PREFERENTIAL TRADE POLICIES AND AGREEMENTS

Once considered an example of the benefits of autonomous trade liberalization, Asia-Pacific economies have turned into major contributors to a global build-up of preferential trade agreements (PTAs).\(^1\) Stalled multilateral trade negotiations under the Doha Round plus a considerable slowdown in economic activities globally have provided a strong incentive to use preferential trade agreements for both offensive and defensive liberalization. This has led to the negotiation of trade deals being treated almost as a substitute for trade policymaking.

Currently, Asia-Pacific region economies are participating in a wide variety of preferential agreements, at both the bilateral and plurilateral (regional) levels. They are parties to 155 (59%) of the global total of 262 “physical”\(^2\) PTAs that are currently in force. While fewer new agreements are being completed on an annual basis, almost all of them that were enacted in 2014 and January-June 2015 involve at least one economy from Asia and the Pacific.

Although it is unlikely that economies in the Asia-Pacific region will lessen their reliance on preferential liberalization in the foreseeable future, there are signs that they may be reviewing their approach to, and engagement in preferential liberalization initiatives with a view to turning largely dormant plurilateral blocs in Asia and the Pacific into more effective drivers of regional economic integration. Several concurrent initiatives are nudging Governments and other stakeholders towards reviewing their countries’ position in the regional economic architecture and to rethink the ways in which trade can contribute to their development. These initiatives are: (a) the establishment of the ASEAN Economic Community at the end of 2015; (b) success in reaching agreement under the Trans-Pacific Partnership; (c) ongoing promising efforts in negotiations on the Regional Comprehensive Economic Partnership; and (d) the region-wide economic cooperation and integration process that members of ESCAP have entrusted the secretariat to develop. The fact that global trade growth at 3% per annum continues to linger behind the growth of global GDP for the fourth consecutive year (WTO, 2015), together with and a high level of skepticism about the likely outcome of the tenth Ministerial Conference of WTO in December 2015, are adding to the realization that business as usual with regard to multilateral trade agreements may not be an option for much longer.

The ESCAP secretariat monitors trends and developments in the area of economic integration in Asia and the Pacific\(^3\) by assessing (a) trends in the creation of new PTAs as well as changes in the patterns and nature of the PTA landscape involving members and associate members of ESCAP, and (b) the relevance of PTAs for, and interaction with regional and global trade.\(^4\) Monitoring is based on several elements traditionally used to assess PTAs and their outcomes: the number of PTAs; PTA partners and coverage of trade among them; the type\(^5\) and scope of agreements;\(^6\) and their status.\(^7\) Furthermore, as 2016 will mark the tenth anniversary of the General Council’s Decision on the transparency mechanism of regional trade agreements (RTAs), this chapter reviews the notification process to WTO under this transparency mechanism and argues in support of the need to convert it into a mandatory and permanent system to assist further assessment of the impacts of PTAs.
A TRENDS IN PREFERENTIAL TRADE AGREEMENTS: SELECTED FEATURES AND STYLIZED FACTS

1. It takes longer to enact preferential trade deals due to both longer negotiations and longer ratification processes

The expectations built in the aftermath of the ninth WTO Ministerial Conference in 2013 and the agreed Bali Package regarding the revival of multilateralism implied that there could be less need to pry markets open through preferential trade deals. However, this was not followed by a significant drop in the immediate efforts to continue along the preferential path. Still, in reviewing the medium term since the peak of the financial crisis in 2009, a small but continuous drop can be found in the number of PTAs enacted annually by Asian economies. While it would be rewarding to link this situation with renewed confidence in the multilateral outcomes, fewer agreements could also be a sign that they are getting more complex in nature and/or involve more difficult partners, so it may take longer to negotiate and ratify them. In many cases, the ratification process is prolonged by more challenging public scrutiny arising from many economies having rightly adopted transparent procedures related to preferential trade agreements and providing the public with the opportunity to request information on each agreement prior to a formal ratification.

