

# PREFERENTIAL TRADE AND AGREEMENTS: AN UPDATE

In 2016, global trade will grow by less than 3% for the fifth consecutive year, lingering behind average world economic growth (WTO, 2016a). While this extended lower trade growth is now accepted as structural in nature (see chapter 1 for more details), the efforts to revive trade growth are not withering, not least because trade is one of the key means of implementation for achieving the Sustainable Development Goals. In this context, many efforts are being directed towards reducing trade costs, which remain high for most of the countries in need of more, and more efficient, trade (see chapter 4 for more details). The autonomous liberalization, which was often credited for the “Asian miracle” in the 1980s, has for all practical purposes been abandoned due to public angst towards globalization and evidence of increasing inequalities, especially within the countries that followed these unilateral liberalization policies two decades ago. On the other hand, as shown in chapter 5, the autonomous policies are more in favour of restricting than liberalizing trade. In the absence of any reassuring signalling from WTO and negotiations at the multilateral level, Governments

have turned to bilateral and regional preferential trade agreements (PTAs).

Using information from Asia-Pacific Trade and Investment Agreements Database (APTIAD),<sup>1</sup> this chapter maps PTAs of Asia-Pacific economies, with the focus on the number and status of PTAs, PTA partners and coverage of trade among them, and the type and scope of the agreements. Moreover, the chapter comments on the level of compliance with notification obligations under the World Trade Organization Transparency Mechanism for Regional Trade Agreements (WTO, 2006).

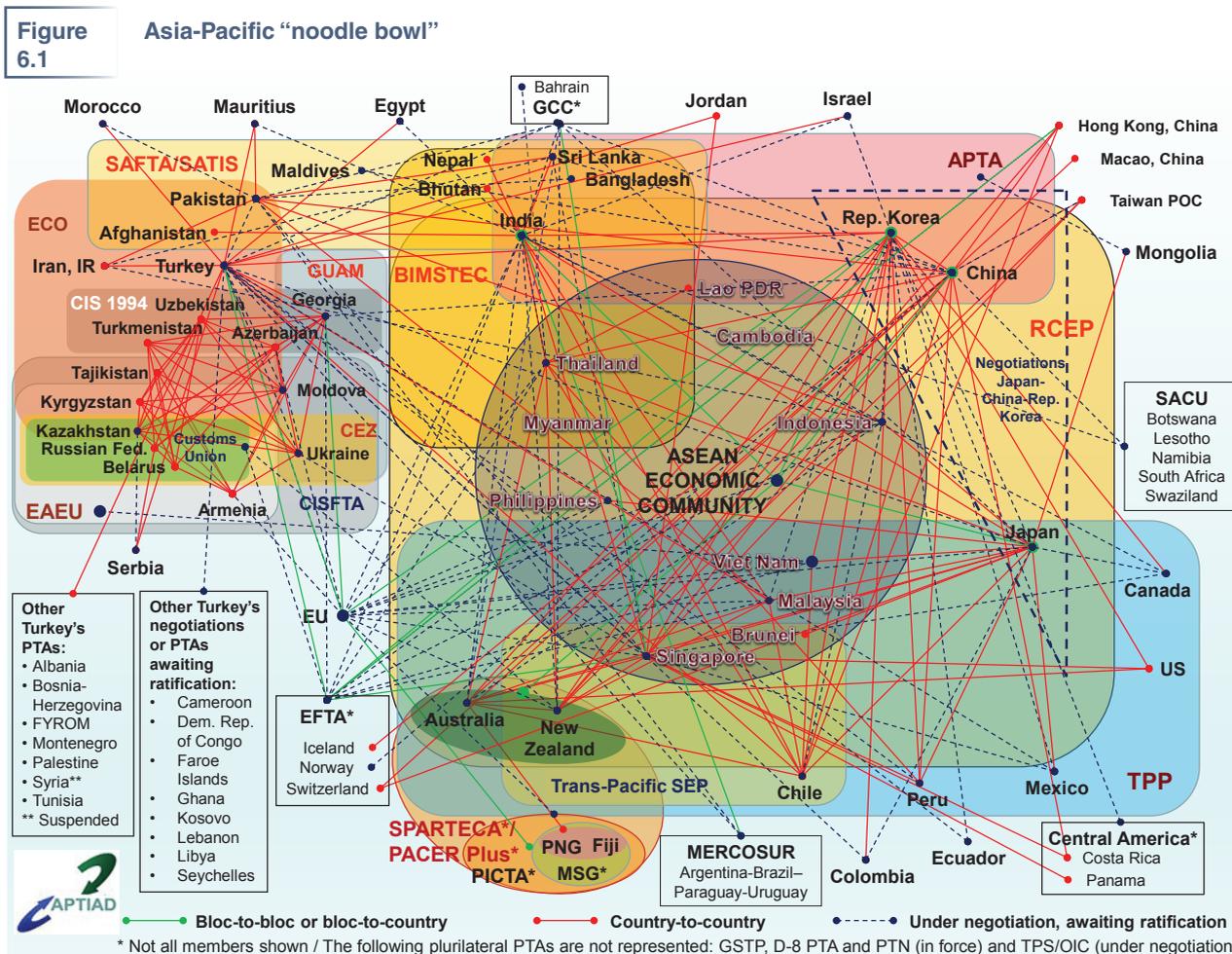
## A. NOODLE BOWL STILL GETTING FULLER

Economies in the Asia-Pacific region continue to be drivers of preferential trade deals globally. As of July 2016, 260 PTAs<sup>2</sup> with membership of economies in the Asia-Pacific region were in force, signed or being negotiated. To provide a more realistic count,

32 agreements that have not been notified to WTO but have been ratified and are being implemented are also included.<sup>3</sup>

The numbers presented in this chapter must be seen in the context of global developments that WTO monitors. WTO recognizes only those PTAs for which official notification has been received. Given this criterion, globally there are 267 “physical” PTAs in force,<sup>4</sup> of which 169 (63%) involve Asia-Pacific economies. In addition, there are 12 agreements with Asia-Pacific members that have been signed with ratification still pending. Most recently, between January and July 2016, Asia-Pacific economies also signed five other agreements, most of them between economies in the region. Furthermore, 78 other PTAs are under different stages of negotiation.<sup>5</sup>

The Asia-Pacific “noodle bowl”, a phenomenon created by the proliferation of PTAs among the same trading partners, is therefore getting fuller (figure 6.1). As argued repeatedly in the previous issues



Source: APTIAD database 2015 and 2016, ESCAP.

of APTIR, the noodle bowl implies higher search costs for the best routes of supply/purchase, often depriving small and medium-sized enterprises of full or any benefits from preferential trade. Despite many analysts pointing to this undesirable and damaging impact from the multiplication of various PTAs among the same partners, not much action has been taken towards streamlining, consolidating and rationalizing PTAs (see the annex to this chapter on a few cases in the region). A formation of mega-regional trade deals may, in principle, enable the economies to consolidate existing PTAs, as some of them may be made redundant after the conclusion of a wider and deeper deal. This, of course, is neither a necessary nor automatic result from introducing new mega-regionals, as it depends on the qualitative difference between the new and old agreements and their liberalization depth. However, if consolidation were to occur, it would streamline trade processes and allow for the reduction of trade costs, a crucial step towards participation in global and regional value chains or production networks.

