



Session 2: CARTIF Priority Chapters – Trade in Goods:

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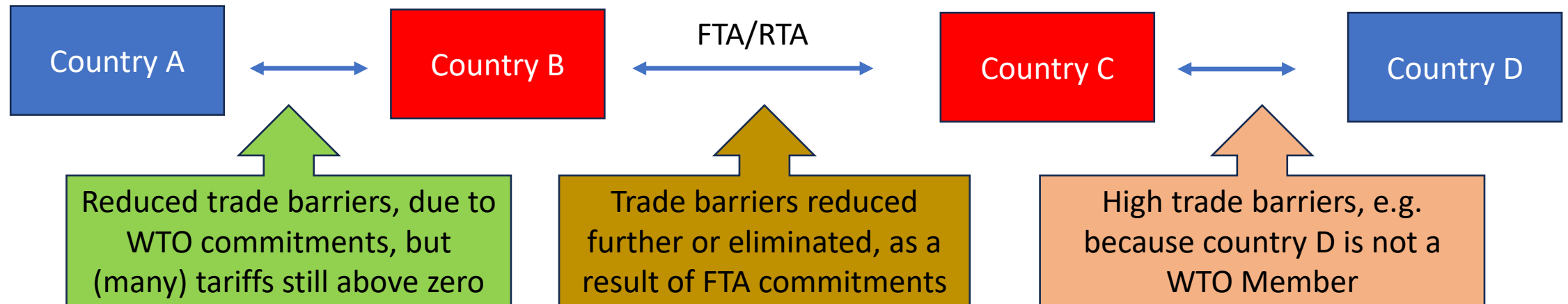
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Agenda

- Tariff liberalization in free trade areas (FTAs): Basic concepts
- Types of tariff reduction/elimination
- Starting point for tariff reduction/elimination
- Sensitive sectors
- Other topics
 - Non-discrimination clauses
 - Trade remedies
 - Export taxes
 - Duty drawbacks
 - Pre-existing FTAs

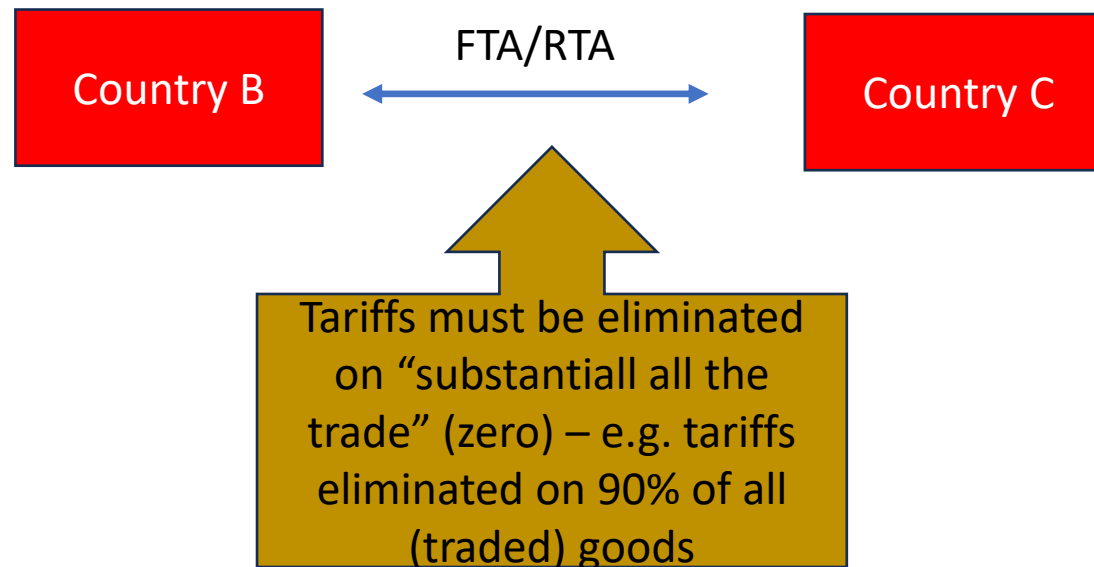
Basic idea behind an RTA

- RTAs are premised on the elimination or at least reduction of trade barriers between RTAs parties
- This includes all (import) tariffs and other border charges
- In RTAs, trade liberalization goes further than under WTO rules