All these factors tend to extend the time associated with putting a PTA in place. For example, some of the bilateral PTAs signed or enacted in 2015 date from mid-2000s (e.g. Canada-Republic of Korea, 2005; Australia-Japan, 2007; and China-Australia, 2005). Similarly, when the two mega-regionals – negotiated either exclusively among or with a significant number of partners from Asia and the Pacific– were initiated, government representatives were optimistic in terms of the end-date for the completion of those negotiations. However, it took five years to finally reach an agreement under the Trans-Pacific Partnership (TPP) in early October 2015 (with expectations of a long ratification process to still come). Similarly, in spite of recent progress in the tenth round of negotiations under the Regional Comprehensive Economic Partnership (RCEP) Agreement, it is highly unlikely that it will be signed, as planned, by the end of 2015.

“Asia-Pacific economies are enacting fewer trade agreements, but still contribute more than half of the global number of agreements.”

2. Most PTAs are among developing economies in the region, but Asia-Pacific economies are increasingly pursuing deals with extraregional partners

It is easy to see why export-driven economies of Asia and the Pacific have embraced preferential trade liberalization as one of the important ways of keeping markets open for their products, services and investment. With the continued economic slowdown in traditional export markets, PTAs have become a chosen strategy for finding new ones. Given the lack of progress under the Doha Round, even the strongest believers in multilateralism in the region had to embrace PTAs as the only option to defend themselves from trade diversion. The majority of the 155 agreements put in place by economies in the Asia-Pacific region has partners among other developing countries and provide a dynamic force behind South-South trade and cooperation. However, as shown in figure 6.1, the number of preferential deals among developing countries is growing at a diminishing rate. Between 2010 and 2014 the Asia-Pacific economies put into force an average of 6.5 trade agreements per year (5.4 bilateral ones) compared with an average of 9 (7.4 bilaterals) during 2005-2009. Of the total number of PTAs in force, 80 link economies within Asia and the Pacific. However, in the observed period since January 2014, most of the bilateral agreements signed or put into force were between partners in different geographical regions including, for example, China-Switzerland, China-Iceland, Hong Kong, China-Chile, Republic of Korea-Canada and Thailand-Peru.
3. Number of PTAs and trade intensity among partners not strongly linked

The ESCAP members and associate members 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. Apart from ENEA, all have put in place at least one trade agreement as a vehicle for regional integration. Members of these blocs are also linked by many bilateral agreements. However, the levels of intra-bloc trade for these subregions are, in principle, low and not growing noticeably in terms of relative size (i.e. as a share in total trade of the countries involved).

Slightly more than half of the 80 PTAs with exclusive Asia-Pacific membership have been signed among neighbouring economies in the same subregion. NCA leads other subregions in terms of high average propensity towards negotiating within a subset of arguably more “similar” economies. Most NCA economies have agreements either within their own subregion or with partners outside Asia and the Pacific (figure 6.2, column a). However, when it comes to intra-bloc trade, only about 11% of their total imports are purchased from the other economies in NCA; a further 35% comes from other Asia-Pacific economies while more than half of their imports are sourced from economies outside Asia and the Pacific (figure 6.2, column b).
In contrast, there is no subregion-wide PTA in East and North-East Asia, while individual economies have only a few bilateral PTAs within the subregion (not all of which are in force). However, the level of imports from other economies in the subregion, as a share of their total imports, is much higher (27.6%) compared with the share of formal agreements (7.4%) with those partners. The other subregion exhibiting a somewhat similar characteristic is South-East Asia, where the share of imports from subregional partners outweighs their participation in the formal agreements (22.8% and 10%, respectively). While the above is just a casual observation, the obvious absence of a direct positive link between a level of intra-trade with partners in a subregion and the number of agreements among those partners has already been noted and examined earlier (ESCAP, 2011a).

These findings feed the view that trade agreements are often not signed for the purpose of simply expanding merchandise trade, but for many other reasons, including non-economic related ones. This argument notwithstanding, given the overall impression of a low utilization of existing trade agreements by businesses, the opinion is now perhaps moving towards the view that if agreements are not meant to lead to more trade, investment and business, then they should not be pursued. This also suggests that further research into the selection of trading partners for PTAs is needed, as the issues of low utilization rates within the existing PTAs may indicate that the true potential of preferential market access is not being reached.

