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WORKING PAPER

International Institutional Reform

Recent Regional Agreements: Why so many, so fast, so different and where are they headed?

JOHN WHALLEY



Working Paper No. 9
September 2006

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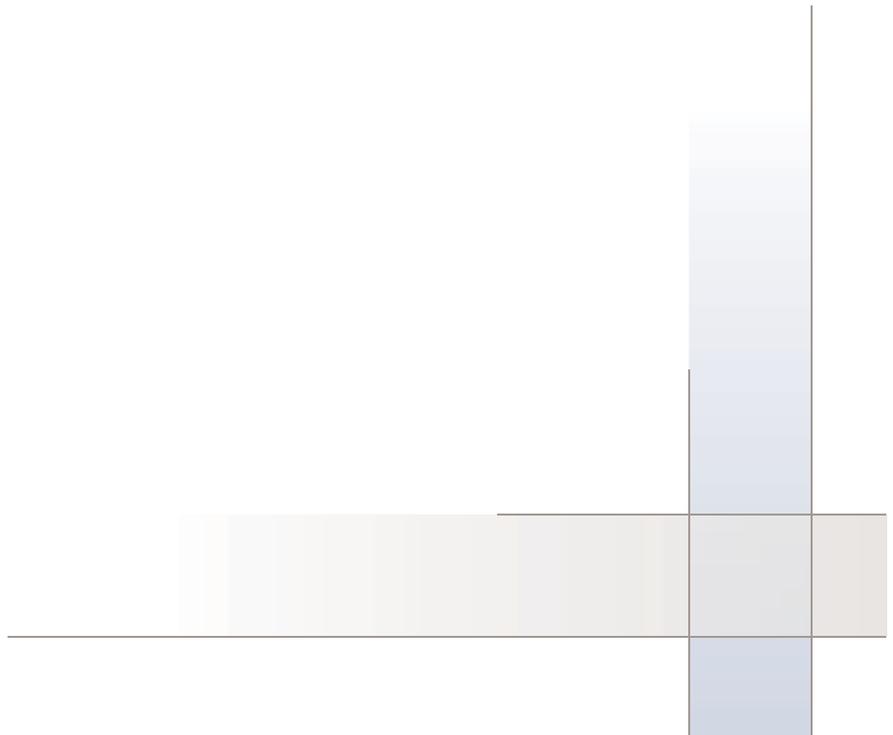
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Author Biography

John Whalley is one of Canada's most pre-eminent experts in the field of global economics. Currently, he holds a number of academic positions, including Professor of Economics and Director of the Centre for the Study of International Economic Relations at the University of Western Ontario, and Professor of International and Development Economics and Director of the Development and International Economics Research Centre at the University of Warwick. He is also the Co-Director of the ESRC Centre for the Study of Globalization and Regionalization (CSGR), a Research Associate at the National Bureau of Economic Research in Cambridge, Massachusetts, and a former Visiting Fellow at the Institute for International Economics in Washington, D.C.

Dr. Whalley has written and co-authored dozens of scholarly articles on a variety of subjects, including international trade and development, public finance, general equilibrium theory and computation, soviet and transition economies, environmental issues and the economy, and Canadian trade policy. He holds a B.A. in Economics from Essex University (1968), an M.A. from the University of Essex (1969), and an M.A.(1970), M.Phil. (1971), and a Ph.D. (1973) from Yale University.

Abstract

Recent years have witnessed a sharp increase in the number of regional trade agreements (RTAs) both concluded and under negotiation. This paper attempts to document and discuss this growth focusing on the United States (US), the European Union (EU), China, India and the agreements of other countries. The form, coverage, and content of these agreements vary considerably from case to case. This paper poses the following questions: why so many, why the variation, and why the recent increase in RTAs? Implications for the trading system are discussed in a final section.

1. Introduction

In the last few years there has been a sharp increase in the number of regional trade agreements (RTAs) both concluded and under negotiation. Data from the World Trade Organization Committee on Regional Trade Agreements discussed below confirm this trend. Countries such as Singapore with effectively no tariff have negotiated an extensive treaty network with approximately eleven bilateral partners. Countries which for decades had avoided participation in regional agreements, such as Japan, have in the last three years initiated or concluded a growing number of agreements. Others such as China which acceded to the World Trade Organization (WTO) in 2002 and pledged themselves to multilateralism, have since that time negotiated eight separate agreements.² Other countries such as India, which for decades were limited to only minimal agreements with smaller neighbouring countries have initiated or discussed bilateral negotiation with distant partners.³

This paper has two objectives: one is to understand more fully what the growth in RTAs implies. RTAs represent growing numbers of agreements across regional groupings, as well as across developed and developing countries; increasingly there is a variance in the form of these agreements, from initial limited framework agreements to deeper partnership agreements going well beyond trade; a sharp growth in coverage beyond goods and services into areas such as mutual recognition, competition policy, movement of persons, investment, and cooperation agreements; and a focus on trade management (or process) establishing procedures for joint exchanges, coordination and other actions as well as joint limitation on the use of trade restricting instruments (such as tariffs). Much of this is reflected in the renaming of these agreements from trade agreement towards a wider form of agreement (for example, the recent Japan-Singapore agreement is for a "New Age Economic Partnership Agreement"). And the traditional Vinerian focus on trade creation and trade diversion in evaluating

² See Agata Antkiewicz and John Whalley, "China's Regional Trade Agreements," *World Economy*. October, vol. 28, no. 10, 2005.