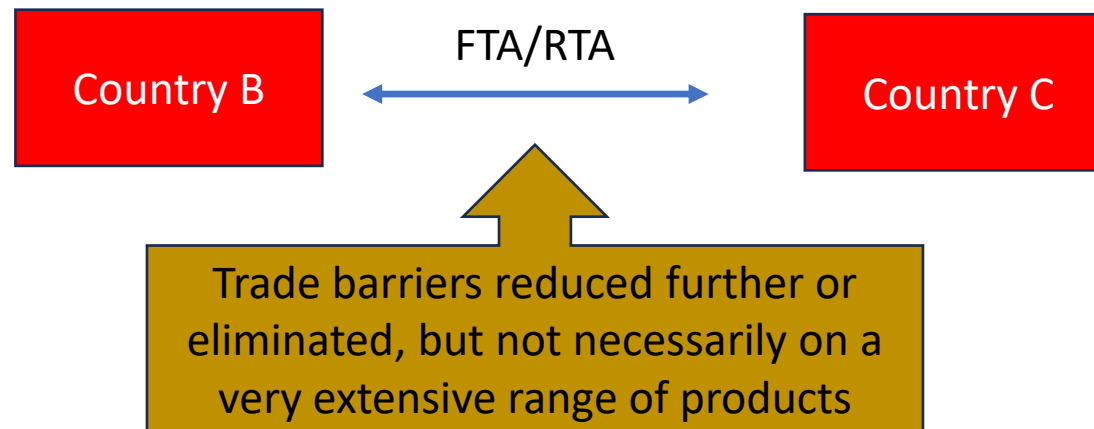
How far must trade liberalization go?

- Article XXIV of the GATT 1994 requires liberalization (elimination of tariffs) on “substantially all the trade”



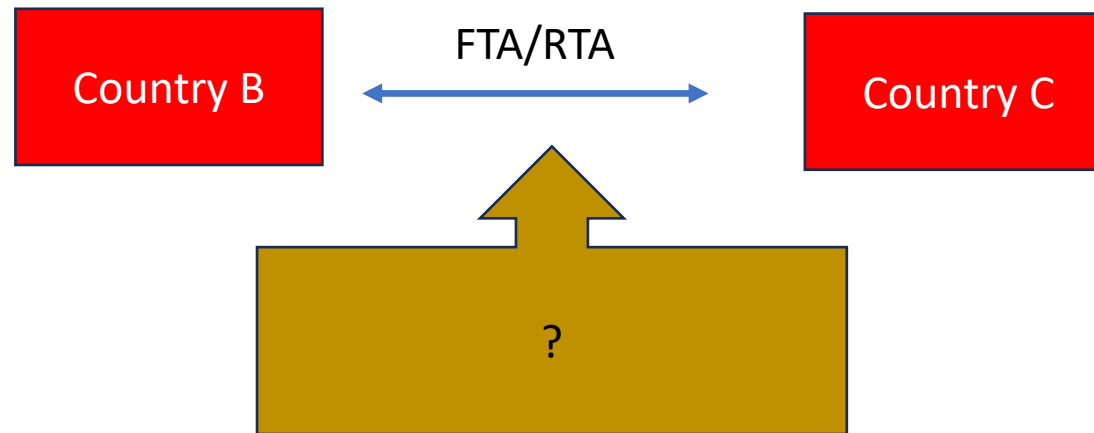
How far must trade liberalization go?