4. Three’s a crowd: the preference is for bilateral agreements

The preference among the Asia-Pacific economies has been to sign bilateral deals, resulting in 124 out of the existing 155 agreements being bilateral, of which 57 are with members from outside the region. Within plurilateral agreements existing in the region, parties still continue to sign bilateral agreements (e.g. India, with a number of members in the South Asian Free Trade Area, and Japan with ASEAN members). In the “noodle bowl” of the agreements (figure 6.3) that are currently being negotiated by the Asia-Pacific economies, the majority are bilateral (32) followed by country-bloc negotiations (25). Another feature of the current negotiations among the Asia-Pacific economies is the fact that they are now negotiating PTAs with countries that are outside the region (for example with Canada, Chile, European Free Trade Association, European Union, Gulf Cooperation Council, Mexico, Peru and the United States).

5. Too many agreements may cause lower utilization and/or higher trade costs

The proliferation of bilateral PTAs has contributed to multiple overlapping agreements – the so-called “noodle bowl” (figure 6.3). The jury is still out on the impact of the “noodle bowl” on effectiveness of PTAs as there are a number of factors that may be at play in affecting trade costs and efficiency of trade under PTAs. There are two main issues with regard to the “noodle bowl” phenomenon:

(a) Businesses unable to fully use the negotiated preferences due to the lack of appropriate information on new opportunities and/or due to trade rules density, lack of transparency and possible conflict among the trade rules; and

(b) The adverse effects on costs of trade (including additional procedural costs, cost of compliance, and search costs).

“In the Asia-Pacific “noodle bowl” there are currently 124 bilateral deals, 57 of which are with partners outside the region.”

Because there are no readily available statistics on the preferential trade flows of developing countries, the only way to gauge the effectiveness of PTAs – at least from the perspective of trade flow expansion – is to survey firms involved in exports and imports as well as appropriate regulators. Recent findings based on perception and other surveys (Economist Intelligence Unit, 2014; Ing and Urata, 2015) have indicated that the ultimate beneficiaries of the PTAs do not find them easy to use and that, in many cases, businesses forego using preferential trade terms as they prove to be too complicated, costly or even impossible to comply with. As ESCAP (2011a) argued, complicated rules of origin and certification procedures might add up to extra trade costs, reaching from 3% of the value of exports for companies in developed countries to 8% or higher in some lower income countries.
6. Asia-Pacific economies tend to avoid forging deeper integration

More than half of all trade agreements put into force by Asia-Pacific economies relate to free trade agreements or areas for trade in (merchandise) goods, while close to a further 39% of agreements allow free trade of both goods and services (figure 6.4). Therefore, more than 88% of PTAs are presented as free trade deals on goods or goods and services. In contrast, only 10% (15 agreements) are declared as having partial scope (i.e. “Others” in figure 6.4), and only 2% (three PTAs) are customs unions. Of the three customs unions, two involve North and Central Asian countries. The rarity of the “custom unions” category is, on the whole, consistent with the behaviour observed in other parts of the world as well as the acceptance of the obstacles to successfully completing negotiations and then later implementing the agreement.

Figure 6.4. Breakdown of trade agreements, by type and number of partners

Source: ESCAP calculation based on APTIAD data.
There are 22 plurilateral trade agreements with an average of 9.7 members per agreement. These plurilateral deals coincide in most cases with the subregional blocs, which tend to have broader goals than just trade expansion (for example, ASEAN, PACER+, EAEU and SAARC). Three of the plurilateral agreements are groupings established at the global level, and members from Asia-Pacific in those PTAs work towards strengthening South-South cooperation (GSTP, D8-PTA and PTN). All three are so-called “partial scope agreements” that use a gradual and selective approach to reducing tariff barriers while not addressing other obstacles to cooperation. There are also at least five in this group of 22 plurilaterals that comprise basically the same economies but reflect the various versions or stages of their attempts towards the establishment of regional blocs (the case at hand is a group of Central Asian economies that feature in various frameworks, but which in most cases are defunct or inactive variants of one or two regional initiatives). This situation occurs because of the lack of effort by Asia-Pacific 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.