³ India's current bilateral negotiation partners include: Afghanistan, ASEAN, Bhutan, Chile, Mongolia, Nepal, Singapore, Sri Lank and Thailand available from India's Ministry of Commerce: <http://commerce.nic.in/India_rta_main.htm>. Also see Jayanta Roy, "South Asian Regional Trade Agreements: Perspectives, Issues and Options." Paper presented at the International Trade Roundtable "The WTO at 10 years- the Regional Challenge to Multilateralism," Brussels Belgium, June 27, 2005.

their effects often seems irrelevant as the majority of these agreements involve instances where the bilateral trade involved is small as compared to the joint trade with other partners, and in many cases partners are trade rivals in third markets.

The second objective is to try to attempt to make some sense of these developments. Why have there been so many, why are they so varied, and why are they occurring now? The world of the General Agreement on Tariffs and Trade (GATT) at its creation in 1947 was effectively free of regional arrangements, while the world of the late 1870s was one (in Europe at least) of extensive regionalism.⁴ I suggest that the latest wave appears to reflect a range of factors. There is the demonstration effect of the largest trading entity in the world, the US, increasingly going regional from earlier bilateralism as evidenced by the Canada-US Free Trade Agreement (1987) and then more broadly signified by the conclusion of the North American Free Trade Agreement (NAFTA) (1991), and hence being open to regional negotiation. There is the subsequent dynamic interplay between regional and multilateral negotiation aiming to influence multilateral outcomes at the end of the Uruguay Round and later. Subsequently, it has been the failure of attempts to broaden multilateral negotiation into non-trade areas such as competition policy and investment that have created the opportunity for regional arrangements to evolve through targeted sub-group negotiation. And once the wave of regionalism has been initiated, the opportunities available to negotiators completing regional agreements and for politicians of trade treaties which demonstrate action to electorates have further fueled their growth.

The paper concludes with a discussion concerning the future of regional arrangements as the Doha Round draws to a seemingly minimalist and inconsequential conclusion. The paradox posed is one of regional (and primarily bilateral) agreements as the arena of dynamism for new global integration in terms of number and coverage of agreements, while at the same time viewed by many researchers as largely diplomatic and of limited substance relative to multilateral disciplines embedded in the WTO.

2. Growth of Regional Agreements

When the GATT was negotiated in 1947 and came into force in 1948 there were effectively no regional agreements in the world trading system. There were systems

⁴ See Antoni Estevadeordal, Brian Frantz, and Alan M. Taylor, "The Rise and Fall of World Trade 1870-1939," *NBER Working Paper No. W9318*, National Bureau of Economic Research, 2002.

of trade preferences, most notably the commonwealth preferences agreed to at the 1932 Ottawa conference, but no formal regional trade agreements. There had in the past been extensive regional agreements in Europe, centered on the UK-France Cobden-Chevalier treaty of 1870.⁵ This Treaty extended to each party to the agreement the benefits of subsequent negotiations with third parties (or Most Favoured Nation status (MFN)), and became the cornerstone of an intricate system of interlinked bilateral agreements in Europe, many of which subsequently attempted to exclude other parties despite the intent of the original treaty. This system grew extensively throughout Europe prior to 1913, but the war effectively ceased its growth. More importantly, the US position during this period was one of hostility to regional agreements which were seen as a central element of colonial power centered on Europe and from which the US had been excluded since independence.

In 1947, regional agreements were only minimally discussed in the negotiation of the GATT Articles. Article 24 permitted members to participate in regional agreements under the two conditions: 1) that all trade between parties would be covered (usually interpreted as covering at least 80% of trade); and 2) that no barriers should be raised against third parties as a regional agreement takes effect. Article 24 was as much intended to deal with cases of dissolution of nation states (such as the 1905 separation of Sweden and Norway) as it was to cover new trade agreements between existing states.

The world of today is substantially different from 1947 as far as regional agreements are concerned. The US, the major trading power in the system, and the champion of multilateralism for the first four decades of the GATT, effectively regionalized trade with Canada, its largest trading partner, in 1987 in an agreement initiated from the Canadian side, and later trilateralized with the NAFTA in 1991.⁶ However, since 2000, the US has concluded free trade agreements (FTAs) with Australia, Chile, Jordan, Oman, Morocco, Singapore, Peru, and the six Central American parties to CAFTA (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua). The US is presently negotiating FTAs with a dozen or so additional

⁵ See David Lazer, "The Free Trade Epidemic of the 1860s and Other Outbreaks of Economic Discrimination," in *World Politics* 51.4 (1999): 447-483 and also Antoni Estevadeordal et al.

⁶ There was an earlier US-Israel agreement in 1985, but this was more limited in scope and had geopolitical strategic underpinnings more so than primarily trade policy objectives.

countries including Korea, Panama, Thailand, United Arab Emirates, Andean Community (Colombia, Ecuador, Peru, Venezuela), FTAA (Free Trade Area of Americas), and the Southern African Customs Union (SACU) countries (Botswana, Lesotho, Namibia, South Africa, and Swaziland).⁷

The EU, whose formation under the 1957 Treaty of Rome provided one of the major elements of escalation of regionalism in the system, has also seen a sharp escalation in its regional agreements. Beginning in the 1990s, previous EU development efforts focused on aid and assistance, primarily to former dependent states, began to take on the form of providing a trade, investment, and legal framework for European companies to do business in these countries.⁸ Through a series of partnership agreements, the EU approach to regional agreements has been for partner countries to adopt similar laws and policies to those of the EU that relate to both trade and the conduct of business. Agreements cover intellectual property, labor practices, competition policy, investment, culture, and movement of persons to the EU. Some are cooperation agreements, association agreements, or framework agreements. In other cases they are phased agreements conceived as part of possible accession to the EU; in other cases they are stand alone agreements. Recent agreements span the Cotonou Agreement of 2000 with seventy-six African, Caribbean, and Pacific former colonies (formerly the Lome Agreement), 2002 Agreements with Algeria, Chile, Jordan, Lebanon; 2001 Agreements with Algeria, Egypt, Korea and Bangladesh, a 2004 Agreement with Syria, and a 2005 Agreement with Iran.⁹ These agreements are in addition to the regional arrangement, reflected in the latest enlargement of the EU to twenty-five member states.

