

# TRAINING PROGRAMME ON “NEGOTIATING PREFERENTIAL TRADE AGREEMENTS”

## Session 1: WTO and RTAs

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**Phnom Penh, Cambodia**

**Rajan Sudesh Ratna**  
**Economic Affairs Officer**  
**Trade, Investment and Innovation Division**  
**UNESCAP, Bangkok**  
Email: [ratna@un.org](mailto:ratna@un.org)



# **Presentations structure**

- ▣ **GATT Rules**

- ▣ **WTO Rules**

- ▣ **Doha negotiation – transparency**

- ▣ **Some facts on RTAs**

# **Pre training exercise**

## **Time – 5 minutes**

# Exercise

- **How do you define SAT?**
  - Tariff lines
  - Trade Value
  - Both
- **Reasonable length of time?**
- **General rule vrs PSRs?**
- **Single undertaking or step by step approach?**

# **Regional Trading Arrangements : Economic rationale**

- **A desire to obtain more secure, quick and preferential access to major markets.**
- **The pressures of globalisation, forcing firms and countries to seek efficiency through larger markets, increased competition, and access to foreign technologies and investment.**
- **Material management**
  - **Cheaper imports – domestic prices in control**
  - **Better quality products at competitive price**
- **Investments flow – JVs**
- **Coverage of Services**
- **Mutual recognition of standards & laboratories**
- **Trade facilitation, Harmonisation of Customs procedures etc.**

# Other Reasons

- ▣ Governments' desire to maintain sovereignty by pooling it with others in areas of economic management where most nation-states are too small to act alone.
- ▣ Governments' wish to bind themselves to better policies and to signal such bindings to domestic and foreign investors.
- ▣ A desire to jog the multilateral system into faster and deeper action in selected areas by showing that the GATT/WTO was not the only game in town and by creating more powerful blocs that would operate within the GATT/WTO system.
- ▣ A desire to help neighbouring countries stabilize and prosper, both for altruistic reasons and to avoid spillovers of unrest and population growth.
- ▣ The fear of being left out while the rest of the world swept into regionalism, either because this would be actually harmful to the excluded countries or just because "if everyone else is doing it, shouldn't we?"

# **BASIC GATT PRINCIPLES**

- **MFN (Most Favoured Nation Treatment)**
- **TRADE TO BE REGULATED BY CUSTOMS DUTY ONLY**
- **DUTIES TO BE BOUND**
- **NATIONAL TREATMENT**

# GATT RULES

- Permitted under Article XXIV of GATT 1994.
- Exception to MFN treatment within the Rules subject to fulfillment of conditions:
  - items on which there is **substantial trade** to be covered
  - the phase out of duties should be **within a reasonable length of time**
  - it should **not have trade distorting effect** to non-RTA Parties.
- **Enabling Clause Decision – flexibility.**



# **WTO RULES**

- **The text of Article XXIV became part of WTO Agreement.**
- **During Uruguay Round an understanding was reached on duties & other regulations of commerce, reasonable length of time, and procedure for RTA notification to WTO.**
- **Services: Article V of GATS allows for Economic Integration.**

# **SAT - Test**

- **Para 8(a) of Article XXIV of GATT.**
- **Trade value?**
- **Tariff lines?**
- **Both?**
- **Being discussed and debated in WTO but no clarity – no decision – neither in Uruguay Round nor in Doha Round.**