## B. TRENDS IN PREFERENTIAL TRADE AGREEMENTS: SELECTED FEATURES AND STYLIZED FACTS

### 1. Agreements already negotiated

As found by ESCAP (2015), there was a short-lived pause of about two years prior to 2015 when the economies in the Asia-Pacific region slowed their initiatives on PTAs. However, in 2015, there was again an increase in the number of PTAs signed and enacted in the region. Nine new bilateral PTAs as well as one Custom and Economic Union – the Eurasian Economic Union (EAEU) – were put into force during that period. Most of the bilateral PTAs were between economies within the Asia-Pacific region – Australia-China, Australia-Japan, Republic of Korea-China, Republic of Korea-New Zealand, Republic of Korea-Viet Nam, Turkey-Malaysia and Turkey-Islamic Republic of Iran. Furthermore, two PTAs were signed – one bilateral free trade agreement (FTA) (Singapore-Turkey) and one country-bloc FTA (Viet Nam-EAEU). Between January 2016 and July 2016, two agreements came into force – the Japan-Mongolia Economic Partnership Agreement (EPA) and the Republic of Korea-Colombia FTA. Three other agreements were signed – the Trans-Pacific Partnership (TPP), the Georgia-EFTA FTA and the Philippines-EFTA FTA (increasing the number of agreements EFTA has signed with economies in the Asia-Pacific region to 11).

*“In 2015, 10 more PTAs were signed and/or enacted by Asia-Pacific economies.”*

PTAs in the Asia-Pacific region are getting more complex in nature (see section D), and/or involve a larger number of partners with different development levels and views on the role of trade, so it may take longer to negotiate and ratify such agreements. For example, the two mega-regional agreements – Regional Comprehensive Economic Partnership (RCEP) and TPP – involving exclusively or mostly partners from Asia and the Pacific; both facing difficulties in this regard. The completion of RCEP negotiations, first round of which was held in May 2013, has already been postponed twice. The TPP, which was signed in February 2016, faces a long ratification process at best.

*“PTAs, mainly bilateral and among developing economies, are increasingly being signed with economies outside the Asia-Pacific region.”*

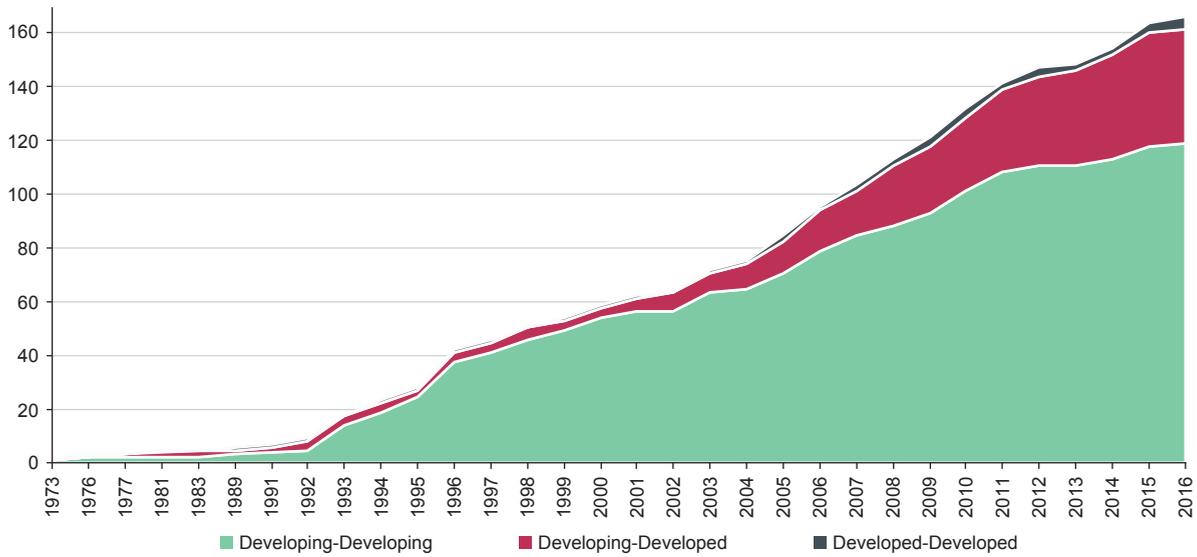
Developing economies in the Asia-Pacific region continue to pursue more and more PTAs with other developing economies, providing a dynamic force for South-South trade and cooperation. A total of 72% of PTAs enacted by Asia-Pacific economies comprise only parties that are developing economies.<sup>6</sup> However, as figure 6.2 shows, the number of PTAs among developing economies is growing at a diminishing rate. Between 2011 and 2015 the Asia-Pacific economies put into force an average of eight trade agreements per year (6.6 bilateral agreements) compared with an average of 9.2 (7 bilateral agreements) during 2006-2010.

Until the early 1990s, most of PTAs were signed among the economies within their own subregion;<sup>8</sup> however, the focus then shifted to the other economies of the region as well as outside Asia and the Pacific. At present, Asia-Pacific economies have 87 PTAs (51%) with partners outside the region. The trend in signing PTAs with partners outside the region (figure 6.3) reflects the efforts by policymakers to seek additional access to non-traditional export markets, especially in the context of low trade growth in past five years.

Until 1992, there were only nine PTAs in force in the Asia-Pacific region, most of which were partial scope plurilateral agreements. Some of them were only within the region, such as the Asia-Pacific Trade Agreement (APTA) and the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA), while

**Figure 6.2**

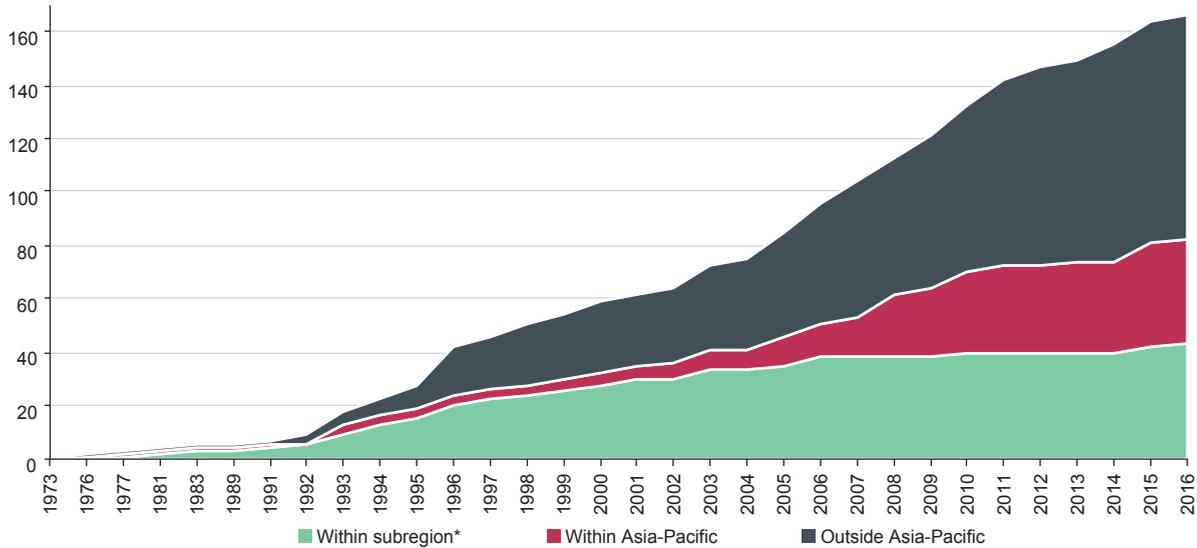
**Cumulative number of PTAs (notified and non-notified to WTO) put into force by Asia-Pacific economies, by level of development of parties, 1971-July 2016**



Source: ESCAP calculation based on data from APTIAD.

