




APEC Public Private Dialogue (PPD) on Rules of Origin

22nd August 2017

Why are Rules needed?

For **Government**:

Non preferential rules are used for:

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- Statistical purposes
 - Sanctions application
 - Anti dumping

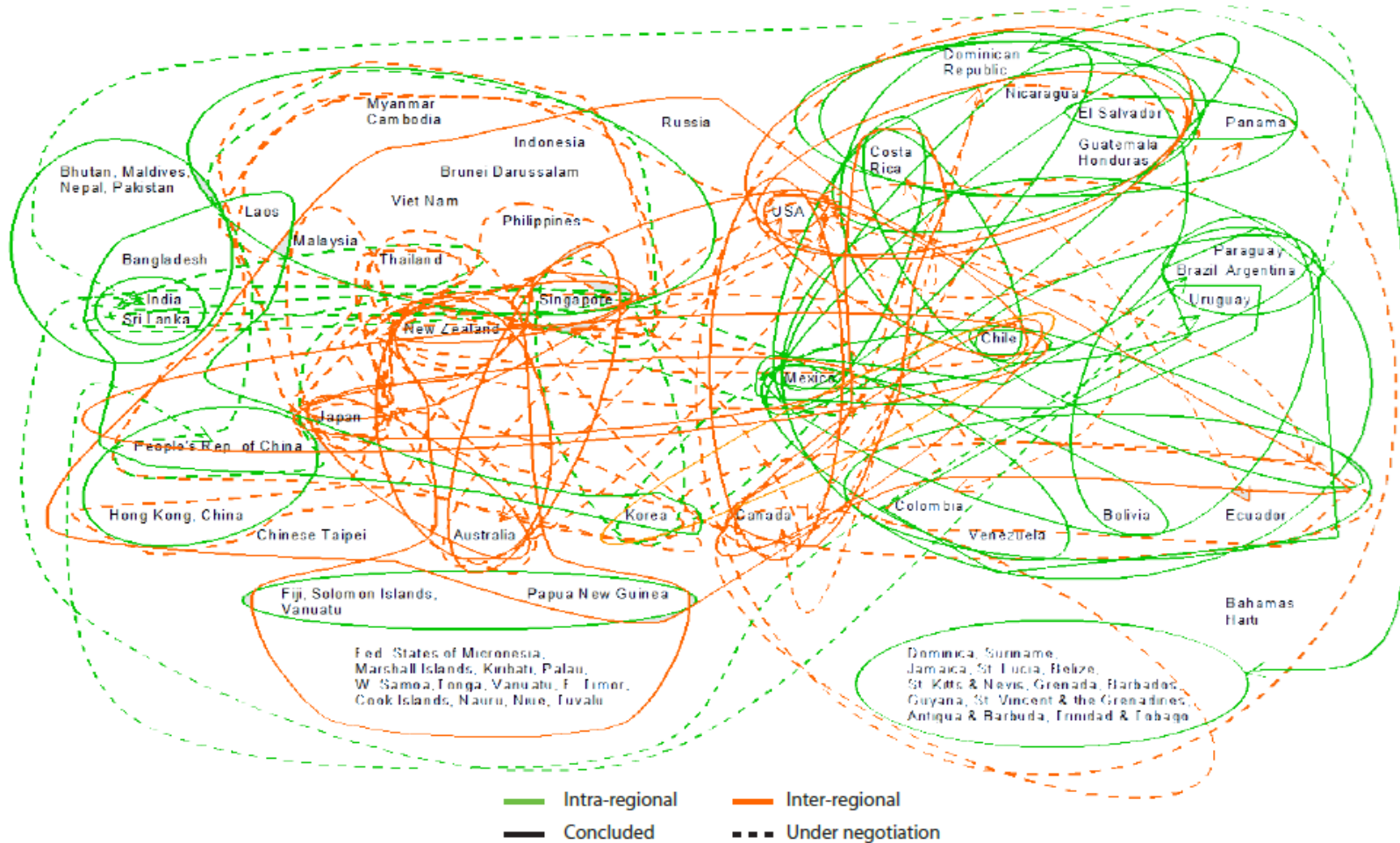
Preferential rules are used for:

- Discriminatory trade agreement compliance

For **Business**:

- No commercial need for “origin”
- Adds complexity and costs.
- Attracts liability to importers in seeking reduced taxation treatment or compliance at the border.

Rules can get complicated: the “Noodle Bowl” effect



Preferential trade agreements are NTMs:



1. Over 450 PTAs around the world – most with divergent rules and compliance arrangements.
 - a. Can have more than 5000 separate goods line items and rules
 - b. Now also starting to enter into areas like services, investment, IP, environment, labour, e-commerce
2. PTAs don't follow global supply chains. - Harmonisation is critical



Utilises RVC

AANZFTA, AUSFTA, KAFTA, MAFTA, JAEPA, SAFTA

Calculation: Indirect & Direct Method

AANZFTA, AUSFTA, KAFTA, MAFTA

RVC = 40%

AANZFTA, MAFTA

Indirect = 45%

Direct = 35%

AUSFTA

Indirect = 40%

Direct = 30%

KAFTA

Calculation: Indirect Formula

JAEPA, SAFTA

Indirect = 40%


JAEPA

Annex 2D goods = 30%

All other goods = 50%

SAFTA

PTAs are a Non Tariff trade barrier

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- Specifically designed to provide benefits to parties and exclude non parties
 - Rules of origin
 - Goods
 - Services
 - Investment
 - IP
 - Eg: TPP includes RVC 35 = 65% non party originating goods qualify for benefits. Better to use MFN.
 - False and misleading statements are an offence.