Elsewhere the pace of new regional arrangements has been equally rapid. Singapore, effectively a free trade zone with almost no barriers to trade, has since 1998 embarked on an extensive programme of building a network of regional agreement. Viewed as cooperation agreements that go well beyond conventional trade

⁷ See the US Government: <<http://www.export.gov/fta/index.asp>>.

⁸ See Ayse Kaya, "The USA's and the EU's Bilateral and Regional Trade Agreements: Divergent Paths, Divergent Ends?" *CESifo Working Paper*, 2005, online: <<http://www.cesifo.de>>.

⁹ Directorate General Trade of the European Commission-External Trade: <http://ec.europa.eu/comm/trade/index_en.htm> and The Cotonou Agreement: <<http://www.acpsec.org/en/conventions/cotonou/accord1.htm>>.

agreements, eleven of these agreements exist to date.¹⁰ China, after acceding to the WTO in 2002, has concluded regional agreements and wider cooperation agreements with Hong Kong, Macau, Association of Southeast Asian Nations (ASEAN), New Zealand, Australia, Chile, Pakistan and the Gulf Cooperation Council, and is now negotiating with India, Singapore, and others¹¹. Japan now has a series of concluded agreements with Singapore, ASEAN and others. India is joining this trend with new regional agreements with ASEAN and Singapore.

As of September 2005, 334 regional trade agreements had been notified to the WTO Committee on Regional Trade Agreements (CRTA), and of those notified 183 were still in force. Crawford and Fiorentino (2005)¹² document this growth in notifications in the GATT between 1943 and 1957, starting with 0 in 1943 and calculate that by the year 2008, if RTAs at a negotiation, proposal, or actually signed (but not yet notified) stage are included, the number of agreements in force will grow to 300. Crawford and Fiorentino also outline global maps depicting the frequency (number) of agreements with thirty or more agreements in some European countries, 10-19 agreements in most of North America and Latin America, and other regions between four and ten. This constitutes a sharp and recent acceleration in regionalism in the trading system.

However, evaluating both the content and significance of agreements is a daunting task. Some agreements relate to bilateral or regional links where trade flows and other forms of economic interaction are limited (India-Afghanistan, US-Oman), others apply to cases where linkages are deeper. Some appear to be token agreements while others are more substantive.¹³ Moreover, WTO multilateral disciplines remain the anchor of the trading system, and how far these agreements go beyond what is

¹⁰ See the Ministry of Trade and Industry Singapore: <<http://app.fta.gov.sg/asp/fta/ourfta.asp>>. Singapore is also involved in the ongoing negotiation with Bahrain, Canada, Egypt, Mexico, Pakistan, Peru, Sri Lanka, Kuwait, Qatar and the United Arab Emirates and in ASEAN negotiation with China, Australia and New Zealand, India, Japan (to extend a previous agreement) and Korea.

¹¹ China also has ongoing negotiations with Thailand, APEC (Asian Pacific), East Asia (Japan, Korea), Brazil, India, Mexico, Peru, Singapore, SACU (South Africa), Mercosur (South America), Iceland, Japan and Korea.

¹² J. Crawford and R. V. Fiorentino, "The Changing Landscape of Regional Trade Agreements," *WTO Discussion Paper*, no. 8, 2005.

¹³ See Agata Antkiewicz and John Whalley, "BRICSAM and the Non-WTO," *Review of International Organizations*, vol. 1, no. 3, September 2006.

already implied by WTO agreements is unclear. Since WTO negotiating rounds have progressively lowered bound tariffs, it is often assumed the scope for substantive regional agreements with impact in the tariff sphere has become more limited.

This wide variation in form and circumstance leads to sharply divergent evaluations of their impact. One school of thought highlights the increasing difficulties in the WTO Doha Round and its likely minimalist outcome, along with the growing difficulties of dispute settlement in multilateral process. It views the growth in regionalism as the leading edge of future negotiated global integration. Contrary view suggests that many are negotiated for diplomatic reasons or political advancement of negotiators and/or politicians. It also highlights the much larger potential number of bilateral agreements than those at present.¹⁴

Neither characterization is in my view appropriate; both arguments have elements of plausibility and need to be given equal consideration as few substantive evaluations of individual agreements exist in the literature whereby the texts of agreements and substantive content are jointly evaluated. The use of gravity or GTAP models for the analysis of impacts of the tariff barrier change components may yield little if the agreements are complex and elaborate. A recent World Bank *Global Economic Prospects 2005* estimates that roughly 43% of world trade was covered by agreements in force in 2003 and was projected to increase to 55% by 2005.¹⁵ But such calculations raise even more questions: what is the extent or impact of these agreements on covered trade?¹⁶ How large are the preference margins in these agreements compared to no agreement situations? How significant are the non-trade components of these agreements in a range of newly covered areas (services, IP, investment, movement of persons, mutual recognition, and competition policy)?

¹⁴ With 191 UN countries and the potential number of agreements is factorial 191 this yields 1.85 E+354.

¹⁵ See the World Bank's "Global Economic Prospects-Trade Regionalism, and Development" 2005 <<http://www.worldbank.org>> and the OECD's "Regionalism and the Multilateral Trading System - The role of regional trade agreements," *Policy Brief*, 2003 online: <<http://www.oecd.org/dataoecd/23/12/8895922.pdf>>.