- The Enabling Clause does not contain the “substantially all trade” requirement; thus, countries can limit trade liberalization to only a subset of products. Unclear how big/small this subset may be.
- Enabling Clause also permits tariff reduction instead of full elimination



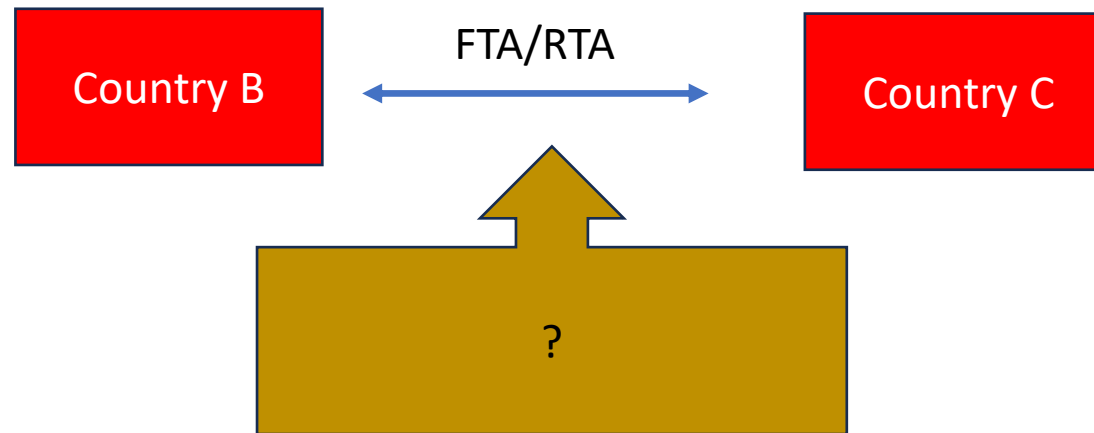
How far must trade liberalization go?

- Choice between the two provisions sets the level of ambition and affects compliance with WTO law



How far must trade liberalization go?

- Choice between the two provisions sets the level of ambition and affects compliance with WTO law



The formation of an FTA shall not create new trade barriers vis-a-vis non-FTA parties!

How do RTAs provide for tariff liberalization?

- Legal text concerning the agreement on trade in goods
 - Lays down modalities of tariff elimination (scope, acceleration clause, trade remedy rules, etc.)
 - Also regulates specific issues, e.g. industries with special treatment (textiles, agriculture, chemical products, wine, etc)
- Schedule of tariff elimination
 - Typically annexed to the trade in goods agreement
 - States for each tariff line whether tariff will be eliminated now or later (or excluded)

Immediate tariff elimination

- **Tariffs can be eliminated immediately on all covered goods**
- Examples:
 - New Zealand – Singapore FTA (Article 4);
 - Kazakhstan – Azerbaijan FTA (Article 2);
 - Kazakhstan – Serbia FTA (Article 2);
 - Turkey – Georgia FTA (Article 4)
- As an alternative, immediate elimination of duties only on *some* goods, others are eliminated later
 - Mongolia – Japan: some tariffs eliminated immediately
 - Others eliminated in 4 years, 6 years, 8, 11, 16, 21 years (in equal instalments)

Immediate tariff elimination

CHAPTER I

INDUSTRIAL PRODUCTS

ARTICLE 3

Scope

The provisions of this Chapter shall apply to products originating in the territory of each Party falling within Chapters 25 to 97 of the Harmonized Commodity Description and Coding System with the exception of the products listed in **Annex I** of this Agreement.

ARTICLE 4

Customs Duties on Imports and Charges Having Equivalent Effect

1. The Parties shall abolish on the date of entry into force of this Agreement all customs duties on imports and any charges having equivalent effect on products originating in the Republic of Turkey or Georgia.



**to the Free Trade Agreement
between the Government of the Republic of
Kazakhstan and the Government
of the Republic of Serbia**

**List of goods
subject to exemption from the free trade regime when imported
into the customs territory of the Republic of Kazakhstan from
the Republic of Serbia**