Overcoming the barriers

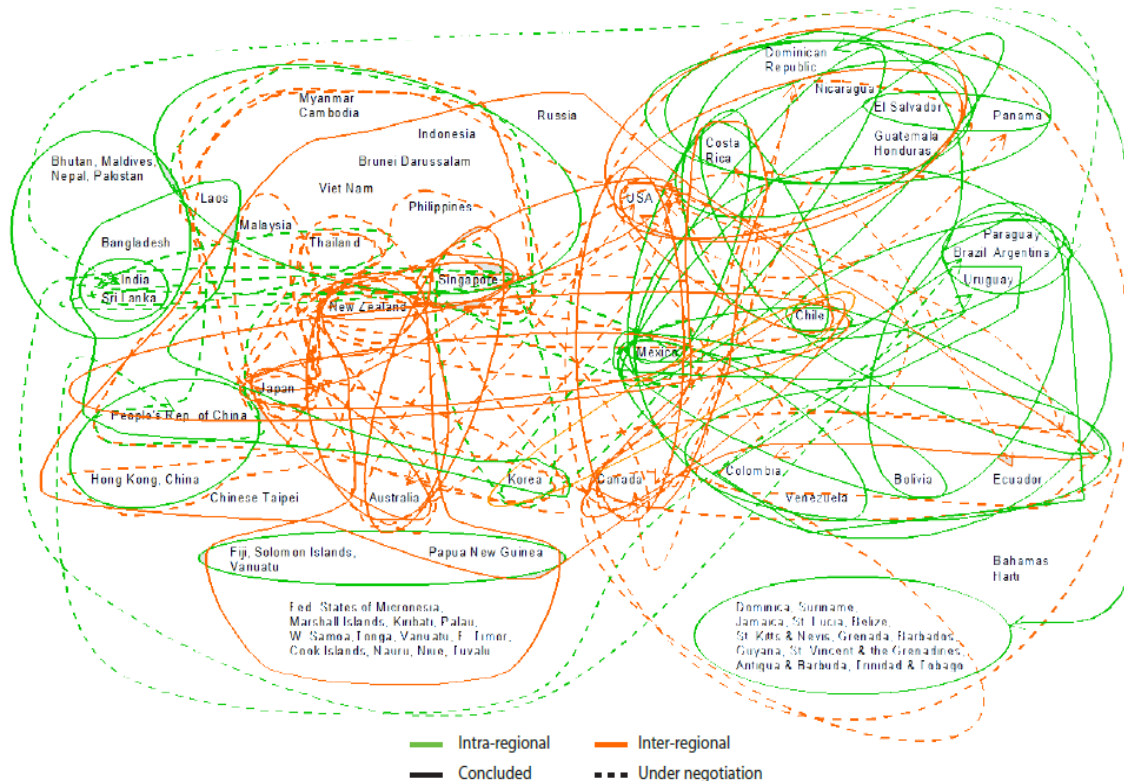
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- Use international standards
 - Implement at WTO level
 - WCO *Revised Kyoto Convention* 2006 – partially in place (Annex K contains Rules of Origin)
 - WTO Trade Facilitation Agreement signed 2014 (*so much potential*)
 - Apply general rules of origin and a negative list for exceptions.
 - Don't invent novel compliance systems
 - Govt certification Vs Self declaration
 - Waiver?
 - Other methods – eg deeming

The first step – transparency in accessing trade agreement text



- **Business needs access to trade agreement texts (particularly Rules of Origin chapters)**
 - We have experienced examples where the final text doesn't comply with international standards (ChAFTA, KAFTA)
 - 1923 International Convention relating to the Simplification of Customs Formalities.
 - WCO compatible Certificate of Origin system (Revised Kyoto Convention 2006).
 - ISBP

FTAAP can help unravel the mess of PTAs



➤ If FTAAP is adopted, then remove precedent bilateral agreements

MEGA-REGIONAL TRADE AGREEMENTS AND THE MULTILATERAL TRADING SYSTEM



ICC recommends:

- Adopting an open architecture for additional member accession when negotiating preferential trade agreements, especially mega-regional agreements.
- Strengthening the WTO's oversight function of RTAs/PTAs – exercised by the Committee on Regional Trade Agreement and the Transparency Mechanism – to secure that such agreements are transparent and consistent with the requirements of the General Agreement on Tariffs and Trade (GATT) Article XXIV and General Agreement on Trade in Services (GATS) Article V.
- Tasking the WTO Secretariat with studying how to best “multilateralize” RTAs/PTAs with a view of extending the benefits of all such agreements on an MFN basis.
- Engaging the private sector to prioritize the most commercially-meaningful issues and opportunities to drive multilateral engagement.

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