Co-existence of agreements is explained by the fact that these parallel agreements have different characteristics in terms of liberalization content, even though they cannot be clearly aligned from low to high openness, for example. They are not formulated in such a way that would allow each subsequent agreement to include all of the content of the previous ones as well as add something new, so that it would be possible to simply annul all but the latest agreement. This is in contrast to the way in which the European Union integrated itself through increasingly deeper forms of market integration, starting with the formation of a customs union and ending with an economic union extended to a monetary union for a subset of members. The approach of Asia-Pacific economies to PTAs is to use them as a vehicle to expand trade, investment and business, but not to drive integration of markets for goods, services, labour and capital, as has been the case with the European Union.

A reluctance to undertake a more ambitious form of integration is a good indicator of the level of political will to support even more shallow integration. While in many cases the success of a free trade agreement can only be achieved by the efforts of the business sector, other forms of integrated markets require a top-down approach and a firm political commitment to integration, including a willingness to give up some (or much) policymaking autonomy in areas of common interest to all members.

7. Many existing bilateral PTAs have elements of “next generation” agreements, but many also just deal with unfinished business from the twentieth century

Many countries have already undertaken significant tariff liberalization in the trading of goods, either through WTO commitments or unilateral (autonomous) trade policy reforms. Figure 6.5 illustrates the situation among 40 economies for which data on MFN-applied duty-free import shares are available (2014 or most recent year). While some dozen economies have opted to not levy MFN duties on more than half of, and up to 100% of their merchandise imports, there are still almost 30 economies that demonstrate much less affinity for free trade. For those economies that still have a high level of import tariffs, it is likely that other less transparent barriers will also prevail; it is those economies which first need to remove these nineteenth or twentieth century issues before continuing with the new areas of liberalization. Bilateral or regional PTAs for such economies may be just what are needed to give them the confidence to build up their multilateral liberalization efforts.
However, while more than half of the economies appear conservative in terms of maintaining a tariff wall (even if it is much lower), a number of economies have undertaken to allow liberalization in areas that are not currently covered by WTO disciplines, such as competition, investment and government procurement. The number of agreements containing these areas of liberalization featuring “next generation” trade agreements is still low (figure 6.6).

The most prominent types of regional trade agreements that include not only standard WTO-plus but also many “WTO-beyond” areas, such as competition, government procurement and investment, are RCEP and TPP agreements (see box 6.1). The third, relatively new regional bloc evolving in Asia is the Eurasian Economic Union (EAEU) that, at present, has five members. As declared, its features appear to be much closer to those of the European Union, with members having undertaken commitments to forming a customs union or harmonizing macroeconomic policies and having the Eurasian Economic Commission as a permanent regulatory body of the EAEU.

**Figure 6.6. Areas of liberalization pursued by Asia-Pacific PTAs**

Even prior to the mega-blocs an increasing number of bilateral agreements had “next generation” features, including investment, competition or government procurement. An uptake of these WTO-beyond features by the regional (plurilateral) deals, some of which comprise important global and regional traders, is significant in two contrasting ways. On the positive side, switching from bilateral to plurilateral agreements of high quality may help in sorting out “noodle bowl” problems (for more details see below). On the negative side, if the plurilateral deals that provide up to 30%-40% of world trade or GDP are faster in putting in place new disciplines going above and beyond those of WTO, there is a potential for them to undermine the existing WTO system of rules. One area that is frequently mentioned in this regard is dispute settlement; however, competition, investment and other regulatory-heavy areas that are actually not part of a current multilateral system are good contenders too.

“Recent agreements are more comprehensive in scope.”

The Trans-Pacific Partnership Agreement (known simply as “TPP”) evolved from a small agreement among four countries (Brunei Darussalam, Chile, New Zealand and Singapore) into a comprehensive trade and integration agreement between 12 major trading nations. The additional eight countries – Australia, Canada, Japan, Malaysia, Mexico, Peru, the United States and Viet Nam – brought extensive diversity into the initial grouping. The overall TPP market accounts for a GDP of nearly $28 trillion, which represents approximately 40% of global GDP, 30% of world imports and more than 11% of the global population.

