

# The WTO and EPAs

Roberto Fiorentino

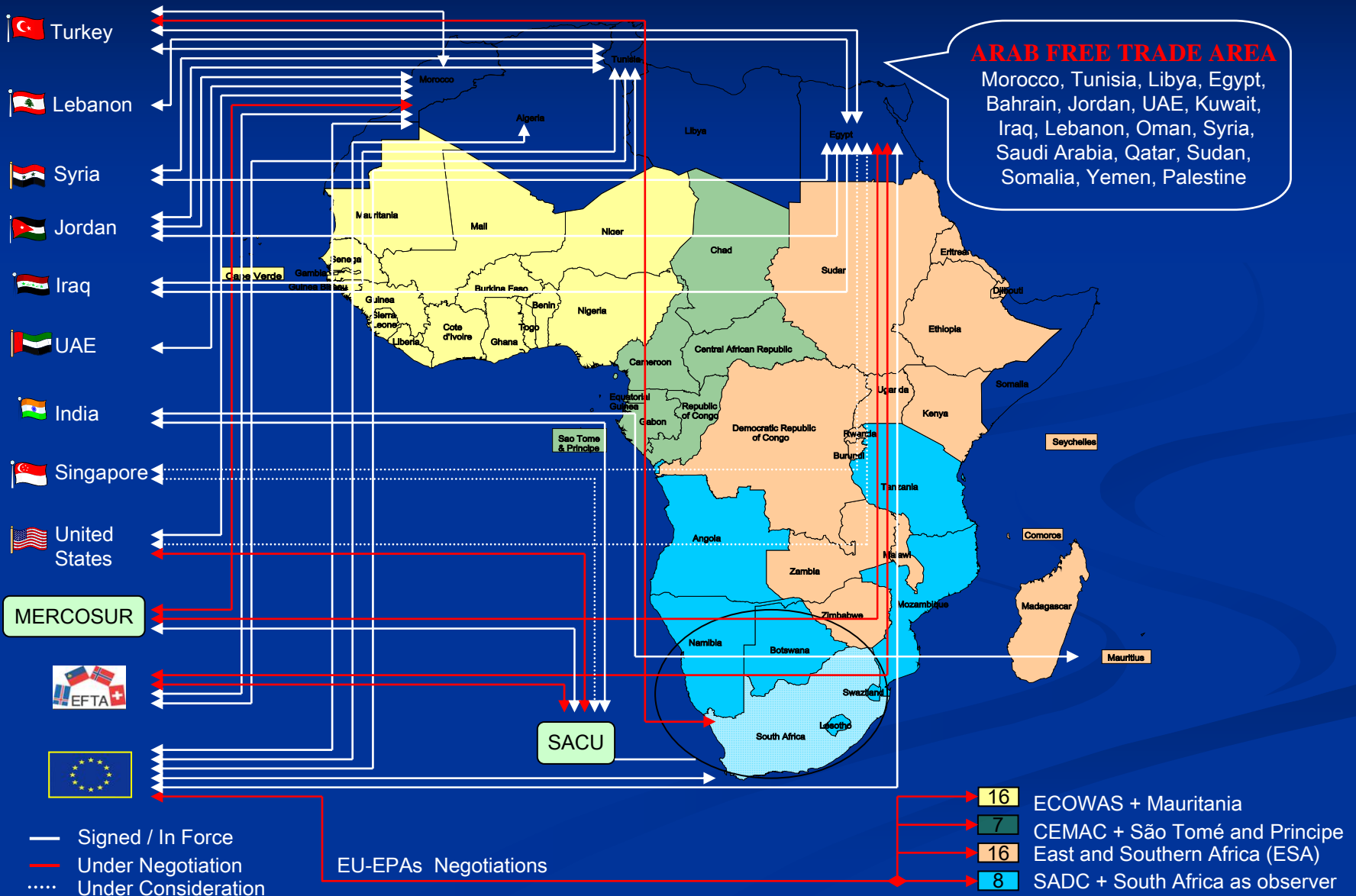
tralac Annual Conference

5-6 October 2006 – Cape Town, South Africa

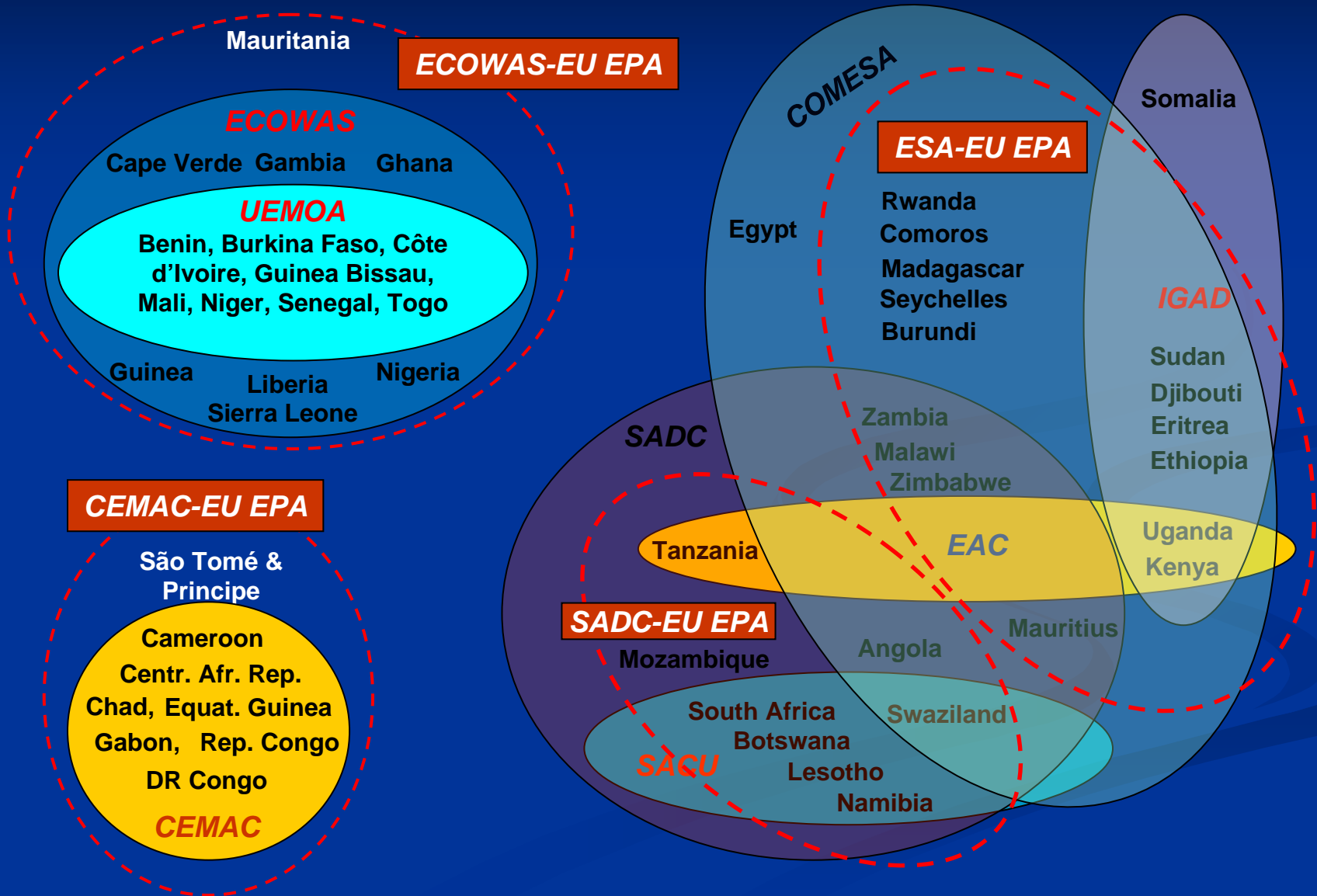
# The WTO and RTAs: friends or foes?

- WTO is underpinned by the MFN principle but it allows some exceptions (RTAs)
- RTAs in the WTO are “reciprocal” agreements
- Members parties to RTAs will need a derogation to avoid legal inconsistency with MFN rule
- WTO’s conditional exceptions to MFN:
  - Since 1947 → GATT Article XXIV – FTA & CU
  - Since 1979 → Para. 2(c) “Enabling Clause” – developing countries
  - Since 1994 → Understanding on GATT Art. XXIV
  - Since 1995 → GATS Article V – trade in services
- Preferences other than RTAs & GSP require a waiver!

# AFRICA's RTA network



# Africa's EPAs



# Where does an EPA fit in the WTO?

## WTO relevant criteria:

- **Membership:** EPAs include developed and developing countries Members
- **Scope:** EPAs provide for preferential (non-MFN) liberalization of trade in goods and services

## WTO relevant provisions:

	RTA parties		
	Developed only	Developing only	Developing & developed
Trade in goods	GATT XXIV	GATT XXIV Enabling Clause	GATT XXIV
Trade in services	GATS V	GATS V	GATS V

# What is required by these provisions?

## GATT Article XXIV

- Facilitation of trade among the parties
- Reciprocal liberalization
- Elimination of duties and ORRCs on substantially all the trade
- No increase in overall level of barriers towards third parties
- Procedural obligations

## GATS Article V

- Facilitation of trade among the parties
