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# “REGIONALISM” AND THE GLOBAL TRADE SYSTEM

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**ABSTRACT:**

The post-1945 global trading system was designed around the principle of non-discrimination. During the 1947-94 GATT era, regionalism and multilateralism were often been viewed as antagonistic approaches to international trade and preferential treatment within regional blocs was to be deterred. Since 1995, although regional trade agreements are monitored by the WTO Secretariat and presented as a threat to the system, regionalism poses little threat to the multilateral trading system.

This paper argues that major twenty-first century RTAs go beyond preferential tariff treatment to focus on deeper integration issues. Such issues are addressed outside the WTO because, despite new features of the international trade map since 1995 such as internet use and global value chains, extension of WTO rules has proved difficult due to the requirement for consensus. The paper analyses the rise of mega-regional agreements such as CPTPP and RCEP, the shift in EU policy from protecting domestic producers to facilitating imports from best global suppliers, and the use of WTO plurilateral agreements within the context of providing rules fit for purpose in the modern global trading system.

**Key words:** economic integration; open regionalism; global value chains

**JEL classifications:** F15; F68; F02

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## “Regionalism” and the Global Trade System

The World Trade Organization is an institution with almost universal membership that provides the basis of international trade law. A quarter century after its establishment, the WTO faces challenges around administration and extension of world trade law. Dispute resolution that came under threat during the Trump administration needs reinstatement and other reforms are desirable. This paper addresses a second challenge: how to extend and adapt coverage of WTO law? The WTO has failed to rise to the challenge because decision-making is by consensus and the opposition to legislating in new areas is sufficiently strong to preclude a consensus. Alternative institutional arrangements have been used to bring like-minded countries together in order to agree on rules that go beyond WTO commitments. Many of these arrangements have roots in regional trade agreements but the most important have outgrown these roots.

The argument of the paper is that, although the WTO secretariat views regional trade agreements (RTAs) as an ongoing threat to multilateralism, the major regional agreements in the twenty-first century are quite different from the geographically discriminatory tariffs and non-tariff barriers that the GATT was designed to outlaw and which were essentially proscribed in 1994. Whether bilateral agreements, deeper integration or open regionalism, most twenty-first century agreements classified as RTAs are aimed at facilitating trade and most measures, such as simplified customs procedures or bureaucratic requirements, are non-discriminatory. The agreements extend into areas in which the WTO has been unable to travel due to the need for consensus, even though innovations such as the internet or increased fragmentation of production along international value chains create the need for new post-1995 trade-related regulations.

The following section examines which discriminatory trade practices were outlawed in the Final Act of the Uruguay Round and which have survived into the twenty-first century. The major regional agreements of the 1980s and early 1990s were focused on deeper integration rather than preferential trade policies (Section 2). Section 3 analyzes the WTO's tracking of regional trade agreements and argues that the focus is misdirected because twenty-first century RTAs are not a threat to the multilateral trading system. An important legacy from twentieth century regionalism has been open regionalism in which like-minded countries are encouraged to cooperate in setting trade policies (Section 4). The major twenty-first century examples of open regionalism, the TransPacific Partnership and the Regional Comprehensive Economic Partnership, and their similarity to deeper bilateral agreements of the European Union in creating trade rules in areas beyond the WTO, are analyzed in Section 5. The final section draws conclusions about the future balance between such deep trade agreements and the WTO.

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## 1 Regionalism Past and Present

In the first era of globalization, starting in the early 1800s, discriminatory trade policies were politically driven and important, to the extent that distance was an insignificant determinant of Britain's bilateral trade flows between 1800 and 1950.<sup>1</sup> The impact of empire on British trade flows was especially strong during the 1920s and 1930s (de Bromhead et al., 2019) when geopolitical tensions led to more discriminatory preferential tariffs in favour of imperial trade. The creation of spheres of economic influence in eastern Europe and East Asia by Germany and Japan was viewed by influential US policymakers as contributing to the descent into world war during the 1930s. US policy towards creating the post-war global trading system centred on non-discrimination, embodied in the unconditional most-favoured nation (MFN) principle.