¹⁶ In the case of Canada-US trade there are estimates that perhaps 50% of bilateral trade eligible for preferential tariff treatment takes place without eligible preferences being claimed because MFN tariffs are low and the costs of establishing origin are often prohibitively large for exporters. See Robert Kunimoto and Gary Sawchuk, "NAFTA Rules of Origin," Policy Research Initiative, Government of Canada. *Discussion Paper*, June 2005. <http://www.policyresearch.gc.ca/doclib/NAFTA_ROO_final_e.pdf>.

3. An Overview-Content of Recent Regional Agreements

Evaluating both the impact and potential significance of recent regional agreements requires synthesis of what the agreements entail as most go well beyond the tariff barrel agreements studied by economic theorists. By way of example, the 2002 US-Singapore bilateral agreement is 210 pages of text and 1375 pages of annexes; with a 299 page annex on rules of origin.¹⁷ The Canada-US FTA (1987) contains twenty-three chapters and covers a wide range of items including energy security, financial services, wine and spirits, special dispute settlement covering bilateral use of anti-dumping and countervailing duties, compensation for losses to foreigners from government actions, and other matters¹⁸.

One way to approach these agreements is as tariff plus agreements, and recognizes that in many cases the plus component dominates the tariff part in length of text and likely in significance given that in many cases the MFN tariff rates are sufficiently low that the margins of preference involved have limited impacts on trade.

But a further element in assessing these agreements is to recognize their significance as process rather than simple instrument based agreements that limit the use of trade based interventions (tariffs). The 1957 Treaty of Rome set out a road map for deeper integration in Europe from joint tariffs being removed among partners to a tax union and eventually to economic and monetary union, a common currency, a common budgetary and competition policy structure, and beyond. As such it stands in sharp contrast to the NAFTA (1991) which as a one off agreement, does not set out ongoing processes for deeper North American economic integration.

Several recent regional agreements, and specifically those of China and Japan, are centrally labeled as cooperation and partnership agreements. Commitments are set out to cooperate in tourism, rural development, standards setting, and in other areas including poverty alleviation and the promotion of mutual understanding. Tariff arrangements are thus but one part of these agreements. Some agreements

¹⁷ Office of the United States Trade Representative (USTR): <http://www.ustr.gov/Trade_Agreements/Bilateral/Singapore_FTA/Final_Texts/Section_Index.html>.

¹⁸ See the Canada-US Free Trade Agreement: <<http://wehner.tamu.edu/mgmt.www/NAFTA/fta/index.htm>>.

also contain broad commitments to cut tariffs, but with details to be subsequently negotiated. In these cases, agreements on Rules of Origin, and even bilateral dispute settlement are to follow the concluded broad agreements.¹⁹ And the move into newer areas not currently covered by WTO disciplines (current or prospective negotiations) such as standards setting, competition issues, mutual recognition and other areas is reflected in the language used to label agreements. For instance, the recent Japan-Singapore agreement is a "New Age Economic Partnership" agreement and the China-ASEAN agreement is a Framework Agreement on Comprehensive Economic Cooperation²⁰.

Having noted this tendency for regional agreements to evolve as formalized management arrangements for bilateral economic interaction, more so than treaty based agreements to mutually limit the use of border measures, a further striking feature is the diversity among the agreements themselves.

In part, this is reflected in the sharply differing focus of agreements across the partners involved. Many are agreements between countries of sharply asymmetric size, and these agreements often follow a seemingly standardized pattern common to other agreements involving the larger partner. For instance, both US and EU agreements typically follow a set pattern and form. In contrast, China's recent agreements²¹ appear to be customized to individual partners and perceived opportunities for China in each bilateral negotiation.

US agreements are characterized as following an architecture in which the central element offered from the US side is bilateral elimination of remaining industrial tariffs (or the acceleration of what may be anticipated to subsequently occur multilaterally). This is viewed from the US side as proportionally more beneficial to the smaller trade partner, and in return what is typically requested is what usually amounts to unilateral liberalization in key service sectors (banking, insurance, telecoms)²² by smaller

¹⁹ See for example, the China-ASEAN Framework Agreement on Comprehensive Economic Cooperation: <<http://www.aseansec.org>>.

²⁰ China-ASEAN Agreement: <<http://www.aseansec.org/4979.htm>>.

²¹ Agata Antkiewicz and John Whalley, *China's Regional Trade Agreements*, 2005.

²² Key service sectors also include computer and related services, energy, etc. See the Vietnam Government online: <<http://www.vietnamembassy-usa.org/news/story.php?d=20060515105449&print=yes>>.

partners. These elements of liberalization are then qualified (Rules of Origin, safeguards, sectoral exemptions) and new elements added to these agreements going beyond tariffs on industrial products and commitments in services (intellectual property and competition).²³ They are viewed as one off agreements and among the present set of agreements, perhaps least process oriented.

EU agreements differ substantially from US agreements. Most originated as a result of changes in thinking in the European Commission (EC) in the early 1990s that signaled a new relationship with dependent states and the need to evolve away from aid and direct assistance towards arrangements allowing for easier transactions for European business with these states. This is seen as a source of mutual benefit; both development enhancing and pro-European business. Thus, the focus of these agreements is jointly on improving access to these markets by removing or weakening border measures and improving the environment for European business once inside. Legal structure, competition policy, standards, and other such arrangements are key. EU agreements, in contrast to US agreements, are characterized by a series of hierarchical partnership agreements through which partner countries can progress. In some cases this is seen as part of the transitional process to eventual EU accession. EU agreements have been dominated since the 1990s by agreements either with former Soviet republics or with former dependent states. In the last five years, agreements with partners outside this grouping of countries have been added, most notably with Mercosur and with South Africa. These agreements take on a somewhat different form reflecting both diverse bargaining power and the interests of these partners.