**Figure 6.3**

**Cumulative number of PTAs (notified and non-notified to WTO) put into force by Asia-Pacific economies, by geographical region of parties, 1971-July 2016**



Source: ESCAP calculation based on APTIAD data.

\* Asia-Pacific members of ESCAP are grouped into five subregions – East and North-East Asia (ENEA), North and Central Asia (NCA), South-East Asia (SEA), South and South-West Asia (SSWA) and the Pacific.

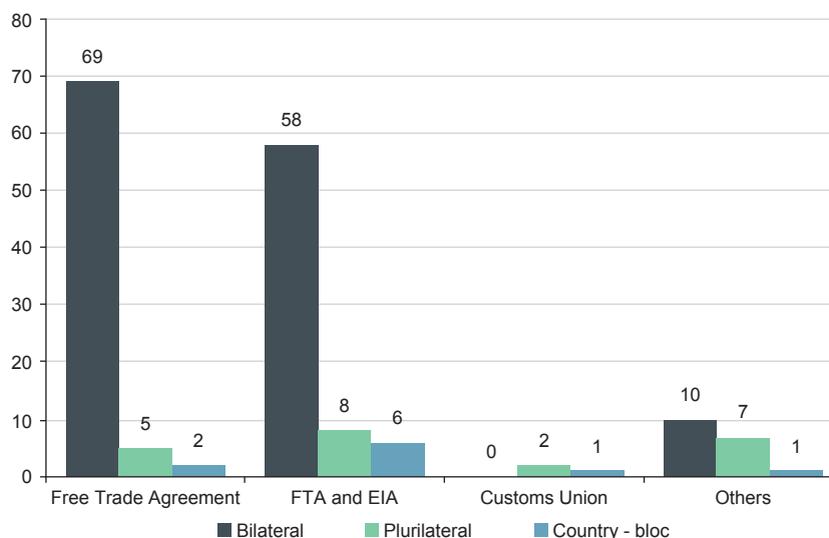
others also covered economies outside the region, e.g. the Protocol on Trade Negotiations (PTN), and the Global System of Trade Preferences (GSTP) among larger number of developing countries. The proliferation of bilateral deals began to dominate after 1992, covering only trade in merchandise goods. As of July 2016, 137 of the existing 169 agreements (81%) were bilateral (figure 6.4), of which 68 were with members from outside the region.<sup>9</sup> Despite the

recent pursuance of plurilateral agreements (such as RCEP, TPP and EAEU) and country-bloc agreements – such as between Asia-Pacific economies and the European Union, the Gulf Coordination Council (GCC) and EAEU – there is no evidence that a bilateral approach might be abandoned in the near future.

In terms of types of agreement, 87.6% of all PTAs in force in the Asia-Pacific region comprise free

Figure  
6.4

Breakdown of trade agreements, by type and number of partners



Source: ESCAP calculation based on APTIAD data.

trade agreements (FTAs), and combined FTAs and Economic Integration Agreements (FTAs and EIAs). On the other hand, 10.6% of PTAs (18 agreements) are partial scope agreements (PSAs)<sup>10</sup> and only 1.8% (three PTAs) are classified as Customs Unions (CU). One CU, the EAEU, includes also elements of services liberalization and thus is also classified as an EIA. Figure 6.4 also shows a breakdown of these agreements (PSAs appear as “Others”).

There has also been a shift in terms of which areas of liberalization these agreements are addressing. In 2000, the share of PTAs covering both goods and services (also known as “FTA and EIA”) was only 3%. In 2016 this share has grown to 43%. The increasing number of agreements covering both goods and services shows the recognition by Governments of the growing importance of services in international trade. Indeed, many trade agreements that initially only covered trade in goods have been expanded to include liberalization commitments in trade in services – for example, the FTAs between ASEAN and its dialogue partners, the SAARC Agreement on Trade in Services (SATIS), Pacific Island Countries Trade Agreement (PICTA) Trade in Services Protocol, and the APTA Framework Agreements on the Promotion and Liberalization of Trade in Services. However, many of these agreements are still under negotiation or waiting for negotiation to start.

The degree of market integration as well as the disciplines covered is determined by the willingness of

economies to undertake deeper and more ambitious forms of integration, thus providing a good indicator of the level of political support for regional economic integration. In the Asia-Pacific region as well as at the global level CUs are rare and represent only 6.7% of the “physical agreements” notified to WTO.<sup>11</sup> Although common markets are an even more comprehensive form of integration as they provide full movement of all factors among the members, they are rare in this region. EAEU and the ASEAN Economic Community are two examples of economic integration processes in the Asia-Pacific region within which the members are working towards the consolidation of common markets.

## 2. Agreements under negotiation

Of the agreements currently being negotiated by Asia-Pacific economies, the majority are bilateral (42) followed by country-bloc (26). Moreover, 74% of PTAs being negotiated are with economies or blocs outside the Asia-Pacific region. As of July 2016, the Asia-Pacific economies involved in further negotiations were: Turkey (15), India (14), the Republic of Korea (9), China (8) and Japan (8). With regard to trade partners, the European Union and EFTA rank first with 11 and 6 processes of negotiation, respectively, with Asia-Pacific economies. GCC also ranked first in negotiations between the bloc and Australia, China, India, Japan, the Republic of Korea, Pakistan and Turkey; however, negotiations with this bloc were suspended when the GCC Council

decided to review its trade agreement policy. In 2014, the GCC Council approved the resumption of trade negotiations; however, only the negotiations between China and GCC were formally resumed in March 2016. As in the case of negotiations with GCC, there are many other negotiations that have been suspended either because of overlapping with other negotiation processes (bilateral or plurilateral) or for technical or political reasons (e.g. Singapore-Canada, Armenia-European Union, Thailand-EFTA, Turkey-Libya, Belarus-Kazakhstan-Russian Federation-New Zealand, Belarus-Kazakhstan-Russian Federation-EFTA, Japan-Republic of Korea, and ASEAN-EU.

### 3. Status of notifications to WTO

The WTO members are required to notify to the WTO Secretariat of the details of their PTAs in force as well as to make an early announcement of any new negotiations or newly-signed PTAs. In this regard, all PTAs that are in force, pending ratification or under negotiation should have been notified to WTO. However, of the 169 PTAs currently in force, 32 have not been notified. Most of these non-notified PTAs are FTAs (only goods) and PSAs.

*“More transparency is needed, especially with regard to participation in negotiations.”*

In the case of the 12 PTAs signed and pending ratification, only 2 have had an early announcement. The situation is also critical with regard to the 78 PTAs under negotiation. Only 19 have had an early announcement. The exact reason for the low rate of providing early announcements is not known. One possibility could be a lack of awareness of the procedure. Another possibility could be the flexible wording of the provisions of the WTO Transparency Mechanism: “For participation in new negotiations aimed at the conclusion of a PTA, WTO members shall endeavour to so inform”. Similarly, for newly-signed agreements, the Mechanism requires Members to convey information on the newly-signed PTAs when it is publicly available. However, the flexibility in the way these provisions were drafted does not preclude WTO members from fulfilling their transparency obligations.