Despite unconditional MFN being Article I of the General Agreement on Tariffs and Trade (GATT), discrimination became an increasingly visible and controversial feature of the global trading system during the 1947-94 GATT era. Unexpectedly, customs unions and free trade areas (permissible under strict conditions in GATT Article XXIV) proliferated, stimulated by the success of western European economic integration and not discouraged by the failure of imitators such as the East African Community or the Central American Common Market. The break-up of empires ended the grandfathered imperial preference schemes, but criticisms of equal treatment of unequal trading partners and demands for a New International Economic Order led to creation of the Generalized System of Preferences (GSP) for developing countries as an exception to Article I. In the 1980s, the USA gave up its principled opposition to discriminatory trade policies by signing preferential trade agreements with Caribbean countries, Israel and Canada.

The discriminatory arrangements of the 1960s and 1970s typically consisted of preferential tariff treatment. With the "new protectionism" of the 1980s in response to the growth of manufactured exports from Japan and newly industrializing economies, another type of discriminatory trade policy emerged in quantitative restrictions such as voluntary export restraint (VER) or orderly marketing agreements which were against the spirit of the GATT even if they did not trigger official complaints. The Uruguay Round of multilateral trade negotiations that started in 1986 was intended to address such challenges to the GATT system, but with stalemate at the 1990 ministerial meeting in Montréal the Uruguay Round faced potential collapse. This was

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<sup>1</sup> Jacks et al. (2020) apply the gravity model to British bilateral trade since 1800 and find that, although estimated coefficients vary over time, the distance variable is not statistically significant until after 1950. This could be explained by formal and informal British imperialism.

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accompanied in the early 1990s by an active debate about whether regional trade agreements were a stumbling block or a stepping-stone to liberalization of multilateral trade.<sup>2</sup>

The threat to the multilateral system was addressed as the GATT signatories, led by the Quad of major trading nations (the USA, EU, Japan and Canada), completed the Uruguay Round in 1994. The Final Act created the World Trade Organization (WTO). The WTO got off to a good start as early disputes over US petroleum imports and EU banana imports were resolved by powerful nations accepting decisions of the WTO panel in favour of the smaller trade partner. However, the 1996 Singapore ministerial meeting highlighted the need for processes to extend the WTO Charter to cover new areas.<sup>3</sup> The strongest challenge to traditional trading arrangements, the internet, began to influence international trade at precisely this time.<sup>4</sup>

The WTO has been undeniably successful in attracting membership by virtually all of the world's countries. Tariff barriers have diminished; the weighted average MFN tariff on all goods has fallen from 7% in 1995 to around 4% since 2012, and applied tariffs have been lower.<sup>5</sup> However, changing WTO rules by consensus has become harder, not only due to increased numbers but also due to increased assertiveness by large countries outside the Quad (notably the BRICs: Brazil, Russia, India and China). The unfortunate decision to launch a GATT-style round of multilateral trade negotiations at the turn of the century highlighted the difficulty of reaching agreement on extending WTO trade law.<sup>6</sup>

## **2. From Regional Trade Agreements to Deeper Regionalism**

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<sup>2</sup> The ambiguity can be linked to Viner's distinction between trade creation and trade diversion, with the former potentially leading to continuous preferential trade liberalization until the world is covered by free trade and the latter creating vested interests with the power to maintain their artificial price advantage. The dichotomy was popularized by Jagdish Bhagwati (1991), who was the leading critic of RTAs, which he saw as stumbling-blocks.

<sup>3</sup> The four "Singapore issues" were government procurement, trade facilitation, trade and investment, and trade and competition.