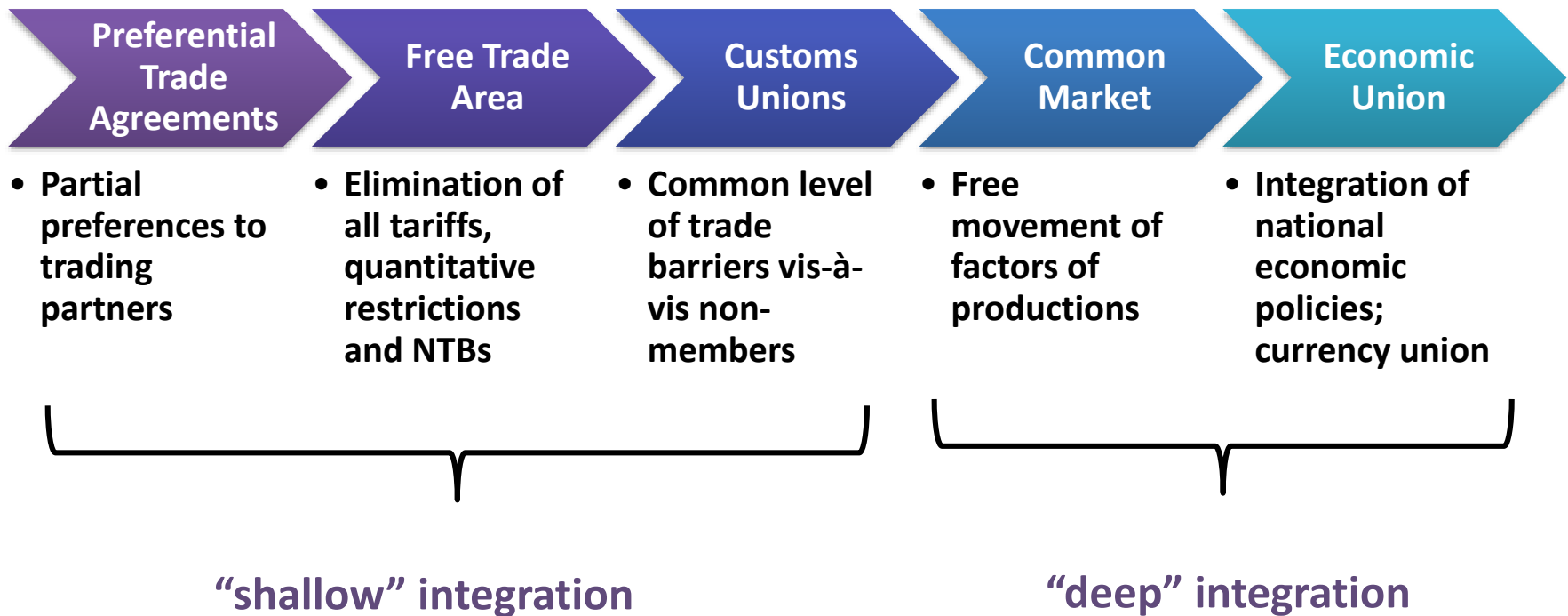
# Reasonable Length

- The reasonable length of time [para 5 (c)] should exceed 10 years only in exceptional cases.
- In cases where members believe that 10 years is insufficient, they shall provide a full explanation to the Commission for Trade in Goods of the need for a longer period.

# Services in RTAs

- **Article V of GATS**
  - **substantial sectoral coverage (12 sectors – 155 subsectors);**
  - **Elimination of existing discriminatory measures, and/or prohibition of new or more discriminatory measures either at the entry into force or on the basis of reasonable time-frame.**
- **Flexibility for developing countries**
- **Facilitate trade between parties and to to raise the overall level of barriers to trade in services within the respective sectors or sub-sectors compared to the level applicable prior to such an agreement.**

# Types of trade agreements



# Doha Round - Rules negotiations

- RTA transparency part of Doha Round negotiations.
- A decision was taken on 14<sup>th</sup> December 2006 on Transparency mechanism for RTAs which was adopted by the General Council. It involved issues relating to:
  - Early announcement
  - Notification
  - Procedures to enhance transparency, etc.

# Transparency mechanism

GATT Art. XXIV	GATS Art. V	Enabling Clause – Para. 2(c)
<b>Transparency Mechanism for RTAs</b> General Council's Decision of 14 December 2006 (WT/L/671) <i>(Provisional application pending conclusion of the Doha Round)</i>		

- Improves existing RTA transparency provisions
- Outlines specific guidelines for the provision of RTA data
- Charges the Secretariat with the preparation of a factual presentation of all RTAs notified to the WTO
- Requires the establishment of a public database on RTAs (paragraph 21).