TPP goes beyond the traditional liberalization of trade in goods and services by covering areas such as investor-state arbitration, intellectual property protection, environmental and labour standards, the privileges of state-owned enterprises and government procurement practices. These issues – considered “next generation” issues – traditionally belong to the realm of domestic regulation and have yet to be seriously tackled in a multilateral setting. However, they are slowly being added to the menu of preferential trade deals. Once their inclusion in negotiated preferential liberalization deals, such as TPP, becomes more widespread, it may be easier to adopt them at the multilateral level.

The precise terms of liberalization in TPP have yet to be publicly released. However, even if all details were known, doing an a priori impact analysis of TPP members and countries that have been left outside the agreement may not be very helpful. The constantly shifting landscape of bilateral and plurilateral agreements, not to mention the larger economic environment, means that understanding the real impacts of such comprehensive liberalization can be only obtained in an ex post analysis. In addition, the speed of ratification among the 12 signatories is a key element, as the longer it takes for all of them to enact the deal, the smaller the overall benefits for the members.

The negative impacts on the countries that are left outside TPP, especially the rest of the Asia-Pacific economies, namely other ASEAN members, China, India and the Republic of Korea, will depend on the change in their competitive conditions, i.e. size of trade diversion and preference erosion. Luckily, because many of these countries already have PTAs with a number of TPP members, they will not be so strongly affected. The countries that might fare the worst are those that have no PTAs with TPP countries, and trade goods and services with them that have still not been liberalized at the multilateral level. Some estimates that take into account existing levels of commitments under WTO – for example, high shares (up to 50% or more) of duty-free imports at the MFN basis or up to 100% bindings for low tariff rates – raise the hope of likely low trade diversion impacts.

Some developing or least developed countries currently utilize GSP schemes that most of the TPP members provide. The potential for them to be harmed by preference erosion exists if other TPP members are direct competitors with the same exportables. One example could be Cambodian apparel exports to the United States. These exports will now have to face competition from other TPP members who will benefit from lower barriers than before. However, looking at such possible producers, one discovers that they already enjoy significant preferences, either through GSP or through PTAs. Thus, big impacts should not be expected to come from trade liberalization provisions in TPP. It is more likely that any adverse effects will come as a result of investment provisions included in TPP.

Box 6.1. Trans-Pacific Partnership finally arrives

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the benefits of removing other so-called behind-the-border barriers are difficult to restrict to TPP members only (e.g. trade facilitation, or other regulatory measures) and thus the agreement’s comprehensive regulatory reforms – if they indeed happen – are expected to produce sizable positive “externalities” effects for non-members.

On a broader scale, a positive outcome of TPP is its potential use as a pathway (or stepping stone) to wider liberalization and integration, specifically in the Asia-Pacific Economic Cooperation where countries are waiting to embark on the Free Trade Area of the Asia-Pacific (FTAAP). As TPP is a larger and deeper liberalization effort than achieved under the so-called P4 agreement, it is possible to imagine that FTAAP could likewise use TPP as a stepping stone for consolidating existing PTAs and reducing the effect of the “noodle bowl”.

In thinking about the policy response to TPP, non-TPP countries should wait for the full provisions of TPP to become available before evaluating the costs and benefits to their own trade and investment patterns. They should also evaluate their national regulations and TPP obligations in the “next generation issues” to make an assessment about the changes that they will need implement on the domestic front and the associated challenges if they want to join TPP.

TRADE WITH PREFERENTIAL TRADE AGREEMENT PARTNERS

The extent to which economies in the Asia-Pacific region trade with their PTA partners varies considerably (figure 6.7). Only 35% of exports and 45% of imports are transacted with the PTA partners (as a simple average for 2011-2013). Most of the least developed countries show a very high share of exports to their PTA partners, typically neighbouring nations – e.g. Afghanistan (72%), Bhutan (88%), the Lao People’s Democratic Republic (86%) and Myanmar (92%). Some South-East Asian countries also have a much higher dependence on trade with PTA partners. At the other end of the spectrum, the Pacific island countries export less than 10% of their total exports, on average, to PTA partners. While averages can hide important specifics (i.e. the liberalizing quality of PTAs), it is worth noting that the figure for North and Central Asian economies is only 16%. Import patterns are similarly diverse. Some economies show a much higher propensity to import from the PTA partners compared with their export pattern – e.g. Bangladesh (60%), Cambodia (90%), Sri Lanka (51%) and Macao, China (60%) – while some others tend to import much less from PTA partners than what they export to them (e.g. in the case of Afghanistan, Bhutan and some Pacific island nations).