Similarly, even though there is an obligation to notify changes affecting the implementation of a PTA, including once an agreement is terminated, further transparency of this aspect is needed, as discussed below.<sup>12</sup> It is only through greater transparency on the status of PTAs that economies can gain a clearer picture of the current status of PTAs (and the “noodle bowl” their proliferation creates) as well as assess and

discuss their systemic implications for a multilateral trading system and regional economic integration.

## C. SHARE OF TRADE WITH PREFERENTIAL TRADE AGREEMENT PARTNERS VERSUS UTILIZATION OF PREFERENCES

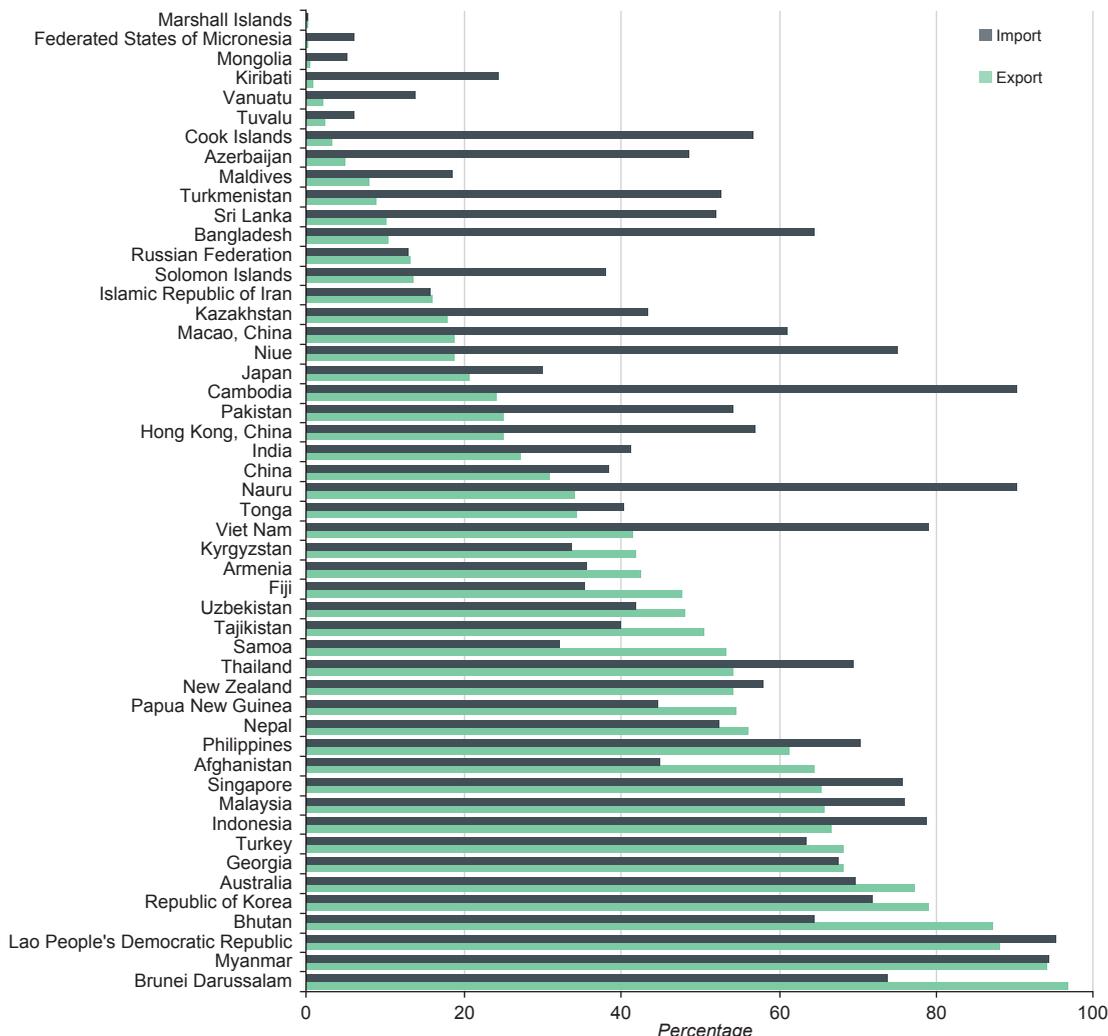
The trade data on PTA partners are based on the overall trade between those partners as most of the economies in the region do not record or publish data on preferential trade utilization. Therefore, this indicates a higher value and share than the actual trade under preferential terms. The extent to which economies in the Asia-Pacific region trade with their PTA partners varies considerably (figure 6.5). However, despite the high number of PTAs, on average the Asia-Pacific economies exported only 33% of their global exports and imported only 44% of global imports from their PTA partners during 2012-2014.<sup>13</sup>

Comparing the shares of trade with PTA partners, in certain economies the import and export shares are not symmetric. For example, 90% and 75% of imports by Nauru and Niue, respectively, come from PTA partners (other economies from the Pacific subregion), while their share of exports to PTA partners accounted for only 34% and 19%, respectively. Similarly, in the case of Cambodia and Viet Nam, 90% and 79%, respectively, of their imports were from PTA partners, while only 24% and 41%, respectively, of their exports were to their PTA partners. Other economies with a high difference between their import and export shares with PTA partners included Bangladesh, Turkmenistan, Azerbaijan and Sri Lanka.

ESCAP (2015 and preceding years)<sup>14</sup> made a case for the usefulness of preferential utilization data to carry out a complete analysis of impacts from having PTAs. Some developed economies provide publicly available and updated statistics on preferential trade, which allows analysis of the level of utilization of PTAs. For example, based on statistics from the Interactive Tariff and Trade and Data Web of the United States International Trade Commission, it is possible to calculate the rate of utilization of PTAs of the United States with Australia, the Republic of Korea and Singapore. In 2015, 46% of total American imports from Australia, 23% of imports from the Republic of Korea, and only 8% from Singapore entered with preferences under their respective FTA with the United States. It is important to note that since the entry into force of these agreements, the utilization rates – despite being low – have been moving upward.

**Figure 6.5**

**Share of trade with PTA partners (percentage, average for 2012-2014)**



Source: ESCAP calculation based on United Nations COMTRADE data from WITS and APTIAD databases, accessed in August 2016.

Likewise, the statistical office of the European Union (Eurostat) also provides statistics at a disaggregated level. Based on those statistics, 78% of total European Union imports from Turkey in 2015 were covered under preferences within the Association Agreement (CU) between Turkey and the European Union (of which 98% were duty-free). European Union imports from other PTA partners, such as EPA partners Papua New Guinea and Fiji, also showed high utilization of preferences. Of the total European Union imports from Papua New Guinea and Fiji 72% and 77%, respectively, were imported using negotiated preferences. In contrast, only 42% and 39%, respectively, of total European Union imports from the Republic of Korea and Georgia relied on preferential access (of which 89% and almost 100%, respectively, were duty-free). Eurostat data also allow the calculation of imports eligible for preferential

access but instead are using Most-Favoured Nation (MFN) regime. For example, while only 1% of the European Union's imports from Papua New Guinea that are eligible for preferential treatment were imported at the MFN duty rate, 17% of the imports from Georgia that were eligible for preferences were conducted under MFN terms (of which 5% were MFN duty-free and the remainder under MFN tariffs).<sup>15</sup> Further studies will be needed to understand the reasons for this result; possible explanations could include zero or near-zero MFN duties, overly-complex rules of origin, traders not being properly informed of the preferential trade opportunities, and/or costs associated with complying with PTA provisions.