Elsewhere, China's agreements negotiated since accession to the WTO are quite different from one another and seemingly customized to each partner. No common template is involved. Singapore views itself as the hub for an emerging network of regional agreements (even with effectively zero tariffs) which centrally involve intellectual property, product standards and other matters. India has also begun

²³ Visit Bilaterals.org: <http://www.bilaterals.org/article.php3?id_article=984>; and Martin Khors, "Bilateral/Regional Free Trade Agreements: An Outline of Elements, Nature and Development Implications," September 2005, Third World Network: <<http://www.twinside.org.sg/title2/par/mk005.doc>> and the USTR: <http://www.ustr.gov/Trade_Agreements/Section_Index.html>.

active regional negotiation outside South Asia,²⁴ and Chile, Canada, and others are all equally active.

One feature of many of the larger country agreements is the seeming clear tie to multilateral negotiating process, and also the use of sequential bilateral or regional negotiation. For instance, the failure of the 1990 Ministerial in Brussels meant to conclude the GATT Uruguay Round was closely followed by a US declaration to launch regional negotiations in the Western hemisphere as a way of exerting pressure on the EU and others for multilateral conclusion. As a further example, the US seemingly first negotiated bilateral agreements with Chile and Singapore before moving onto larger partners. Singapore was largely duty free, and Chilean exports to the US were largely of copper and out of season fruit and vegetables. Establishing precedents in early regional forms of agreements, enabled the US to move on to a second set of larger entities: Australia, Morocco, Central American Free Trade Agreement (CAFTA), SACU; presumably with the intent of eventually approaching larger negotiations with Mercosur, India, or China with an established treaty network in place. The EU, also notably, has yet to conclude regional agreements (with the exception of Mercosur) with its most significant non-European /non-colonial entities. The content of each regional agreement seemingly reflects a dynamic bargaining process involving many agreements.

4. Beyond Goods and Services: ASEAN and ASEAN country agreements²⁵

Many of the agreements which comprise the recent wave of RTAs go substantially beyond conventional free trade agreements in dealing with items not yet subject to WTO disciplines. Viewing FTA's as largely concerned with goods and services is

²⁴ India's current engagement in bilateral negotiations include ASEAN, Singapore, Thailand Malaysia, Indonesia, SACU, Chile, Mauritius, GCC, MERCOSUR, BIMSTEC, Afghanistan, Bhutan, Nepal, Sri Lanka (Korea, Japan, Chin-joint study group). See India's Current Engagements in RTAs: <http://commerce.nic.in/in_dia_rta_main.htm>. Chile's engagement in RTA negotiations includes Argentina, Bolivia, Canada, Central America, Colombia, Ecuador, EFTA, EU, Korea, Mercosur, Mexico, New Zealand-Singapore-Brunei, Peru, US and Venezuela.

²⁵ This section draws in part on O.G. Dayaratna Banda and J. Whalley, "Beyond Goods and Services: Competition Policy, Investment, Mutual Recognition, Movement of Persons, and Broader Cooperation Provisions of Recent FTAs involving ASEAN Countries," *NBER Working Paper: 11232*, National Bureau of Economic Research, 2005.

no longer in keeping with contemporary realities. Rather, like multilateral WTO negotiations, RTAs have become platforms for packaging a range of new and ongoing issues previously dealt with separately (such as visas/work permits) into a combined negotiation. These additional issues added to trade negotiations differ both between multilateral and regional negotiations and across individual regional negotiations.

The number and complexity of these agreements makes synthesizing the features complex. I discuss only a subset of recent agreements involving both ASEAN as a single entity, and individual ASEAN countries negotiating separately (Malaysia, Thailand and Singapore). To date, ASEAN has concluded three formal framework agreements (with China, Japan, and India) and aims to activate more substantive arrangements. It also has a further two (with Korea, and Australia & New Zealand jointly) under negotiation. Singapore has concluded six substantive agreements (with the US, European Free Trade Association (EFTA), Australia, New Zealand, Japan and Jordan) and is actively negotiating a further twelve. Thailand has concluded two full agreements (with Australia and Bahrain), two framework agreements (with the US and India), one ancillary agreement to a wider ASEAN agreement covering only vegetable and fruits (with China), and is negotiating a further five agreements. Malaysia has a single bilateral investment treaty with the US, but is negotiating a further five agreements. These agreements vary greatly in length, specificity and coverage; some are detailed with substantial specificity (for example, the Singapore-US agreement).

What is striking is their breadth of coverage. Several areas beyond current WTO disciplines are dealt with including competition policy, mutual recognition (both of professional qualifications and product standards and testing), movement of persons and visa/work permit arrangements, investment, and cooperation in specific areas.

Of the ASEAN bloc-wide and regional agreements, six contain provisions relating to competition policy; Singapore-US, Singapore-EFTA, Singapore-New Zealand, Singapore-Australia, Singapore-Japan, and Thailand-Australia. The two ASEAN agreements (with China and India) have no coverage of competition policy. Singapore at the time of negotiation with the US had no formal competition law, but is currently in the process of enacting such laws.

The manner in which competition policy is dealt with in these agreements varies from case to case. The most detailed treatment occurs in the Singapore-US agreement,

and is set out in an eight- page Chapter 12 not titled competition policy but rather: "Anti Competitive Business Conduct, Designated Monopolies and Government Enterprises". This chapter commingles broad statements of principles on matters related to competition policy and detailed and specific commitments by the two parties on a range of competition related matters.