# **RTAs – other elements**

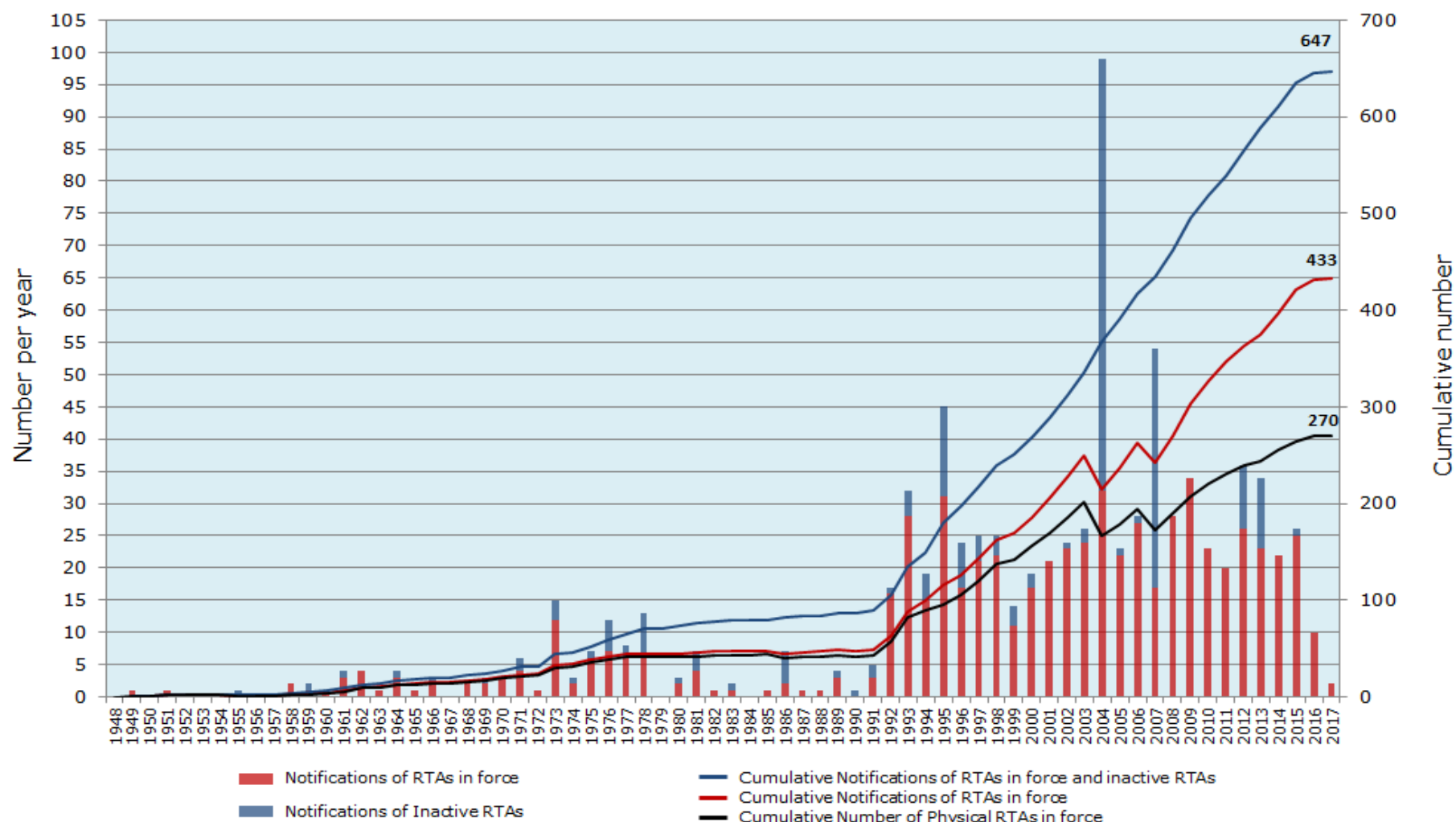
- **Anti Dumping**
- **Safeguard**
  - **Global**
  - **Bilateral**
- **Duty drawback**
- **Rules of Origin**
- **Export taxes/licenses**
- **Import licenses**