Only a few developing economies of the Asia-Pacific region do provide information related to their PTA

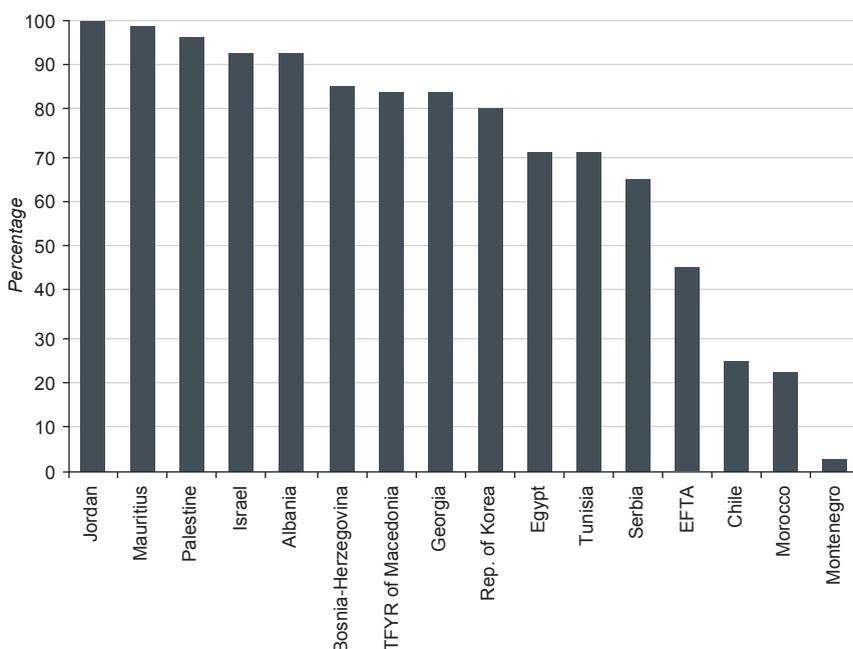
utilization rates. For example, during the sixth WTO Trade Policy Review of Turkey, the Turkish authorities provided information about the percentage of imports in 2014 entering under the European Union-Turkey CU and its FTAs that were in force by 2014 – i.e. 98.7% of imports from the European bloc were preferential (of which 98% were industrial imports). With regard to Turkish FTA partners, this percentage

varied widely from 2.8% (Montenegro) to 99.5% (Jordan) (figure 6.6).<sup>16</sup>

Similarly, the Ministry of Commerce of Thailand provides information on its exports under PTAs. As shown in figure 6.7, in 2014 the rate of utilization ranged between 2% and 78% among the t PTA partners of Thailand.

**Figure 6.6**

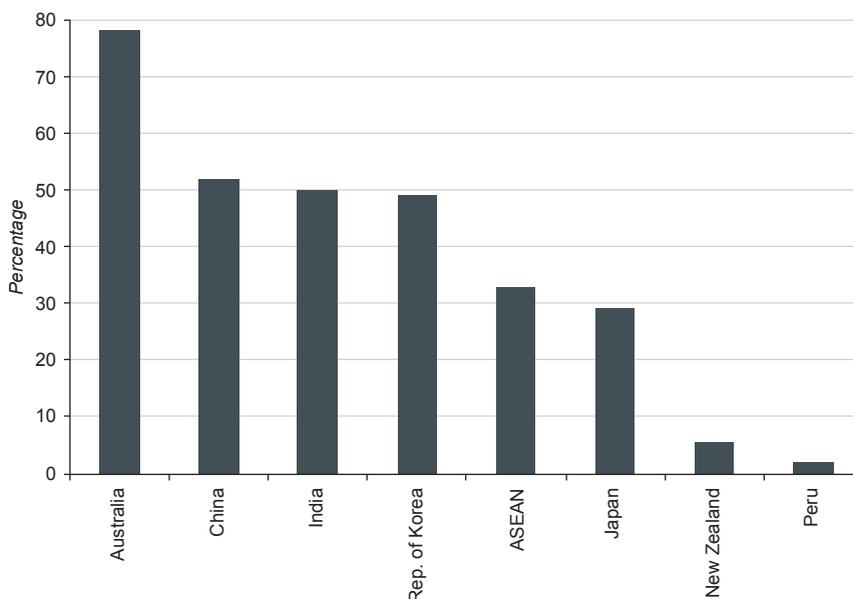
**Turkey's share of imports entering through PTAs, 2014**



Source: WTO (2016c), Trade Policy Review – Report by the WTO Secretariat, 9 August 2016, WT/TPR/S/331/Rev.1.

**Figure 6.7**

**Thailand's preferential tariff utilization rate of exports under PTAs, 2014**



Source: ESCAP calculation based on United Nations COMTRADE data from WITS; and data provided by the Ministry of Commerce during Thailand's WTO Trade Policy Review (WTO, 2016d).

As already noted above, in the case of Turkey and Thailand the rate of utilization of trade agreements based on preferential data is different from the share of trade with PTA partners shown in figure 6.5. While the ESCAP calculation of Turkey's share of imports from PTA partners was 64%, in actuality only 41.8% of Turkey's total imports utilized existing preferences. Similarly, in the case of Thailand, the share of exports to PTA partners was 54% (figure 6.5) however; only 23% of Thailand's total exports enjoyed tariff preferences under PTAs.

The reasons why these differences between rate of utilization and share of trade exist are case-specific. The difference in preference utilization may be due to several causes. One is the fact that most PTAs exclude some products from tariff liberalization, so there cannot be any preferential trade of these products. The second reason could be linked to non-compliance with too-burdensome preferential rules of origin criteria (particularly if the margin of preference is low). Yet another reason arises from the duty-free

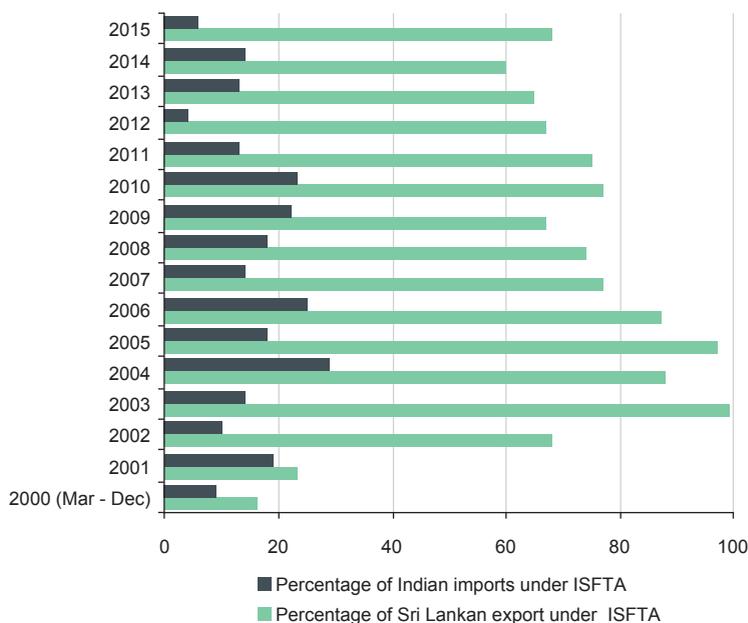
treatment on an MFN basis that some countries provide for a large number of products; therefore, utilizing the PTA window does not make commercial sense due to the additional cost of compliance with PTA rules. For example, 24.6% of Turkey's tariff lines are already MFN duty-free. Likewise, many of the main PTA trading partners of Thailand, such as some ASEAN members (e.g. Singapore and Malaysia) and Australia already grant MFN duty-free treatment for 50% to 100% of their total tariff lines. Very often it is also simply a lack of knowledge about preferences being available on the part of traders, or the fact that most PTAs have a transition period of 10 years or more before tariff liberalization is fully implemented; therefore there is not much commercial benefit in the early years of implementation. Given that most PTAs in Asia and the Pacific are of recent vintage, it may be that many products have not been liberalized yet and thus there is no (more) trade on those tariff lines. If the latter are the reasons for low utilization, then utilization rates should increase when more trade agreements are fully implemented.

