsistency, WTO rules prevail over the RTA rules.
