

**NEW AGE REGIONALISM AND
MULTILATERALISM:
SYSTEMIC ISSUES AND THE EVOLVING
TRADE ARCHITECTURE**

Tiziana Bonapace
Chief
Trade Policy Section
Trade and Investment Division
United Nations ESCAP

The Framework of WTO Rules and RTAs

■ Non-discriminatory treatment

- ✿ founding principle of GATT and of WTO
- ✿ embodied in concept of MFN and national treatment
- ✿ fairness rules are fundamental to gaining confidence of all countries in the system

■ Discriminatory treatment

- ✿ Regionalism based on discriminatory treatment in favour of a select group of members is a major departure from GATT/WTO founding principles
- ✿ permissible, provided that certain conditions are met:
 - GATT Article XXIV :
 - (5) duties and other regulations of commerce are not higher or more restrictive after the formation of the CU/FTA than before
 - (8) duties and other regulations of commerce are removed on substantially all intraregional trade within a reasonable period of time
 - the formation of the CU/FTA is notified to the WTO, surveillance and monitoring

➤ GATS Article V:

- economic integration

similar to GATT article (essentially imposes same conditions) no mode of supply may be excluded a priori, must provide for elimination of substantially all measures violating national treatment (under sector specific commitments), should not result in higher barriers to third countries

Enabling clause

1979 Decision on Differential and More Favourable Treatment of Developing Countries: allows for more favourable treatment to developing countries without condition of having to cover “substantially all trade”

Where does Asian-Pacific regionalism stand?

- **Becoming more regionalized through surging regional trading arrangements (RTAs), particularly bilateral trade agreements (BTAs)**
 - ✿ **About 97 RTAs involving ESCAP members and associate members**
 - ✿ **Considerable variation in terms of membership, style, breadth of coverage, design and effectiveness**
- **Asia-Pacific fertile breeding ground for discriminatory trade? a region with a rich experience in using trade as an engine of economic growth**
- **Other forms of regional economic cooperation**
 - ✿ **Growth triangles/quadrangles**
 - ✿ **Many forms: intergovernmental/private sector driven**
 - ✿ **Common themes: riparian cooperation, transport corridors, energy selfsufficiency**

The Contagion Effect: drivers

■ Domino effect

- ◆ fear of marginalization (not being able to share benefits of membership) as more and more countries become members of FTA
- ◆ Originally used to explain successive waves of EU expansion
- ◆ turning point: ASEAN+China+Japan+RoK
- ◆ Late 1990s: disenchantment with APEC as a driver of liberalization, aftermath of 1997 financial crisis and disenchantment with RoW response and policy prescriptions: few countries untouched, rekindled common destiny bonds and regional identity

■ Competitive regionalism

- ◆ Secure trade interests and establish sphere of influence that goes beyond trade
- ◆ Used as strategy to pressure non-members to join or enter into broader trade agreements

■ Both effects at play in Asia-Pacific and may be mutually reinforcing

New Age Regionalism: Where are we going?

No clear direction or conclusive answers

- Great number of deep and broad scope agreements
- Significant variation. Bilateralism common feature
- Building block, stumbling block, or bumbling block?
- Building block: key policy requirement is for RTAs to reduce external barriers on an MFN basis, in parallel with phasing in the particular preferential liberalization
- Increased concerns: erosion of WTO disciplines, conflicting rules that entrench vested interests, no compelling empirical evidence that FTAs are building block.

Two major opposing trends mark the new age:

- *GLOBALIZING REGIONALISM*: linking subregions and continents
- *FRAGMENTING REGIONALISM*: bilateral FTAs

Future direction? Prospects for a one Asia vision? Does bilateralism promise Asia greater benefits than multilateralism or regionalism? To what extent will fragmentation continue? Will these new initiatives detract from or reinvigorate WTO negotiations? Will bilateralism lead to a hubs and spokes discriminatory configuration of FTAs? Or will all these bilateral, subregional, regional and cross-continental initiatives coalesce and provide a fast track to global free trade under multilateralism?

New Age Regionalism: Where are we going?

- Can the primacy of the multilateral trading system be re-established?
 - ➡ The pace, depth and scope of WTO negotiations will be a determining factor. Views differ
 - ➡ What about GATT Article XXIV, GATS Article V?
- How can WTO recognize the reality of RTAs and impose disciplines so that they are complementary to WTO system
- Ensure that supportive role of regionalism in multilateralism can be given a more solid legal foundation.
- WTO rules ambiguous: “dead”, “creaky”?