# **Comprehensive Agreements**

- **Cover goods, services, investments etc.**
- **Commitments on IPRs**
- **Commitments on GP**
- **TF & Customs Cooperation**
- **Mutual Recognition Agreements**
  - **Goods – for NTBs**
  - **Services – for MA**
- **Other Areas of cooperation – Tourism, Technology, R&D etc.**
- **Package – Single Undertaking or in staging.**

## Evolution of Regional Trade Agreements in the world, 1948-2017



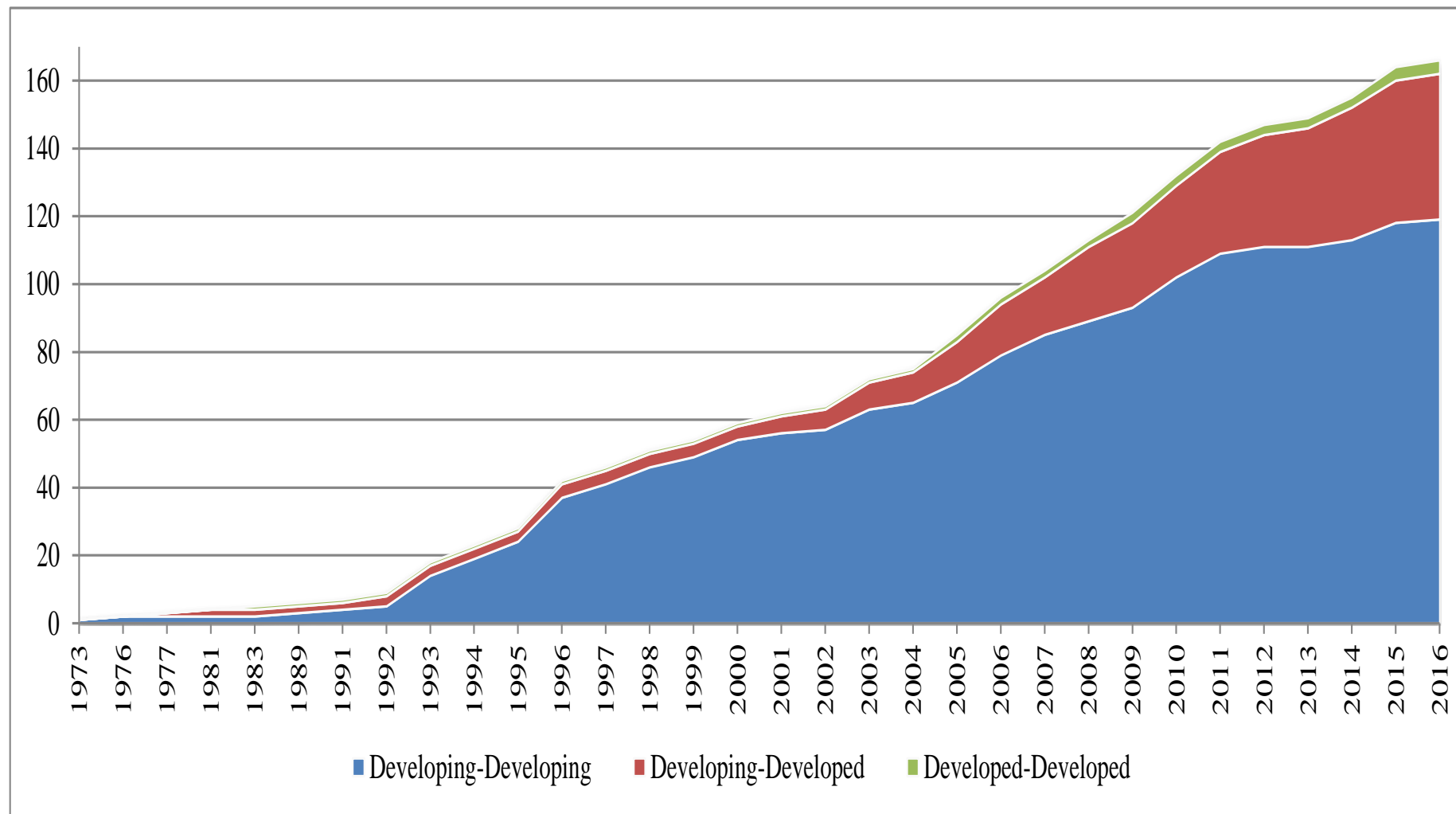
Note: Notifications of RTAs: goods, services & accessions to an RTA are counted separately. Physical RTAs: goods, services & accessions to an RTA are counted together.  
 The cumulative lines show the number of notifications/physical RTAs that were in force for a given year.  
 Source: WTO Secretariat.