**Box 6.1**

**India-Sri Lanka bilateral FTA: Sri Lanka reaping the gains by the preferential margins**

Nearly 70% of Sri Lanka's exports go to India via the bilateral free trade agreement and benefits from the zero tariffs granted by India. Sri Lanka has been using FTA more than India (figure), also leading to the former recording a trade surplus under the deal with India in six of the 16 years since the Agreement came into force.

**Figure. Trade flows under preferential tariffs of the Indo-Sri Lanka FTA (ISFTA)**



Source: Department of Commerce, Government of Sri Lanka. Contributed by Saman Kelegama, Executive Director, Institute of Policy Studies, Colombo.

In summary, the cases of Turkey and Thailand as well as Sri Lanka (Box 6.1) demonstrate how important it is for developing countries to start capturing preferential utilization rates. This will not only help policymakers to better evaluate the benefits of each PTA and improve the utilization; it will also help them in making more informed evidence-based policies while negotiating a new PTA or reviewing an existing PTA. Namely, audit of PTAs by using extent of utilization of preferences would indicate which agreements could be terminated without any loss for trade. Finally, information will also be useful for the private sector in seeking redress through trade defence mechanisms under PTAs.

regime as well as many other areas that are currently not covered by WTO multilateral rules (such as competition, investment and government procurement, environment and labour). Even though the number of already signed agreements containing provisions constituting “next generation” trade agreements is still low (figure 6.8), their coverage in PTAs under negotiation are much higher. These trends are visible in the negotiation of mega-regional blocs (TPP and RCEP), the consolidation of EAEU and the negotiation of free trade agreements with developed economies within and outside the region (Australia, Japan, New Zealand, the European Union and EFTA).

## D. WTO-PLUS AND WTO-BEYOND ISSUES

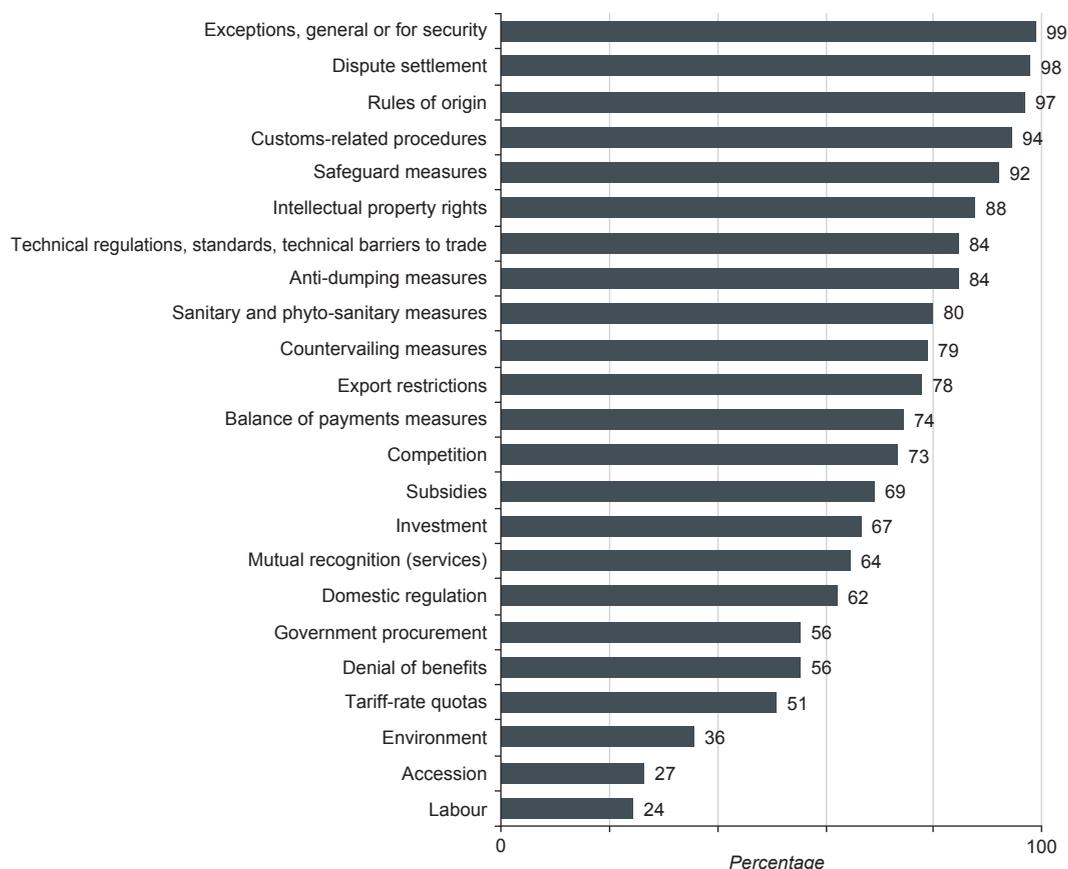
*“New PTAs are dealing with more WTO-plus and WTO-beyond issues.”*

While many PTAs in the Asia-Pacific region mainly cover trade in goods (either as partial scope agreements or free trade agreements), more and more economies are becoming involved in agreements that allow liberalization in goods, services, or changing regulation in the intellectual property right (IPR)

TPP appears to be one step ahead, even with regard to the other “next generation” trade agreements covering WTO-plus provisions or “WTO-beyond” areas. For example, in addition to provisions in IPRs, competition policy, government procurement, environment and labour, TPP incorporates new and

**Figure 6.8**

**Areas of liberalization pursued by Asia-Pacific PTAs**



Source: World Trade Organization RTA-IS, accessed 1 August 2016

emerging trade issues and cross-cutting issues such as the Internet and the digital economy, the participation of state-owned enterprises in international trade and investment, the ability of small businesses to take advantage of trade agreements. As pointed out by ESCAP (2015), on the positive side, switching from bilateral agreements towards high-standard plurilateral agreements may help in resolving “noodle bowl” problems. However, on the negative side, these high-standard plurilateral agreements have the potential to undermine the existing WTO system and rules.

## E. CONCLUSION

The negotiation of PTAs all around the world continues to grow amid the current global economic slowdown (and the consequent lower growth rate of trade), and the stagnation of multilateral trade negotiations. The Asia-Pacific region is now the major contributor to the build-up in the number of PTAs. In recent years, there have been new developments in Asia-Pacific regional economic integration. For example, more and more economies are becoming involved in agreements that not only allow liberalization in trade in goods, but also commitments in trade in services, and rule harmonization in many other areas, whether or not they are covered by WTO Agreements. The region lacks the effort to fulfil the obligations of transparency in WTO that are related to preferential trade agreements. There are several PTAs that should have been notified to WTO; however, this has not yet happened. Similarly, a number of agreements have been nullified and have become inoperative, yet have not been notified as such to WTO and thus continue to create doubt about their operations.