HS Code of the Customs Union	HS RS CODE	Item Name
1	2	3
0207	0207	Meat and edible offal of poultry specified in heading 0105, fresh, chilled or frozen
0406 30 (except 0406 30 100 0)	0406 30 (except 0406 30 10 00)	Processed cheeses, grated or non-powdered: other Processed cheeses, grated or non-powdered: in the production of which only Emmenthaler, Gruyere and Appenzeller cheeses were used and which may include Glam cheese (also called "Shabziger") as an additional ingredient; packaged for retail sale, with a fat content in dry matter not exceeding 56 wt.%
0406 90 690	0406 90 69 00	Other cheeses: with a fat content of no more than 40 wt.% and moisture content in the fat-free substance not more than 47 % by weight: other
0406 90 860 0	0406 90 86 00	Other cheeses: with a fat content of no more than 40 wt.% and cheeses with a moisture content in a fat-free substance of more than 47% by weight, but not more than 52% by weight.%
0406 90 870 0	0406 90 87 00	Other cheeses: with a fat content of no more than 40 wt.% and with a moisture content in the fat-free substance of more than 52% by weight, but not more than 62% by weight.%
0406 90 880 0	0406 90 88 00	Other cheeses: with a fat content of no more than 40 wt.% and with a moisture content in the fat-free substance of more than 62% by weight, but not more than 72% by weight.%

a



PROTOCOL
on goods subject to exclusion from the free trade regime
when importing them from the Republic of Azerbaijan to
Republic of Kazakhstan

Name of product	HS Code 1993
Alcoholic and non-alcoholic drinks	Group 22, (except 2201,2202 and 2209)
Tobacco and industrial tobacco substitutes	Group 24

Schedule for the gradual lifting of exemptions from the regime
free trade between the Republic of Kazakhstan
and the Republic of Azerbaijan

CIS HS Code	Name	Term cancellations seizures
In relation to goods subject to exclusion from the free trade regime of the Republic of Kazakhstan when imported from the Republic of Azerbaijan		
Group 22 (except 2201, 2202 and 2209)	Alcoholic and non-alcoholic beverages	July 1 2006
behind except :		
2207 10 000	Ethyl alcohol, undenatured, with an alcohol concentration of 80 vol. % or more	1st of January 2012
2207 20 000	Ethyl alcohol and other alcohols, denatured, of any concentration	1st of January 2012



Elimination of (groups of) tariffs over time

- **All or some goods are subject to tariff elimination over time**
 - This time period should normally not exceed 10 years (“reasonable length of time”)
 - *Mongolia – Japan*: some tariffs immediately, others eliminated in 4 years, 6 years, 8, 11, 16, 21 years (in equal instalments)
- Different ways of elimination over time
 - Phased in = typically elimination in equal annual instalments over a certain number of years
 - But elimination can also be delayed and then occur entirely from the base rate in one single cut (also Mongolia – Japan)

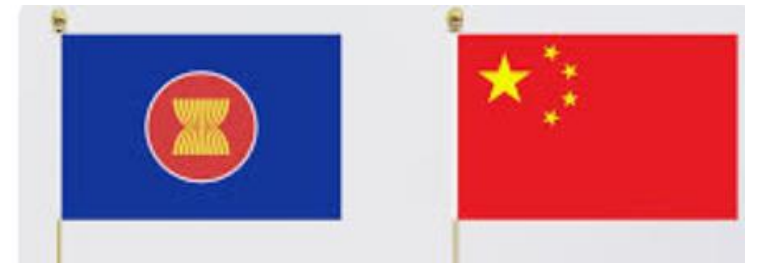
Acceleration and stand-still clauses

- Acceleration clause: allows parties to enter into agreements to expedite the process of tariff elimination; typically for FTAs with phase in (staging) periods

ARTICLE 10 Acceleration of Commitments

Nothing in this Agreement shall preclude the Parties from negotiating and entering into arrangements to accelerate the implementation of commitments made under this Agreement, provided that such arrangements are mutually agreed to and implemented by all the Parties.

China – ASEAN FTA



Acceleration and stand-still clauses

- “Stand-still” clause: No new tariffs or no increase in tariffs
 - If a tariff is reduced below the scheduled level, no return possible

“No new customs duties on imports or exports shall be introduced, nor shall those already applied be increased in trade between the community and Mexico as from the date of entry into force of this Decision”



Starting point for tariff reduction

- “Base rate”
- WTO bound rate or applied tariffs
- Most FTAs use the applied rate at a certain point in time

Tariffs for certain items might be excluded from tariff elimination altogether

- These are the “sensitive sectors”

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Tariffs for certain items are excluded from tariff elimination altogether