Source: WTO website, 24 April 2017, [https://www.wto.org/english/tratop\\_e/region\\_e/regfac\\_e.htm](https://www.wto.org/english/tratop_e/region_e/regfac_e.htm)

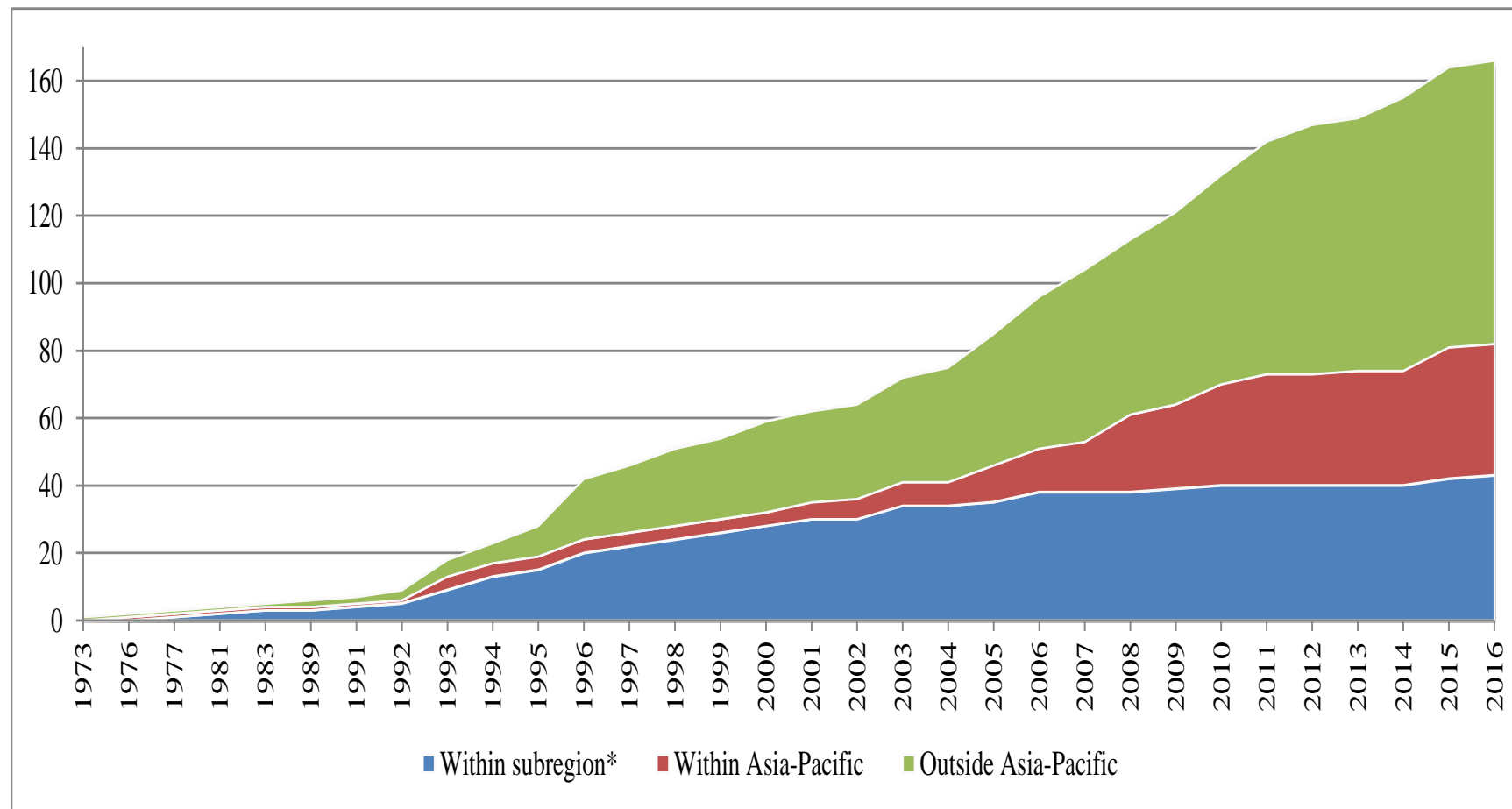
# Asia-Pacific RTAs

- As of July 2016, there were 260 RTAs in Asia-Pacific region which are either in force, signed or being negotiated.