No fixed pattern is observed from this analysis as there are variations in the trade patterns of the individual economies, although small economies’ share of trade with neighbouring PTA partners is still significant. On the export side, Brunei Darussalam directs almost 100% of its exports to its PTA partners.

An ideal situation would be to have the preferential trade data to do this analysis. Unfortunately, these data are not available for most of the economies in the Asia-Pacific region; thus the total trade with PTA partners is used as the best proxy when analysing benefits from PTAs.

“An average Asia-Pacific economy buys less than 40% of its imports from its PTA partners.”
Figure 6.7. Share of trade with PTA partners,

(Percentage, average for 2011-2013)

Three developed economies are also dissimilar, with Japan relying on much of its trade with non-partners, New Zealand’s exports and imports are more or less balanced (50% and 54%, respectively) while Australian imports from PTA partners hold a higher share (43%) compared with exports (24%).

TRANSPARENCY AND PREFERENTIAL TRADE AGREEMENTS: THE RECORD OF ASIA-PACIFIC ECONOMIES

The existence of PTAs was “legalized” under the multilateral trading system rules early on by the GATT Article XXIV, which allowed formation of a customs union or free trade area. Article XXIV.7(a) and &(c) provides for a transparency mechanism under which the WTO members are required to notify details of PTAs to the WTO Secretariat. Despite this requirement, in practice most of the members did not comply as prescribed under the rules and therefore this concern was incorporated into the Doha Round agenda. Moreover, on 14 December 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs. It envisages that Members would review and, if necessary, modify the decision, and replace it with a permanent mechanism adopted as part of the overall results of the Doha Round.

At present, the WTO Members are required to notify the WTO Secretariat of the details of their preferential trade deals under the following conditions:

(a) Early Announcement. Members participating in new negotiations aimed at the conclusion of an RTA should inform the WTO Secretariat of such negotiations;

(b) Notification of ratification. The PTA should be notified as early as possible and, in general, no later than the parties’ ratification of the PTA, or on the application of an agreement and before the application of preferential treatment between the parties;

(c) Subsequent notification and reporting. Any changes affecting the implementation of a PTA, or an already implemented PTA, should also be notified to WTO; and

(d) RTA implementation period. The parties must submit to WTO a short written report on the realization of liberalization commitments in the RTA as originally notified.

Of all agreements involving at least one Asian or Pacific economy, 155 are enforced, 12 are pending ratification and 64 are being negotiated. With regard to RTA transparency, notification is required for all of these categories. However, only 151 of these PTAs have been notified to WTO by the Asia-Pacific economies (133 of which are in force, 2 are pending ratification and 16 are still under negotiation). In addition, the largest number of PTAs that have not been notified to WTO are in the “under negotiation” category (figure 6.8). The exact reason for no notification is not known; however, one possibility could be a lack of awareness of the notification procedure.

Figure 6.8. Preferential trade agreements with WTO notification, June 2015

Source: ESCAP calculation based on data from APTIAD.
Another important issue related to the transparency mechanism is submission of data by the PTA parties. As shown earlier in this chapter, it can be difficult to get data, even for total MFN trade, for calculating trade with PTA partners. In several Asia-Pacific economies there is a big time lag in data availability (e.g. on some cases, even data for 2013 were not available in July 2015).

The transparency mechanism requires WTO Members to notify import statistics, especially those for each party’s imports from the rest of the world, broken down into the country of origin in terms of value. It also recognizes the constraints facing developing countries in collecting the data. It would be useful to have the total MFN trade data as well as preferential trade data in order to carry out a complete analysis of benefits and losses of PTA. It is important for the developing and least developed countries to make an effort to capture the preferential trade data for inclusion in their trade statistics. Unfortunately, most of those economies do not have the preferential trade data, neither within the government domain nor in the public domain. This creates greater challenges for policymakers as they cannot draw on their past assessments for negotiating new agreements, not can they evaluate actual trade under each PTA and whether or not the agreement really benefits their economy.

