Greening Regional Trade Agreements (RTAs)
Realising the potential beyond Environment Chapters

The complementary role that RTAs can play in multilateral responses to meeting the Paris Agreement and global climate challenge

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Overview

1. Five statements of facts on Environment and RTAs

2. Paris Agreement on Climate Change and its implications on Trade agreements

3. Areas that RTAs can complement the objectives of Paris Agreement
Setting the Context: Five Statements of fact on RTAs and Environment

1. Sustainable development is an objective of trade agreements. Gives “colour, texture, and shading to the rights and obligations of Members under the WTO Agreement”

2. Scope and depth of environmental provisions in RTAs vary

3. Trade liberalization and environmental protection equally important for sustainable development

4. Line of equilibrium between environmental protection and trade liberalisation is not fixed. The line moves as the kind and shape of the measures at stake vary and as the facts making up the specific cases differ.

5. Consensus that it is: (i) inappropriate to encourage trade or investment by weakening domestic environmental laws; (ii) environmental standards should not be used for protectionist trade purposes.
The Paris Agreement and Trade Policy: Messages from Paris

Multilateral Environmental Agreement based on international consensus, founded on National Circumstances is the best way to tackle climate change

Paris Agreement strengthens the rules-based multilateral system to address climate change

Economic development and open international economic system are essential for climate protection
Trade Agreements and Paris Agreement

WTO: enhancing economic welfare by liberalising world trade

UNFCCC: reducing greenhouse gas emissions through trade “response measures”

Intersection of these two efforts lies potential for conflict
Ensuring coherence between Climate Objectives and Trade Agreements

Policy coordination:

i) Multilaterally at the WTO-CTE
ii) Nationally among agencies
## RTAs complementing Paris Objectives

1. **Non Tariff Measures: role for Good Regulatory Principles (GRP)**

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<tr>
<th><strong>Policy objective/s of the NTM must be clearly identified</strong></th>
<th><strong>Merits of the NTM have to be weighed against price-based instruments and voluntary labelling</strong></th>
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<td>The design of the NTM: non-discriminatory; based on relevant international standards; performance rather than design/descriptive characteristics; regularly reviewed to ascertain their effectiveness and usefulness; the use of mandatory measures should be minimised.</td>
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**Examples of GRP**

- Transparency is a fundamental aspect of GRP. To promote greater understanding and confidence in the purpose, effects and justifications for NTMs. Information on the NTMs should be published promptly through printed or electronic means.
RTAs complementing Paris Objectives

2. The Role of Services: Market Access

The availability of varied sources of energy at competitive prices contributes to a nation’s ability to compete in the world marketplace. There is a high correlation between more efficient energy usage and economic growth, and higher standards of living. Energy services provide the means to develop energy resources in an environmentally sound manner and efficient development and use of energy resources.

Environmental Services and Energy Services are predominantly supplied through Mode 3.

WTO Members to undertake ambitious Mode 3 commitments by removing barriers to commercial presence such as:

i) Foreign equity limitations

ii) Joint ventures and joint operations requirements for foreign service suppliers

iii) Economic needs tests

iv) Discriminatory licensing procedures

Minimally, Members should phase out barriers to commercial presence. These liberalisation elements should be objectives of RTAs and the WTO post-Nairobi process.

Liberalized environmental services market benefits both exporters and importers of these services as well as environment and development.
2. The Role of Services: Regulation of services in international agreements

Services is intrinsically regulation intensive

GATS does not require the elimination of regulation

**GATS:**
“Recognizing the right of Members to regulate, and to introduce new regulations... in order to meet national policy objectives...”

To prevent abuse of regulation for protectionism, Art VI:4 mandate to develop disciplines

Sleeping beauty? Or sleeping beast?

Art VI: 4
Addressing unnecessary barriers to trade in services

But... what is “necessary”; who determines what is “necessary”?
# RTAs complementing Paris Objectives

2. The Role of Services: Domestic Regulation

## Facilitating Trade in Services

- Regulations should be pre-established
- Based on objective and transparent criteria
- Based on the competency of the service supplier
- Relevant to the supply of the service
- Regulations must not be disguised restrictions to the trade in services
- Licensing and qualification procedures to be as “simple as possible” and “not in themselves constitute a restriction on the supply of services”

## Respecting Members’ Right to Regulate

- The text does not seek to discipline the substance of the regulations
- The purpose of the disciplines is to reduce and eliminate the trade restrictiveness of domestic regulations
- Like the GATS, the text emphasizes the respect for Members’ right to regulate and to introduce new regulations, in order to meet national policy objectives and ensure the provision of universal service
- It states that the disciplines should not be construed to prescribe or impose particular regulatory approaches or particular regulatory provisions in domestic regulations
- The text applies only in sectors where specific commitments have been undertaken
2. The Role of Services: Regulatory considerations in Energy and Environmental Services

Liberalization will not impair the ability of governments to
• impose performance and quality controls on environmental services
• ensure that service suppliers are fully qualified and carry out their tasks in an environmentally sound manner.

Members can establish, maintain, and enforce its own levels of protection for consumers, health, safety, and the environment

Water for human use (i.e. the collection, purification and distribution of natural water) is excluded

Liberalization does not extend to the ownership of energy resources, which remains under the full sovereignty and sovereign rights of each Member, and is outside of the scope of GATS negotiations.
balancing the **FORCES** of Liberalisation and Regulation, we must

“No! Try not. Do, or do not. There is no try”
Development of international standards - carbon footprint and sustainable procurement - must take account of national circumstances.

WTO and RTAs encourage the use of international standards through Articles 2.4 and 2.5 of TBT Agreement and similar provisions in RTAs.

Countries must not be disadvantaged, with no regard to national circumstances.
We live in a carbon and energy constrained world today. If there is one natural resource that the world has left in infinite quantity, that would be human ingenuity...

Let a hundred ideas bloom