- Globally 267 “physical” RTAs in force, and 169 (63%) are from AP
- 12 - signed but not implemented
- 78 - under different stages of negotiations.

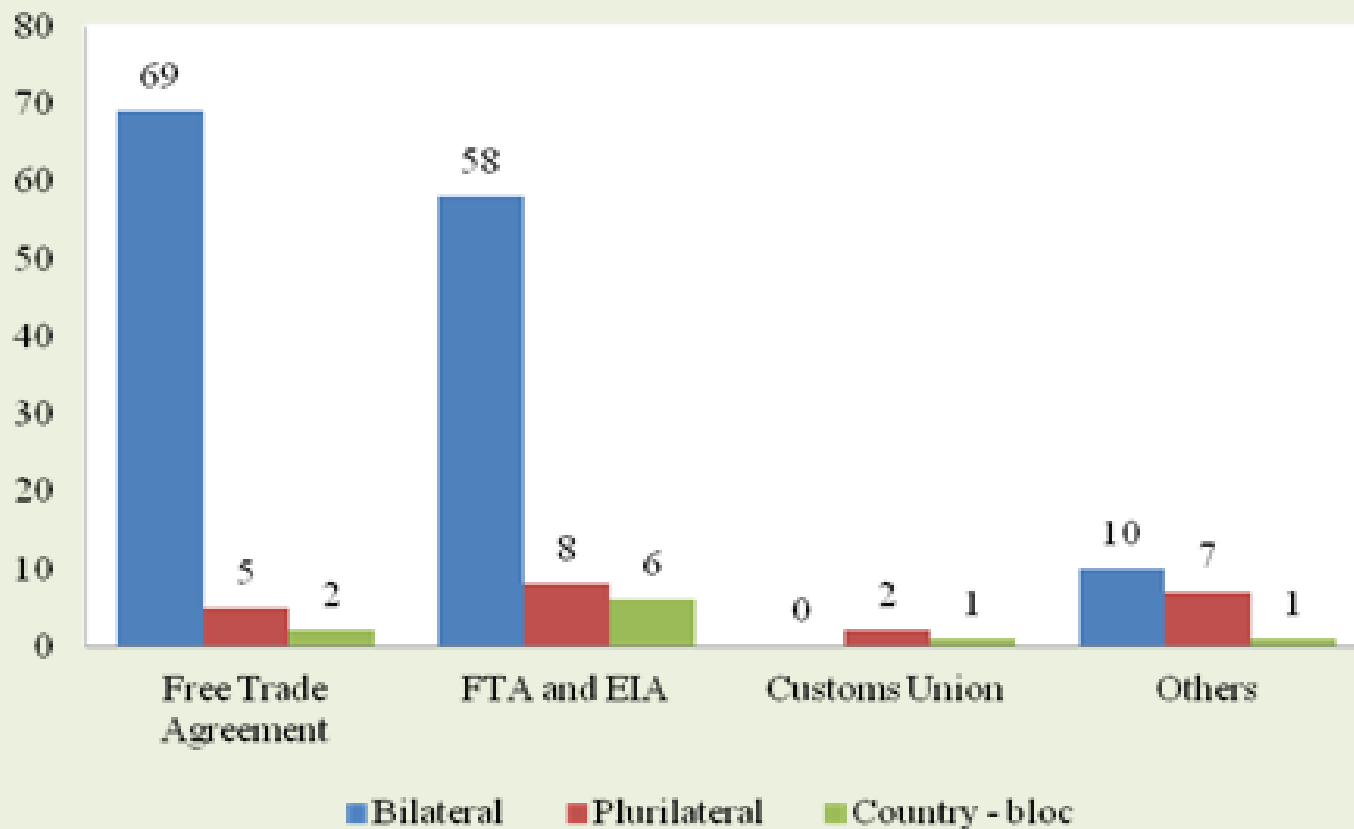
# Cumulative number of PTAs (notified and non-notified to WTO) put into force by Asia-Pacific economies, 1971-July 2016