Other agreements cover competition in less detail and with some variation. The Thai -Australia agreement commits both governments to apply their competition laws, but allows measures or sectors to be exempt from commitments on public interest grounds if executed in a transparent manner. The Singapore-Australia agreement is similar but goes further. The Singapore-EFTA agreement is much shorter comprising only eleven lines of text (Chapter 10) devoted to competition policy.

The competition policy component of these agreements can be viewed as a partial bilateral response to the failure in the WTO to negotiate on competition policy. Following the 1996 Singapore Ministerial and prior to the launch of the Doha Round in the WTO, there was considerable discussion of competition related issues. As one author identifies,²⁶ in these discussions the directions proposed for a multilateral agreement on competition policies including achieving investment promoting benefits of harmonized competition policies; actions against anti-competitive practices that restrict market access for imports; replacement of anti-dumping arrangements by competition policies (as in the EU); and restrictions on cross border cartels. In the 2001 agreement to launch the Doha Round, only a portion of the list survived, and was later dropped at the 2004 Cancun Ministerial.²⁷

Investment is dealt with more often in country agreements than is competition policy and is also covered in the ASEAN agreements. There is also more commonality in approach, with central commitments being (either or both) National Treatment and MFN treatment for foreign investors (typically) alongside provisions relating to expropriation, compensation, and in some cases repatriation of earnings.

The ASEAN-Japan and ASEAN-India agreements are virtually identical and contain general commitments to create a liberal and competitive environment for

²⁶ Aditya Bhattacharjea, "Trade and Competition Policy," *Working Paper No. 146*, Indian Council for Research on International Economic Relations, Delhi, 2004.

²⁷ *Ibid.*

investment, to strengthen cooperation in investment, improve transparency of laws and regulations, and to protect investors. The ASEAN-China agreement has similar general provisions, but the language differs.

The Thai-Australia agreement begins with definitions but then centers its liberalization commitments on MFN treatment for investors, with separate "pre-establishment" and "post-establishment" national treatment provisions.²⁸ There is language relating to the promotion and protection of investments and provisions relating to expropriation and compensation for losses, as well as access to dispute settlement.

These agreements demonstrate more commonality of approach for investment than is the case of competition policy. There are substantive commitments and of relative similarity to those proposed for the failed Multilateral Agreement on Investment (MAI). In this area, regional negotiations clearly appear to be fulfilling the role of a partial substitute for a wider multilateral agreement between countries who were not (in the main) forces of resistance to a possible agreement on multilateral disciplines in the WTO.

Issues related to mutual recognition in these agreements arise under a number of chapter headings in the various texts. Issues of product testing and standards are in chapters on technical barriers to trade and sanitary and phytosanitary restrictions, and particular sectoral chapters, such as telecommunications, touch on product standards while chapters on services deal with recognition of professional certification. This treatment of mutual recognition differs substantially from the explicit pairwise country treaties on mutual recognition that have been negotiated in recent years. These typically involve both mutual agreement to agreed competent authorities for the mutual determination of standards, and agreements on the mutual recognition of more narrowly specified items (such as notarial attestations or certificates).

The ASEAN bloc-wide and country agreements also acknowledge issues related to movement of persons and in separate chapters. This is reflective both of the growing significance of visa and work permits in the global economy and the

²⁸ The rationale for these two separate commitments as against a single national treatment commitment is not clear to the present author.

absence of multilateral venues for dealing with these issues.²⁹ In this case, country or regional agreements provide the platform for adding issues under current discussion, but lack a clear multilateral forum for discussion. Bargaining across issues and the greater probability of achieving results presumably provides the rationale for this.

The Singapore-US agreement begins with a broad statement that the preferential trading relationship between the parties is comparable temporary entry with transparent criteria and procedures. It then proceeds to general obligations to apply measures so as to avoid adverse impacts or delays involving trade in goods and services or the conduct of investment activities under the agreement. There are then provisions on information exchange, transparency criteria and an agreement to appoint temporary entry coordinators in each country.

The substance of the agreement is contained in an annex (11A) which sets out details of arrangements under four section headings; business visitors, traders and investors, intra-company transfers, and professionals. In some cases, (such as business visitors) it sets out required documentation for entry. In other categories (professionals) there are appendices which set out numerical targets for initial applications for entry of business persons from Singapore that the US shall annually approve (5,400). These also specify a number of considerations required by US immigration laws that the US shall not take into account when making entry visas.

The ASEAN agreements also contain a range of commitments relating to cooperation in a number of areas. Cooperation agreements are typically vague in statement and it may be tempting to dismiss them as lacking in substance. However, they do represent a commitment to a deepening of bilateral relationships and in specific and designated areas and are therefore of substance from a process point of view.

The stress on cooperation in the China-ASEAN agreement is manifest in the title of the agreement as a "Framework Agreement on Comprehensive Economic Cooperation" indicating the significance attached to cooperation in bilateral relationship

²⁹ E. Ng and J. Whalley, "Visas and Work Permits: Can GATS/WTO Help or is a New Global Entity Needed?" *CESifo Working Paper no. 1614*, 2005 and also J. Nielson, "Current Regimes for Temporary Movement of Service Providers: Labour Mobility in Regional Trade Agreements," Joint WTO-World Bank Symposium on Movement of Natural Persons (Mode 4) under the GATS, 11-12 April 2002 for a recent discussion of temporary movement of persons in other bilateral agreements.

building in this case. There are commitments to strengthen cooperation in five key sectors: agriculture, information and communication technology, human resource development, investment, and Mekong River basin development.