- Reciprocal liberalization
- Substantial sectoral coverage and absence of substantially all discrimination
- No increase in overall level of barriers towards third parties
- Procedural obligations

# WTO, EPAs and S&D...

## GATT Article XXIV

- Provides no flexibility for developing countries
- In practice several North-South RTAs provide for asymmetrical implementation of commitments (only during transition period)
- Para. 3 of the Understanding might provide scope for some flexibility with respect to transition periods

## GATS Article V

- Provides some flexibility for developing countries – Paras. 3(a) & (b) – (coverage and absence of discrimination)
- Flexibility to be granted according to the level of development of the parties
- How much flexibility may be granted has not yet been tested in the WTO

# DDA, RTAs and S&D...

- NGR discussions on RTA systemic issues have focused on GATT Article XXIV. No discussions on GATS Article V
- The issue of S&D in Article XXIV has been tabled
- Main areas include “substantially all the trade” (SAT) and “transition periods”
- The SAT debate has centred on definition, methodology, thresholds and S&D
- Members have mixed views on the desirability of S&D in Article XXIV and it is likely to face strong opposition once the discussion matures
- For the ACP countries, the sequencing of the NGR-RTA and EPA negotiations is of crucial importance



# Thank you !

Roberto Fiorentino

RTA Section

Trade Policies Review Division

World Trade Organization

[Roberto.Fiorentino@wto.org](mailto:Roberto.Fiorentino@wto.org)