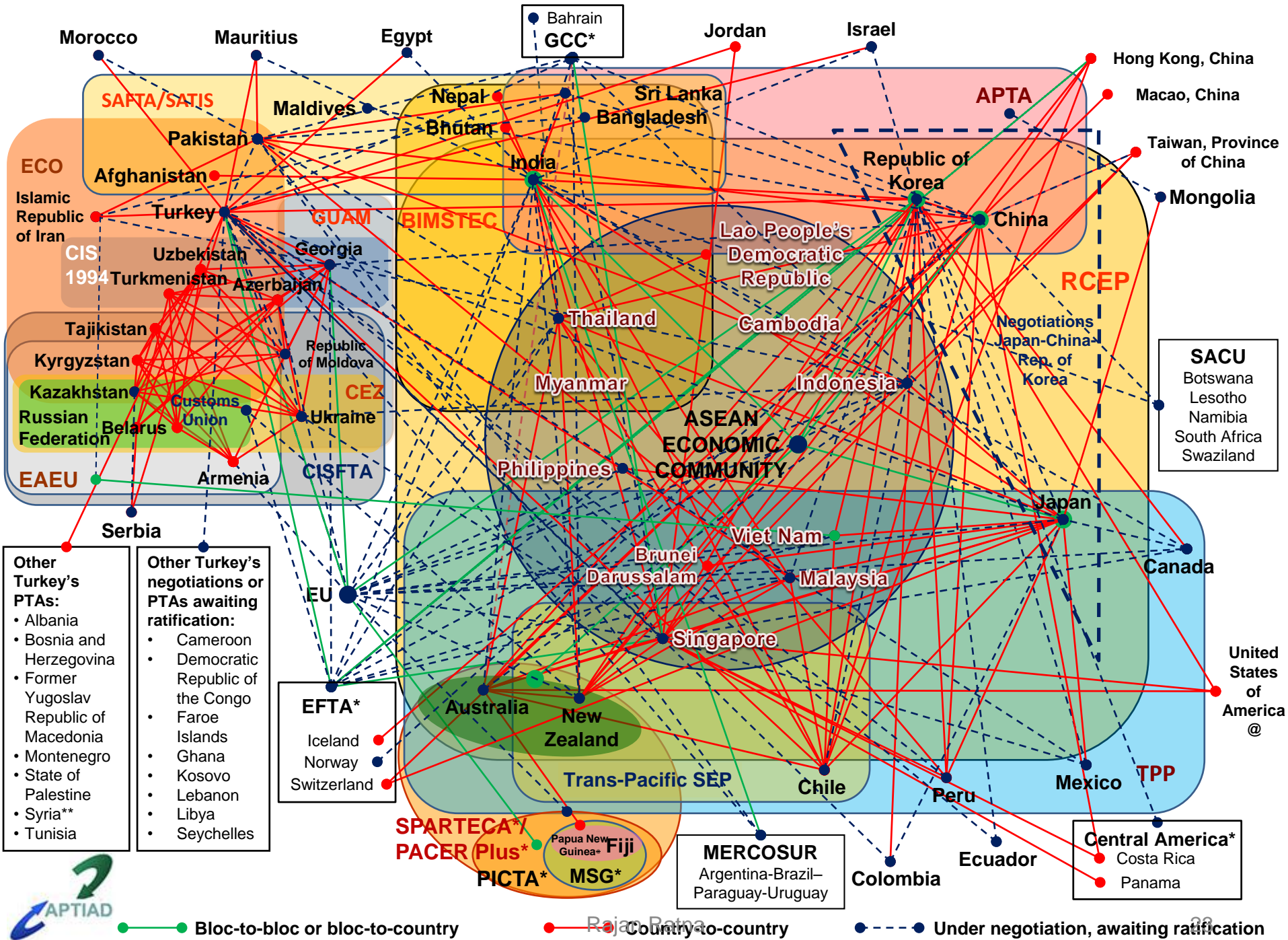
## Cumulative number of PTAs (notified and non-notified to WTO) put into force by Asia-Pacific economies, 1971-July 2016