The WTO transparency provision is an important step in getting countries to make the effort to capture and then disseminate preferential trade data. Such a step will be useful for various assessments of the ex post facto analysis of the PTAs. At the same time, most of the preferential trade remedies cannot be taken due to the lack of this data. In most of the stakeholders’ consultations in preparation for PTA negotiations, the industry is often given to understand that the preferential trade remedial measures will be available. However, due to the lack of preferential trade data the industry fails to establish the fact that the surge in preferential imports is causing damage to the domestic industry and thus no remedial actions can be taken. This leads to a situation where the Governments initiate global remedial measures, thus penalizing those exporters who have not been the cause of such preferential surge and resulting in the creation of more barriers than necessary to legitimately protect the domestic industry.

RTA transparency could therefore be an important tool for economies when building their capacity and seeking technical assistance in developing a mechanism for capturing preferential trade data. This would also be useful for policymakers when assessing which PTA is more useful for exports and imports, as it would enable them to make an informed decision on consolidating PTAs.

Asia-Pacific economies, initially considered to be latecomers to reciprocal preferential negotiations, have advanced rapidly to claim a leading position and contribute the largest share of PTAs, both in terms of the overall number and in adding new agreements to the list. However, Asia-Pacific economies are now looking towards “next generation” agreements – covering areas beyond WTO through mega-blocks. These “new generation” mega-agreements (such as RCEP, TPP and EAEU) cover areas beyond WTO commitments and are aimed at establishing new disciplines in these areas. Thus, it can be expected that a number of agreements negotiated some time ago might be revisited with a view to not only deepening their current, relatively shallow liberalization content but also to expand their coverage. The ultimate objective appears to be the generation, through the web of a critical mass of PTAs, of a consensus for including these beyond WTO areas in future multilateral agenda by following the building block approach.

One of the remaining challenges for Asia-Pacific economies is the multiplicity of PTA known as the “noodle bowl”. There is no correlation between (a) the number of PTAs and (b) the share of trade and its expansion under PTAs. Economies with a lesser number of agreements often have are greater share of intra-PTA trade than those that sign a large number of PTAs. It is therefore important that economies start reducing the complexity of negotiated terms and attempt to consolidate their multiple PTAs, which will ease the terms of trade transactions. A few such efforts in the Asia-Pacific region appear to be underway. The Asia-Pacific Trade Agreement is expanding its membership and is looking to provide an open-ended agreement that any developing member of ESCAP can join. It remains to be seen if the agreement can be also opened to the three developed countries in the Asia-Pacific region and if, at the same time, it can convert itself into a high-standard free trade agreement. Other agreements that are emerging as strong alternatives are RCEP, and TPP. It is not certain whether, after the implementation of RCEP and TPP, the ASEAN+1 and other existing agreements (more than 50 in total) will be nullified or not. Only when RCEP and TPP become open-ended agreements and overtake all other bilateral agreements between its members, can true consolidation be achieved that can truly address the “noodle bowl” problem.

Transparency of PTAs is another challenge that the Asia-Pacific economies will have to address. Some 23 agreements, especially those in the Central Asia region (14 agreements),
out of 156 agreements in force have not been notified to WTO despite the transparency mechanism under which WTO members are required to provide details of PTAs to the WTO secretariat. Another issue regarding the transparency mechanism is the submission of data as discussed in this chapter. The lack of data may create disadvantages for policymakers as well as domestic industries as various data-based analysis and assessments of the PTAs cannot be produced. The availability of preferential trade data will be useful not only to researchers, but also to policymakers, since they would be able to evaluate in actual terms the benefits and gains from the PTAs. This will be useful to future negotiations as well as policymaking.

ENDNOTES

1 In line with much of the existing literature, this report also uses the term “preferential trade agreement (PTAs)” 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 lessen terminological use of “noodle bowl”. 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. A summary of the applied taxonomy is provided in the Annex.