The ASEAN agreement with Japan and India also details many areas of cooperation including trade facilitation, business environment, energy, information and communications technology, human resource development, tourism and hospitality, transportation and logistics, and standards conformity and mutual recognition.

Though inevitably vague and difficult to interpret as legal text, these cooperative elements play an important role in the deepening of country to country relationships. For countries where sequential relationship building and deepening is perceived as a critical factor in international negotiations, the cooperation provisions of these agreements play a major role as far as international economic management is concerned. Commitments to cooperate, even if ill-defined, are part of a new process and these new partnership agreements unlike traditional tariff based trade agreements, are typically not negotiated as one off treaty arrangements with an exclusive focus on legal provisions and detailed text.

5. RTAs: why so many, so fast, so different and where are they headed?³⁰

The latest wave of regional agreements which have spread so quickly through the trading system does not in my view, reflect a single dominant influence. Instead, a series of factors require consideration to account for the phenomena.

First, their complexity appears to reflect the relative ease of customizing agreements to cover non-trade barrier issues in ways acceptable to the parties so as to avoid a lowest common denominator outcome from common multilateral agreements. For example, two countries may choose to cover competition policy or investment in their pair-wise agreement even if other countries are unwilling to negotiate and bilaterally they are able to cover the issue in a way which differs from that of any other bilateral pair.

³⁰ This section draws in part on Agata Antkiewicz and John Whalley, "BRICSAM and the Non-WTO" 2006.

As such, one can argue that the attempt in the WTO to deal multilaterally with an expanded agenda beyond conventional trade issue areas such as the environment, competition policy, labor standards, and investment (the so-called Singapore issues, after Singapore 1996), and the subsequent failure to properly these address issues has resulted in renewed bilateral efforts. Conventional tariff based RTA's thus provide a convenient platform to which non-trade issues can also be appended bilaterally and be addressed on a case-by-case basis.

Second concerns the linkage to multilateral process and whether process appears to be slow or stalled, as the tariff area has seemingly removed much of the room for further negotiation, then regional negotiation may be the way forward. Global cooperation in trade may be viewed as having moved from a form of non-cooperative Nash equilibrium in the 1930s to cooperation with low tariffs (at least in the OECD) by the end of the Uruguay Round. If multilateral cooperation subsequently attempts to move into non-trade areas and fails due to its complexity and continuous instrument use which is limiting; then perhaps RTAs can fill the void. And if attempts to revive a failing multilateralism involve the use of RTAs as a form of pressure on multilateral process then RTAs will continue to be the preference.

Third concerns the behaviour of the larger powers in the trading system. In 1947, there were no global regional agreements. The creation of the EEC (and subsequently the EU) in 1957 allowed GATT members to create a regional entity. The receptiveness of the US to Canadian overtures for a 1987 bilateral effectively changed global perceptions signaling a US commitment to multilateralism. And with the formation of Asia-Pacific Economic Cooperation (APEC) in 1994, perceived as a non-EU coalition to force a conclusion to the Uruguay Round, the presence of regionalism in the system was clearly established.

Since the early 1990s, the pursuit of regional agreements by smaller entities with larger powers has been accelerated by a willingness to proceed regionally. The growth of the GATT post- 1957 first through the formation of the EU via the Kennedy and Tokyo Rounds is perceived as a form of bilateral accommodation between the two largest trading entities in the system. The subsequent application of MFN to third party trading partners most of whom had their dominant trade with either the US or the EU only furthers this trend. Multilateralism in the GATT therefore can be viewed as a peace treaty between the US and the EU to mutually extend negotiated

agreements with third parties to one other. The rise of Japan and its accommodation within this system as a multilateral non-regional entity further preserved this structure until the 1980s.

In the late 1980s, however, things began to change. As mentioned, US regionalism with Canada and the Uruguay Round proved difficult to conclude and regional negotiation appeared to be a mechanism to achieve multilateral closure. The Doha Round thus became difficult to launch and even more difficult to conclude. The subsequent attempt to broaden the bargaining in the WTO to extend to non-trade areas failed, but the demand for such negotiations remained strong. Driven by a desire to be inside trading blocs, smaller countries sought safe haven agreements. RTAs therefore became an acceptable currency and a platform for wider use.

Finally, the negotiation of increasingly complex RTAs suggests the potential benefit to negotiators who seek a collusive outcome to advance their careers. Politicians may use RTAs to attract domestic political favour with their constituencies even if vague and lacking in concreteness. From a process point of view, enhanced trade management by those in bureaucracies through the use of RTAs and their ongoing consultation can be a source of advancement.

The net result has been sharp growth and acceleration in RTAs in one form or another to the extent discussed in this paper. The question begs: where is the process headed? To some degree this remains unknown. If the content of RTAs remains vague, these agreements may be viewed as diplomatic arrangements negotiated for geopolitical linkages lacking significant economic impact. Ultimately, the future direction of RTAs will be determined by multilateral developments. If, as most expect, the Doha Round concludes with a minimal outcome, dispute settlement in the WTO weakens, and multilateral disciplines are perceived to weaken, then regionalism as the central form of trade policy coordination in the system will grow. And if non-OECD trade continues to grow at its current rates (for example, China is now India's second largest export market), the desire for trade management of these relationships will grow. Weakening multilateralism inevitably suggests a growing patchwork of regional policy cooperation as the ever more prominent component of the system.

6 . Conclusions

In this paper, I seek to characterize and assess the recent wave of regional agreements in the trading system which has accelerated since 2000. Nearly 400 agreements now exist, and as suggested by the WTO, by 2008 a significant number of countries will be party to over thirty trade agreements. I have suggested here that these agreements be characterized by several distinct features: substantial diversity in form, extended coverage of issues to the degree that RTAs seemingly now provide a platform to which a range of issues are appended; vagueness in language and commitment such that RTAs should be understood as both process agreements as mutual limitations on trade restriction measures; and in many cases, sharp asymmetries of partner size.

