

# WTO Rules on RTAs



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# Overview

- The Preamble to the WTO Agreement highlights “... the **elimination of discriminatory treatment** in international relations” as an objective of the MTS
- The **MFN (most-favoured-nation) commitment** taken by WTO Members is a fundamental instrument for achieving that aim.
- When establishing an RTA, a WTO Member will need some kind of **derogation** to avoid legal inconsistency with the MFN rule.



# Overview

The WTO Member has always the possibility of seeking a waiver...

BUT, over time, the System itself has developed a series of conditional exceptions which Members can invoke when departing from their MFN commitment:

Since 1947→GATT Article XXIV

Since 1979→“Enabling Clause”

Since 1994→Understanding on GATT Art. XXIV

Since 1994→GATS Article V

Since 2006→The RTA Transparency Mechanism

# Common Principles\*

- ❖ The purpose of an RTA is to facilitate trade among the parties
- ❖ The goal of internal trade liberalization must not result in barriers towards third parties higher than those existing before the formation of the RTA
- ❖ The RTA must provide for mutual/reciprocal trade concessions

\*GATT Art. XXIV:4; “Enabling Clause” para. 3(a); GATS Art. V:4



## GATT Article XXIV & Understanding

Provides for agreements which result in the establishment, among WTO Members, of 2 types of trade relations:

- Customs Unions
- Free Trade Areas

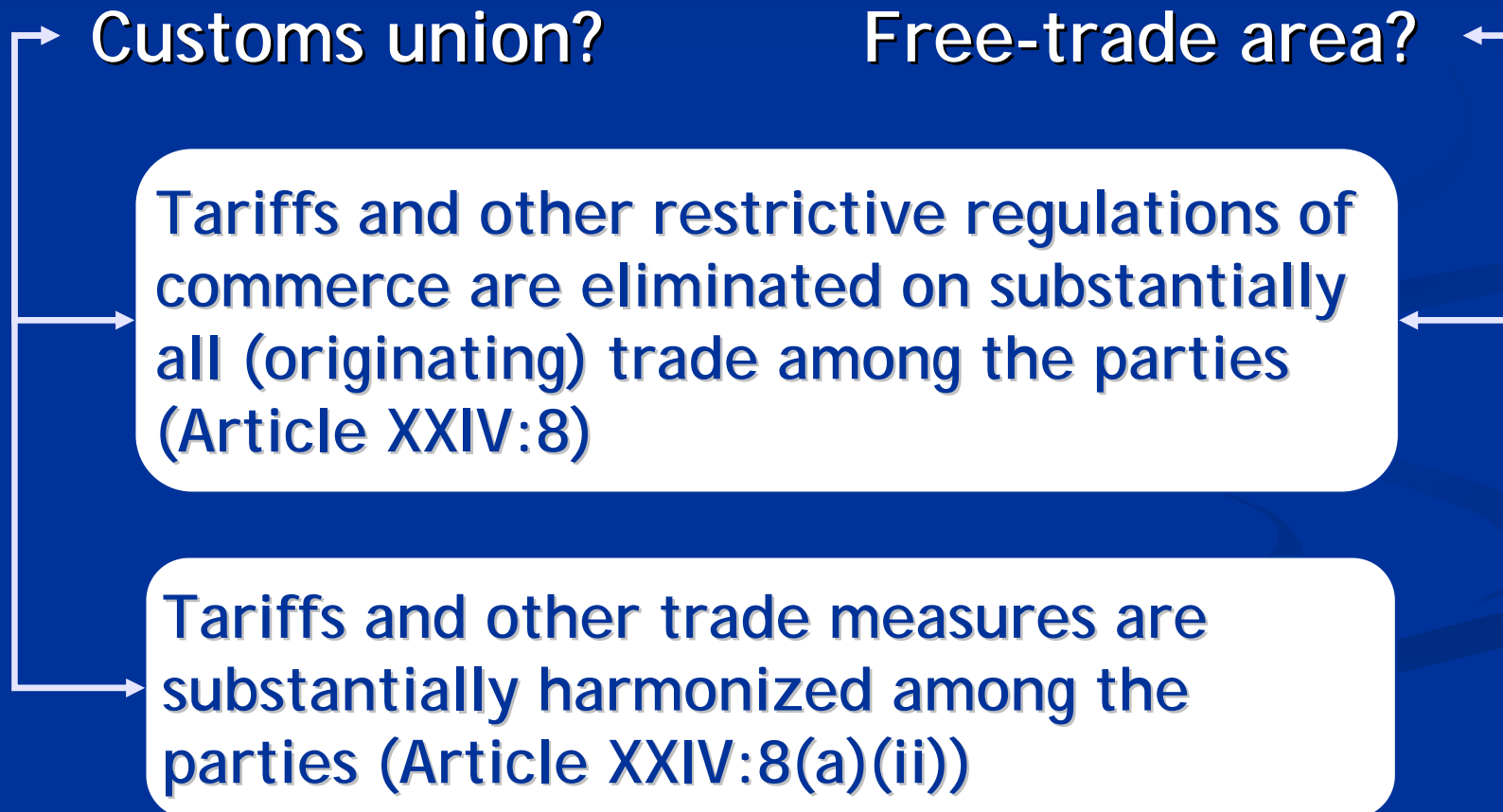
It also provides for:

- Interim Agreements (CU or FTA implemented in stages)



# GATT Article XXIV & Understanding

Under which criteria can an RTA be deemed to be a :



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# TT Article XXIV & the Understanding



Questions about these criteria:

What is the meaning of “**substantially**” (XXIV:8(a)(i))  
and “**substantial**” (XXIV:7(c))?

What if a “**major sector**” is excluded from RTA  
coverage?

What if RTA parties reduce (rather than eliminate)  
tariffs on some products?

What are “**other restrictive regulations of  
commerce**”?

What if RTA parties provide for the application of trade  
dispute resolution actions among themselves?