2 This number refers only to the so-called “physical” agreements reported by the WTO as of 6 May 2015 (see website at http://rtais.wto.org/UI-publicsummarytable.aspx). Normally, the 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.

3 In addition to the agreements notified to WTO, the Asia-Pacific Trade and Investment Agreements Database (APTIAD) records agreements that have not been notified to WTO, which has resulted in the increased number.


5 Classified as Partial Scope Agreements (partial tariff reduction commitments), free trade agreements (FTAs), custom unions (CU), and economic integration agreements (EIAs), which in the WTO taxonomy are reserved for services only.

6 Classified as bilateral, plurilateral or country-bloc agreements.

7 Classified as “in force”, “pending country ratification” or “under negotiation”.

8 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” 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.

9 This number ignores the deal signed between China and Taiwan Province of China, which is still not in force (according to the WTO RTA-IS database at http://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=713). In addition, the Mongolia-Japan FTA was signed but has not yet been ratified.

10 There are 92 bilateral PTAs between developing economies, 28 between developing and developed economies and 4 between developed economies.

11 From the number of parties to the nature of the agreement, 22 plurilateral agreements are very diverse. The agreement with the largest membership is GSTP (44 members). Some agreements have the same core membership but are able to present themselves as different PTAs. Some of these emanate from the political split among the original membership (e.g. Commonwealth of Independent States Free Trade Area (CISFTA) and Commonwealth of Independent States (CIS)).

12 In fact, while Asia-Pacific economies do not notify inactive agreements (apart from Turkey), there is no economic rationale for not cancelling inactive agreements or those that have been surpassed by more advanced versions. Australia and New Zealand did so when they reached a new agreement in 1982 and placed their previous agreement, signed in 1965, into the “inactive” category. There are several candidates for cancellation among agreements categorized as “in force” at present (e.g. the Lao People’s Democratic Republic-Thailand partial scope trade agreement notified in 1991).

13 Despite the official titles given to the agreed texts, WTO members are able to choose only among four different “types” when notifying their agreements. These four types are: free trade agreements and customs unions (for goods); economic integration agreements (for services); and partial scope agreements (only for agreements between developing countries).
Please refer to endnote 1 with regard to interchangeability of use of terms PTAs and RTAs.

A similar provision exists under Article 5 of the General Agreement on Trade in Services (GATS).

The new transparency mechanism provides for early announcement and notification to WTO of any RTA. Members will consider the notified RTAs on the basis of a factual presentation by the WTO Secretariat. The Committee on Regional Trade Agreements will consider RTAs falling under Article XXIV of the General Agreement on Tariffs and Trade (GATT) and Article V of GATS. The Committee on Trade and Development will consider RTAs falling under the Enabling Clause (trade arrangements between developing countries).

The details include information related to the official name of a PTA, its scope, date of signature, any foreseen timetable for its entry into force or provisional application, relevant contact points and/or website addresses, and any other relevant unrestricted information.

Annex of WTO Document WT/L/671.

REFERENCES


ONLINE DATABASES


World Trade Organization, Regional Trade Agreements Information System. Available from rtais.wto.org/UI/PublicMaintainRTAHome.aspx
## Annex

### Taxonomy of trade agreements

<table>
<thead>
<tr>
<th>Scope of beneficiaries</th>
<th>Method of implementation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preferential to selected countries (bilateral or plurilateral)</td>
<td>ATIGA, SAFTA, EAEU and other PTAs*</td>
</tr>
<tr>
<td>Non-discriminatory and given at MFN basis to all members of WTO</td>
<td>Generalized System of Preferences, Everything but Arms, other unilateral preferential arrangements**</td>
</tr>
<tr>
<td>Non-discriminatory and given at MFN basis to all members of WTO</td>
<td>Autonomous (unilateral) liberalization</td>
</tr>
</tbody>
</table>

*Source: Adapted from World Bank, 2005.

**Notes: The database is available at http://ptadb.wto.org/?lang=1.

* Examples are provided from the pool of PTAs involving Asia-Pacific economies.

**All developed countries and a number of developing economies have put in place some non-reciprocal trade preferential arrangements.