I also outline a number of factors which have contributed to an overall increase in the number of RTAs. These include the use of RTAs as a platform to append a range of issues for targeted bilateral negotiation; the failure of multilateral negotiation to extend bargaining to non-trade issues as evidenced by the Uruguay Round; the prospect of limited multilateral process; the demonstration effect of large entities seeking regional agreements and simultaneously, smaller entities seeking safe haven agreements with their most significant large trading partners; and finally, the use of agreements by politicians and negotiators seeking personal advancement. I conclude by suggesting that weakened multilateralism after a minimalist conclusion to the Doha Round may only further accelerate the trend towards RTAs.

References

- Antkiewicz, Agata and John Whalley (2005). "China's Regional Trade Agreements," *World Economy*, vol. 28, no. 10, October.
- _____. (2006) "BRICSAM and the Non-WTO," *Review of International Organizations*, vol. 1, no. 3, September.
- Bhattacharjea, Aditya (2004). "Trade and Competition Policy," *Working Paper No. 146*, Indian Council for Research on International Economic Relations, Delhi.
- Crawford, J and R. V. Fiorentino (2005). "The Changing Landscape of Regional Trade Agreements," *WTO Discussion Paper*, no. 8.
- Dayaratna Banda, O.G. and J. Whalley (2005). "Beyond Goods and Services: Competition Policy, Investment, Mutual Recognition, Movement of Persons, and Broader Cooperation Provisions of Recent FTAs involving ASEAN Countries". *NBER Working Paper: 11232*, National Bureau of Economic Research.
- Estevadeordal, Antoni, Brian Frantz, and Alan M. Taylor (2002). "The Rise and Fall of World Trade 1870-1939," *NBER Working Paper No. W9318*, National Bureau of Economic Research.
- Jayanta, Roy (2005). "South Asian Regional Trade Agreements: Perspectives, Issues and Options." Paper presented at the International Trade Roundtable "The WTO at 10 years- the Regional Challenge to Multilateralism," Brussels Belgium, June 27.
- Kaya, Ayse (2006). "The USA's and the EU's Bilateral and Regional Trade Agreements: Divergent Paths, Divergent Ends?" presented at Venice Summer Institute 2006, Workshop on "Understanding the Latest Wave of Regional Trade and Cooperation Agreements", 19-20 July, Venice International University, San Servolo.
- Khors, Martin (2005). "Bilateral/Regional Free Trade Agreements: An Outline of Elements, Nature and Development Implications," September; Third World Network: <[http:// www.twinside.org.sg/title2/par/mk005.doc](http://www.twinside.org.sg/title2/par/mk005.doc)>.

- Kunimoto, Robert and Gary Sawchuk (2005). "NAFTA Rules of Origin," Policy Research Initiative, Government of Canada. *Discussion Paper*, June. <http://www.policyresearch.gc.ca/doclib/NAFTA_ROO_final_e.pdf>.
- Lazer, David (1999). "The Free Trade Epidemic of the 1860s and Other Outbreaks of Economic Discrimination," *World Politics* 51.4: 447-483.
- Ng, E. and J. Whalley (2005). "Visas and Work Permits: Can GATS/ WTO Help or is a New Global Entity Needed?" *CESifo Working Paper no. 1614*.
- Nielson, J. (2002). "Current Regimes for Temporary Movement of Service Providers: Labour Mobility in Regional Trade Agreements," Joint WTO-World Bank Symposium on Movement of Natural Persons (Mode 4) under the GATS, 11-12 April.
- Organisation for Economic Co-operation and Development (OECD) (2003). "Regionalism and the Multilateral Trading System - The role of regional trade agreements," *Policy Brief*. <<http://www.oecd.org/dataoecd/23/12/8895922.pdf>>.
- World Bank (2005). "Global Economic Prospects 2005: Trade, Regionalism and Development," Washington. <<http://www.worldbank.org>>.
- World Trade Organization (WTO) (2004). Report of the Committee on Regional Trade Agreements to the General Council, WT/REG/ 14, November 24.

Internet Sources:

Bilaterals.org

<http://www.bilaterals.org/article.php3?id_article=984>

Canada-US Free Trade Agreement

<<http://wehner.tamu.edu/mgmt.www/NAFTA/fta/index.htm>>

China-ASEAN Framework Agreement on Comprehensive Economic Cooperation

<<http://www.aseansec.org/4979.htm>>

Directorate General Trade of the European Commission-External Trade

<http://ec.europa.eu/comm/trade/index_en.htm>

India's Current Engagements in RTAs

<http://commerce.nic.in/india_rta_main.htm>

India's Ministry of Commerce

<http://commerce.nic.in/India_rta_main.htm>

Ministry of Trade and Industry Singapore

<<http://app.fta.gov.sg/asp/fta/ourfta.asp>>

The Cotonou Agreement

<<http://www.acpsec.org/en/conventions/cotonou/accord1.htm>>

US Government

<<http://www.export.gov/fta/index.asp>>

United States Trade Representative (USTR)-Singapore FTA

<http://www.ustr.gov/Trade_Agreements/Bilateral/Singapore_FTA/Final_Texts/Section_Index.html>

United States Trade Representative (USTR) Trade Agreements

<http://www.ustr.gov/Trade_Agreements/Section_Index.html>

Vietnam Government

<<http://www.vietnamembassy-usa.org/news/story.php?d=20060515105449&print=yes>>

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