WTO rules and RTAs

 Uruguay Round Understanding on the Interpretation of Article XXIV of GATT 1994 sought to clarify meanings

- completion of FTA is in principle 10 years
- when a member of a CU raises tariffs as a result of joining the CU, negotiations with third countries are in accordance with Article XXVIII of the GATT
- a third country that benefits from a reduction in tariffs due to a member joining a CU is under no obligation to offer compensation

WTO Negotiating Group on Rules

- ✚ In recognition of systemic challenge that RTAs pose for WTO system, Doha Declaration makes provision for negotiations on CU/FTA rules
- ✚ Perhaps single most important difficulty centres around interpretation of GATT Article XXIV:8 what is “substantially all trade”. Similar difficulties with GATS Article V “substantial sectoral coverage”
- ✚ Is it a quantitative requirement?
 - statistical benchmark: e.g 96 per cent of trade should be covered by 10 year mark, or xx percent, by xx stage of implementation, or a threshold limit of HS tariff lines at six digit level, or
 - Implication is that as long as agreed benchmark is reached, the exclusion of a particular sector (e.g. agriculture or marine products) is not of concern

WTO Negotiating Group on Rules (cont'd)

- ➔ Is it a qualitative requirement?
 - Qualitative: no major sector should be excluded.
 - Quantitative threshold could imply that a major sector could be excluded.
- ➔ Not on the whole higher or more restrictive for third parties after than before. Uruguay Round clarified this aspect, (average weighted applied duties, based on import statistics), but lack of data makes it difficult to assess implications for third countries
- ➔ Harmonize external tariffs to lowest level applied by a member
- ➔ Link RTA tariff reductions to MFN tariff reductions
- ➔ RTAs should be open for any member to join
- ➔ Does Article XXIV:8 allow trade remedies to be applied to imports coming from other FTA partners

WTO Negotiating Group on Rules (cont'd)

- Strengthen transparency and surveillance function of WTO: improve, notification and examination
- Notification: Committee on RTAs or Committee on Trade and development
 - development contribution of RTAs,
 - S and D an integral part of WTO agreements
 - Policy space and flexibility to allow domestic sector to adjust to liberalization.
 - Small percentage of trade covered by South-South RTAs. Does it justify additional burden?
- Timing proposal: two steps – notify outline at time of signing RTA and second detailed notification after ratification. Questions about added burden this two step would entail for CRTA? ex post-facto notification raises problems if RTA not in compliance with WTO rules.

ESCAP role

- ESCAP role: “mapping function” that assists countries to review RTAs, take stock, analyze impact, track performance against stated objectives
- Can provide insights into “better” design of future BTAs/RTAs
- APPTAD (Asia-Pacific Preferential Trade Agreements Database)

APPTAD: What does it contain?

It provides detailed descriptive and updated information on the provision of regional trade Agreements (RTAs)/bilateral trade agreements (BTAs) applicable to the ESCAP region:

- all the agreements reported to the WTO to this date in which at least one party is in the ESCAP region;
- other agreements that have not been notified but for which there is official information readily available;
- and also those agreements under negotiation for which there has been at least a first formal negotiation round.

In the development of this database several sources have been used including

- official
- unofficial
- academic

Wherever possible, a link to the original source has been provided to allow users to check for the latest updates.

APPTAD: Application

- <http://www.unescap.org/tid/index.asp> 

APPTAD: Performance indicators

- Phase I: Descriptive information on provisions of BTAs/RTAs
- Phase II: Analytical indicators:
 - datasets on trade flows, patterns of trade (at country level and sectoral level), structure of trade,
 - WTO compliance measurements: coverage of substantially all trade, "third party barriers" deduced by using a regional orientation index - a ratio of intraregional trade openness and extraregional trade openness with tracking over time, trade complementarities (RCA and other indices)

APPTAD: Performance indicators

Phase II: Analytical indicators

- Gravity estimation: another dimension of extent of potential trade between future PTA partners. Gravity models popular, high explanatory value (goodness of fit)
- Numerical simulations of benefits of potential PTAs: CGE analysis (GTAP as it contains matrices for 57 sectors and 87 regions)
 - Ex-post validation of ex-ante CGE models
- Quantitative analysis of impact of RTAs one of most researched areas. Understanding not much clearer.
- Caution in assumptions, quality of data and specification of models. Well grounded theoretical underpinnings necessary. Also critical discernment in interpretation of results and in formulating recommendations to policy decision-makers. Cannot be repeated often enough
- New age trade agreements have prominent investment features: investment creation/diversion, overlap/inconsistency with BITs, improvement in policy predictability and economic governance?
- Trade facilitation, services other area of work requiring much more analytical work

Thank you!