- Textile
- Agriculture
- Pharmaceuticals
- Chemical products
- Automotive industry products (assembled vehicles or individual parts like tyres)
- Alcoholic beverages
- Tobacco (e.g. Kazakhstan – Azerbaijan FTA)
- Sugar (e.g. Kazakhstan – Serbia FTA)
- Cotton yarn
- Sometimes very specialized products like “compressors used in refrigeration equipment” (Kazakhstan – Serbia FTA)
- Sometimes clauses to review the exclusion of products (with a view to liberalization)

Tariffs for certain items might be excluded from tariff elimination altogether

- The exemption may be permanent, but may also be merely temporary
 - in this case the exemption expires at some point:
 - Kazakhstan – Azerbaijan: 10 - 15 years, depending on the product

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Rules of Origin

- Rules of origin essential for determining which goods can benefit from the FTA reduced or zero tariffs
- See separate presentation by Stefano Inama

MFN and non-discrimination provisions

- In an FTA with multiple parties, a “regional MFN” clause can be useful
 - Alternatively, allow discrimination between FTA Members, e.g. in terms of liberalization schedule?
- Consider also MFN clause that requires FTA parties to incorporate into the FTA any lower tariff reductions in another FTA

Trade remedies (1)

- To address changes in trade/economic environment
- Most FTAs permit anti-dumping and countervailing measures between FTA parties
 - Some FTAs include WTO-plus disciplines (e.g. lesser duty rule or prohibition of zeroing: *Korea – Singapore FTA*)
 - Very few FTAs eliminate AD & CVD measures altogether (*Canada – Chile FTA, EFTA - Singapore FTA*)

Trade remedies (2)

- When global (WTO) safeguard measures are imposed, will FTA partners be exempted? If so, the safeguard investigation must satisfy certain requirements
- Bilateral safeguards permit members to increase duties to pre-liberalization levels (MFN), but only during transition period
 - Apply to all or only some FTA Members?
- Some FTAs also envisage slightly different bilateral safeguard measures for textiles or agricultural products

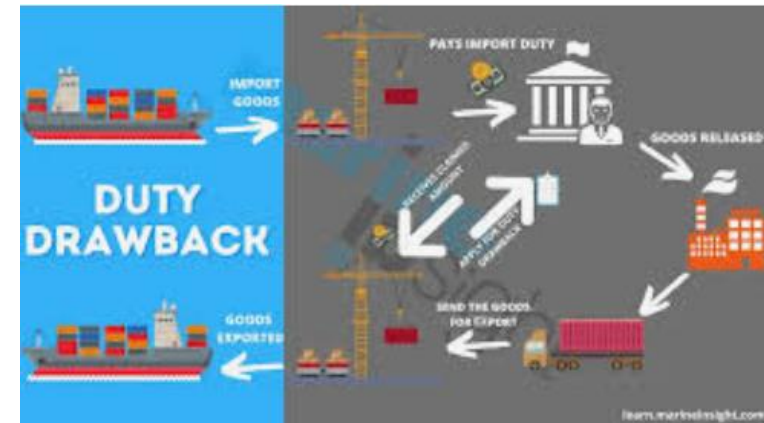
Export tariffs

- Applied to generate tariff revenue, but also to ensure cheap inputs
- Discriminate in favour of domestic producers by ensuring inputs are sold at cheaper prices
- Permitted under WTO law (with a few exceptions), but RTAs often prohibit export duties



Duty drawbacks

- Duty drawbacks enable exporters to not pay import duties on inputs (or pay and later get reimbursed)
 - E.g. imported wood is turned into furniture; either no duty paid on the wood import or an already paid import duty is refunded
- FTAs sometimes prohibit duty drawbacks, which promotes intra FTA trade of inputs/raw materials



Pre-existing FTAs

- Being a party to multiple overlapping FTAs is possible
 - Of course, traders may not avail themselves of the less liberalizing FTA
- In theory, FTAs with non-WTO Members create legal concerns for WTO Members
 - This is because the Article XXIV defense (or the Enabling Clause) do not shield trade preferences for non-WTO Members from the MFN obligation
- Members of a customs union can enter into FTAs with non-CU members as a matter of WTO law; main question is whether CU law permits doing so
 - Who negotiates FTAs?