This chapter also comments on the absence of correlation between the number of PTAs, trade intensity among the partners in those agreements and actual utilization of preferences. While some economies have chosen rationally the partners with which to conclude trade agreements, and much of their trade is covered under such agreements, it is still not certain how much trade utilizes negotiated preferences. Data on preferential utilization rates is very scarce (typically available for trade of developed countries). By using the examples of Turkey, Thailand and Sri Lanka, it is argued that more efforts are needed to fully use existent PTAs. A strong argument is made for better statistics on utilization of preferences. This will not only help policymakers to better evaluate the benefits of each PTA; it will also help them to learn how to negotiate new PTAs that are more easily used by the private sector. Furthermore, an audit of PTAs by using

the extent of utilization of preferences would indicate which agreements could be terminated without any loss of trade. Finally, information will also be useful for the private sector in seeking redress through trade defence mechanisms under PTAs.

Globally, but particularly in the Asia-Pacific region, there has been a lack of effort by economies to abolish or annul bilateral agreements between economies that have moved on and signed regional or plurilateral agreements among the same set of economies (ESCAP, 2015). The proliferation and overlapping of PTAs, a phenomenon called the “noodle-bowl”, continues to impose challenges for, and additional burdens on firms, especially when data show that there is no correlation between the number of PTAs and the share of trade and its expansion under PTAs. To reduce that impact, several economies involved in mega-regional initiatives aimed at consolidating their multiple and overlapping network of PTAs. The most important efforts in the Asia-Pacific region that are underway are TPP, RCEP and EAEU. While each initiative has its own characteristics and challenges, all have the potential to reduce the complexity of PTA networks in the region. It is necessary that once a larger PTA with additional countries is signed, the bilateral PTAs and partial scope plurilaterals should be nullified. Such a phenomenon was seen in the past in the process of consolidation by the European Union, but never in Asia and the Pacific.

However, a recent effort was noted in the formation of the Free Trade Area between members of the Commonwealth of Independent States (CIS) where the economies in the North and Central Asia subregion decided to nullify some of their bilateral PTAs (see annex), which was a positive step towards simpler and more transparent regional economic integration, and which moves in the right direction towards the consolidation of PTAs; this is an action that ESCAP has been suggesting during recent years in its policy recommendations. Similarly, RCEP has the potential to reduce the complexities of the Asia-Pacific “noodle bowl” by integrating ATIGA, ASEAN+1 and other bilateral PTAs between RCEP members. At the same time, TPP can also supersede the existing bilateral PTAs between its members if enters into force. However, several other PTAs among the parties of the CIS-FTA and EAEU should also have been terminated as well, but such terminations have not yet been notified to WTO. These few examples clearly illustrate the need for Asia-Pacific economies to review all such PTAs and decide on their termination, as that will make it easier for traders to carry on their business in a more efficient way.

## Endnotes

- <sup>1</sup> The ESCAP secretariat monitors trends and developments in the area of preferential trade agreements in Asia and the Pacific through regular updates of the Asia-Pacific Trade and Investment Agreements Database (APTIAD). APTIAD provides information on the provisions of preferential trade agreements involving one or more economies from the Asia-Pacific region that have been signed, are in force or under negotiation. Available from [artnet.unescap.org](http://artnet.unescap.org)
- <sup>2</sup> In line with much of the existing literature, this report also uses the term “preferential trade agreement” (PTA) as a generic term for any form of negotiated reciprocal preferential trade agreement between two or more economies. The WTO convention is to use “regional trade agreements” as the generic term encompassing both bilateral and multi-country (plurilateral) agreements. However, because of the specific characteristics of the economic integration process in Asia and the Pacific, which comprises five subregions that are all pursuing some form of “regional” liberalization, it was thought that using preferential trade agreement as a generic form would fit better. The key features of any generic term here is that it must describe a process that is both reciprocal and discriminatory in the context of not providing trade preferences for all WTO members; however, preferences that are provided are on a reciprocal basis.
- <sup>3</sup> This count includes trade agreements put into force by the ESCAP member States and associate members excluding non-regional member States (France, the Netherlands, the United Kingdom and the United States).
- <sup>4</sup> This number refers only to the so-called “physical” regional trade agreements reported by WTO as of 30 August 2016 (see website at <http://rtais.wto.org/UI/publicsummarytable.aspx>). Normally, WTO reports the number of trade agreements based on notification requirements, which means that if a trade agreement includes both goods and services, it will be counted as two notifications – one for goods and the other for services – even though it is physically one trade agreement. To prevent unnecessary inflation of the number of agreements, only the physical number of trade agreements is reported here, counting goods and services between the same partners as one.
- <sup>5</sup> There is one agreement that was in force but has been suspended due to political reasons since December 2011 (Association Agreement establishing a Free Trade Area between Turkey and the Syrian Arab Republic).
- <sup>6</sup> This is also due to the fact that in the Asia-Pacific region only Australia, Japan and New Zealand are developed countries.
- <sup>7</sup> The numbers presented in figure 6.1 are based on the established WTO practice of self-classification by economies with regard to their development level. Following that practice, only three Asia-Pacific economies are “developed” (Australia, Japan and New Zealand) and the remainder are “developing”, including the special category of least developed countries, despite the fact that a number of them have a high rate of GDP per capita and a not insignificant share in world trade.
- <sup>8</sup> The detailed list of subregional composition of economies is available from [www.unescap.org/sites/default/files/Economic%20and%20Social%20Survey%20of%20Asia%20and%20the%20Pacific%202014.pdf](http://www.unescap.org/sites/default/files/Economic%20and%20Social%20Survey%20of%20Asia%20and%20the%20Pacific%202014.pdf).
- <sup>9</sup> There are 102 bilateral PTAs between developing economies, 31 between developing and developed economies and 4 between developed economies.
- <sup>10</sup> The most recent partial scope agreement is the Turkey-Islamic Republic of Iran Preferential Trade Agreement, signed in January 2014 and entered into force on 1 January 2015. Under this agreement, Turkey has granted concessions to the Islamic Republic of Iran on approximately 140 agricultural products while the Islamic Republic of Iran has granted concessions to Turkey on approximately 125 industrial products.
- <sup>11</sup> The number of CUs does not take into account enlargements and accessions. It covers “customs unions” only and “customs unions and economic integration agreements”.
- <sup>12</sup> One can argue that this is covered by paragraph 14 of the Transparency Mechanism, which requires members to notify changes affecting the implementation of a regional trade agreement (RTA) or the operation of an already implemented RTA. It can be easily argued that the termination of an RTA would fall into the category of “changes in the operation of an RTA”.
- <sup>13</sup> This average includes American Samoa, French Polynesia, Guam, New Caledonia, Northern Mariana Islands, Palau and Timor-Leste, which have no PTA in force and, therefore, no share of trade with PTA partners.
- <sup>14</sup> These are ESCAP 2014, 2013, 2012a, 2012b, 2011, 2010 and 2009.
- <sup>15</sup> Further explanation is due here. The cited percentages of “imports eligible for preferences” represent different things and should not be summed up. For example, in the case of Georgia, the 39% refers to the share of imports that actually entered under a preferential rate (zero or non-zero) out of total imports. Seventeen per cent represents the share of imports eligible for preferential treatment but which instead use the MFN regime, out of

total imports eligible for the preferential rate. We thank Jo-Ann Crawford for pointing out the need to explain this further.