# Breakdown of trade agreements, by type and number of partners



Source: ESCAP (APTIR 2016) - calculation based on data from APTIAD



\*Not all members shown / @Withdrawals: PNG (PACER Plus) ; USA (TPP)/ PTAs not represented: GSTP, D-8 PTA and PTN (in force) and TPS/OIC (under negotiation) / \*\* Suspended

# **PTA Negotiations**

- **Limited items and limited tariff concessions**
- **Negotiations are held in different Rounds**
- **Positive list approach**
- **Request is made to other Parties to give Tariff Preferences on items of export interest**
- **Other Party then offers – items & MoP**
- **Negotiations are then held on expanding the items & MoP**
- **Issue – reciprocity or non-reciprocity**



# FTA

- **Negative/Sensitive/Exclusion List - SAT**
- **Decide on modality**
  - Time frame
  - Tracks of liberalisation
  - Trade/Tariff line coverage
- **Offer**
- **Negotiate – position of items & TLP**

# Exercise 1

- **How do you define SAT?**
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  - Both
- **Reasonable length of time?**
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# **Critical Policy Issues**

- **Rules of Origin :**
  - **Circumvention/Deflection**
- **Negative List : Protection to industry**
- **Trade Defence Measures : in cases of surge in imports**
- **Multiplicity of RTA partners – need for consistency**
- **Trade creation vis-à-vis Trade diversion**
- **Services Negotiations**
- **WTO plus obligations**

# **Current issues related to regionalism in Asia-Pacific**

- **Too many overlapping bilateral RTAs**
- **Weak capacity to utilize research in policymaking, weak negotiation and implementing capacity**
- **Under-utilization of existing agreements**
- **PTAs not going sufficiently into WTO+ and WTO-beyond areas**
- **Impacts on third parties not understood and low-income economies often excluded from “21<sup>st</sup> century” deals**
- **No post-adjustment programmes**

# Selected sources

## ESCAP:

- Asia-Pacific Trade and Investment Report  
[www.unescap.org/tid/ti\\_report2016/home.asp](http://www.unescap.org/tid/ti_report2016/home.asp)
- APTIAD Briefing Note 8 (August 2016)  
<http://www.unescap.org/sites/default/files/APTIAD-brief-August2016.pdf>
- Asia-Pacific Trade and Investment Preferential Agreements Database – APTIAD:  
[www.unescap.org/tid/uptiad](http://www.unescap.org/tid/uptiad)

## OTHERS SOURCES:

- WTO, World Trade Report 2011  
[https://www.wto.org/english/res\\_e/publications\\_e/wtr11\\_e.htm](https://www.wto.org/english/res_e/publications_e/wtr11_e.htm)
- WTO RTA database  
[https://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_e.htm)

# Thank You