<sup>16</sup> Again, this finding begs further explanation, which is outside the scope of this chapter. It is not clear whether the tariff lines associated with the MFN zero duties (e.g. 24.6% in this case) enter into the calculation of preferential utilization rates (because they would appear as zero rates, both in RTA and MFN regimes but of course no preferences will be granted in this case). It is probable that goods entering under MFN duty-free treatment are also considered as preferential trade, especially if the agreements contain a provision specifying that the Parties apply the lesser duty, resulting from a comparison between the preferential rate and the existing MFN rate, to originating goods traded between them under FTA. However, further investigation would be needed to confirm this presumption. Another problematic issue with regard to preference utilization by Turkey (and other countries) is related to the coverage of agriculture in FTAs, which is typically low; Turkey's FTAs are no exception. Therefore, the average utilization would obscure an implicit bias towards industrial products. Indeed, in the WTO Trade Policy Report for Turkey (WTO, 2016c, table 3.4, page 56), it is shown that the average tariff under MFN and FTAs for agricultural goods was around 50%, and that barely 15% of tariff lines were duty-free treatment not only under MFN but also FTAs. Therefore, much of the trade between Turkey and its preferential partners is only in industrial products, given the exclusion of agriculture in FTAs and prohibitive tariff rates. We are grateful to Jo-Ann Crawford for pointing out this asymmetry.

<sup>17</sup> This calculation differs from the one provided in the *WTO Trade Policy Review of Thailand - Report by the Secretariat* (WT/TPR/S/326/Rev.1, 10 February 2016) because the rate of utilization is calculated using total exports to the PTA partner, instead of exports of eligible goods (WTO, 2016d).

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## ANNEX

### TOWARDS CONSOLIDATION OF PREFERENTIAL TRADE AGREEMENTS

ESCAP has highlighted the complexity associated with the “noodle bowl” phenomenon where countries sign many different agreements with the same group of countries. Globally, and but particularly in the Asia-Pacific region, there has been a lack of effort by economies to abolish or annul bilateral agreements between economies that have moved on and signed regional or plurilateral agreements among the same set of economies (ESCAP, 2015). ESCAP has also proposed that when a larger PTA with more countries is signed, the existing bilateral PTAs and partial scope plurilateral should be nullified. Such a phenomenon was seen in the past in the process of European Union consolidation, but never in the Asia-Pacific region. However, such an approach has recently been seen in the formation of the most recent plurilateral agreements in the North and Central Asia subregion.

In October 2011, eight members of CIS<sup>a</sup> signed a new treaty, the CIS-Free Trade Area 2011. The FTA began entry into force from September 2012 for those CIS members that ratified it.<sup>b</sup> This treaty replaced the CIS Agreement 1994 among the Parties that signed the CIS-FTA 2011. Therefore, the CIS Agreement 1994 became ineffective for all its Parties except Azerbaijan, Georgia, Turkmenistan and Uzbekistan. The termination of the CIS Agreement 1994 for the Parties of CIS-FTA 2011 was notified by the Russian Federation to WTO in 2013. The CIS-FTA 2011 also stipulated that the Parties would take measures to terminate existing bilateral treaties and, as such, replace many bilateral PTAs between the Parties. However, as of July 2016, the Russian Federation had notified WTO of the termination of its bilateral free trade agreements with Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova and Ukraine (although the bilateral agreements were terminated between 2012 and 2013, the notification was made in March 2016).

On the other hand, the treaty that created EAEU absorbed the earlier CU and single economic space. As a consequence, among other agreements, the Eurasian Economic Community was terminated as of 1 January 2015, according to a Decision of the Interstate Council of the EAEC. However, the termination of EAEC has not been notified to WTO.

Based on available official information, seven PTAs have been removed from APTIAD (table).

**PTAs that have been removed from APTIAD due to termination**

Agreement	Members	Year of entry into force	Year of termination
FTA Russian Federation-Armenia	Russian Federation, Armenia	1993	2012
FTA Russian Federation- Belarus	Russian Federation, Belarus	1993	2012
FTA Russian Federation-Kazakhstan	Russian Federation, Kazakhstan	1993	2012
FTA Russian Federation-Kyrgyzstan	Russian Federation, Kyrgyzstan	1993	2013
FTA Russian Federation- Moldova	Russian Federation, Moldova	1993	2012
FTA Russian Federation- Ukraine	Russian Federation, Ukraine	1994	2012
Eurasian Economic Community (EAEC)	Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan	2000	2014

*Sources:* WTO (2016b), Notification by the Russian Federation, WTO Document WT/REG/GEN/N/8, 1 April and Decision of Interstate Council of EAEC No. 652 “On termination of the functioning of the EAEC” (10 October 2014) available from [www.evrazes.com/news/](http://www.evrazes.com/news/).

The previous examples prove that there is no rationale for failing to terminate agreements that have been surpassed by more advanced versions.<sup>c</sup> The enactments of the Treaty on a Free Trade Area between members of CIS (in force since 2012) and EAEU (in force since 2015), accompanied by the termination of former bilateral and plurilateral agreements, were positive steps towards a simpler and more transparent regional economic integration. This was a move in the right direction towards the consolidation of PTAs, which ESCAP has been suggesting over the years in its policy recommendations. However, there are several other PTAs among the Parties of CIS-FTA and EAEU that should have also been terminated, but these terminations have not yet been notified to WTO.<sup>d</sup>

The effort to cancel superseded agreements must be accompanied by an effort to notify WTO in a timely manner. In fact, apart from Turkey and the Russian Federation (and its preferential trading partners), Asia-Pacific economies have not notified terminated agreements, even though several agreements may be

candidates for termination (e.g. the Lao People's Democratic Republic-Thailand PSA, superseded by the ASEAN Economic Community agreements, and the Afghanistan-India PSA, superseded by SAFTA). In any case, these few examples clearly illustrate the need for Asia-Pacific economies to review overlapping PTAs and decide on their termination, which will make it easy for traders to carry on their business more efficiently.

Similarly, RCEP has the potential to reduce the complexities of the Asia-Pacific "noodle bowl" by integrating the ASEAN Trade in Goods Agreement (ATIGA), ASEAN+1 and other bilateral PTAs between RCEP members. At the same time, TPP can also supersede the existing bilateral PTAs between its members once it enters in force.

<sup>a</sup> Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan and Ukraine.

<sup>b</sup> Dates of entry into force: 20 September 2012 for the Russian Federation, Belarus and Ukraine; 17 October 2012 for Armenia; 8 December 2012 for Kazakhstan; 9 December 2012 for the Republic of Moldova; and 13 December 2013 for Kyrgyz Republic.

<sup>c</sup> Australia and New Zealand did so when they reached a new agreement in 1982 and placed their previous agreement, signed in 1965, in the "inactive" category.

<sup>d</sup> For example, the WTO-notified bilateral FTAs of Armenia-Kazakhstan, Armenia-Kyrgyzstan, Armenia-Moldova, Armenia-Ukraine, Kazakhstan-Ukraine, Kazakhstan-Kyrgyzstan, Kyrgyzstan-Moldova and Kyrgyzstan-Ukraine.