<sup>4</sup> Freund and Weinhold (2004) found no statistically significant relationship between internet use and trade up to and including 1995. However, from 1997 to 1999 the internet contributed to about a one percentage point increase in annual export growth, and in the early 2000s a ten percentage-point increase in the growth of web hosts in a country led to a 0.2 percentage-point increase in export growth.

<sup>5</sup> World Bank data at <https://data.worldbank.org/indicator/TM.TAX.MRCH.WM.FN.ZS>. Another indicator of the diminished importance of tariffs is that G20 countries' protectionism after the 2008-9 financial and trade crises saw little change in tariffs, but increased resort to temporary trade barriers such as antidumping cases, countervailing duties and safeguards (Bown, 2018). The Trump administration's resort to targeted tariffs seemed intended as bargaining chips rather than a long-term policy change.

<sup>6</sup> The decision was unfortunate because the intended launch of the Millennium Round in Seattle in 1999 was thwarted by anti-globalization demonstrators and, more importantly, because the Doha Development Round launched in 2001 has been unable to reach a conclusion.

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The substantial tariff reductions in the second half of the 1900s eroded the value of preferential tariffs and the WTO Charter made a strong commitment to multilateralism, reasserting GATT principles on discriminatory trade policies and regionalism with few exceptions. Customs unions and free trade areas covering practically all bilateral trade are still permissible under Article XXIV and preferences for developing countries (GSP) are permissible under the Enabling Clause. Preferential trading arrangements incompatible with Article XXIV or the Enabling Clause have been outlawed, as have quantitative restrictions such as VERs, which are inherently discriminatory.

The EU customs union and the European Free Trade Association (EFTA) were WTO-consistent but, for the most part, the array of preferential trade agreements which the EU had negotiated with non-members was not permissible because it was asymmetric; these arrangements had to be revised.<sup>7</sup> Two other major regional agreements that remained were the 1983 Closer Economic Relations between Australia and New Zealand (CER) and the 1988 US-Canada Free Trade Area that had been extended to include Mexico in the 1993 North America Free Trade Area (NAFTA). The EU, CER and NAFTA were deeper integration agreements because they went beyond preferential tariff reduction to include other areas.<sup>8</sup> The existence of the EU and NAFTA raised some fears of potential division of the world economy into three regional blocs - Europe, North America, and a looser East Asian region - but there was little evidence to support this fear (Pomfret, 2001, 362-5). The EU, CER and NAFTA were all regions of low external tariffs in which there was little scope for preferential tariff treatment discriminating against non-members.

The EU, CER and NAFTA represented differing forms of deeper integration. The European Single Market established between 1986 and 1992 was explicitly aimed at deeper economic integration by reducing regulatory and other barriers to free movement of goods, services, labour and capital within the EU; for most members the Single Market enshrined in the 1993 Maastricht Treaty was a step towards ever closer economic and political integration. Closer Economic Relations between Australia and New Zealand went beyond removing tariffs on bilateral trade. The CER covered non-tariff barriers to bilateral trade, including a timetable to eliminate all quantitative restrictions, as well as subsidies and government procurement, but had no goal of economic and

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<sup>7</sup> Arrangements, dating from the 1963 Yaoundé Convention and its successor, the 1975 Lomé Convention, offered better than GSP terms to a selection of African, Caribbean and Pacific (ACP) countries that had mostly been former colonies of EU members. Negotiations under the 2000 Cotonou Agreement to make these arrangements consistent with Article XXIV have had little success because the ACP countries want to retain preferential access to EU markets without opening their own markets to EU exports. The EU has also had to require reciprocity in special relations with Mediterranean neighbours and with Eastern Partnership countries.

<sup>8</sup> The phrase “deeper integration” was popularized by Lawrence (1996).

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political integration.<sup>9</sup> The 1988 US-Canada Free Trade Area also had no political goal and fear of US hegemony limited the policy freedom of Canadian negotiators, but it did go beyond tariff elimination to include trade in some services, standardization of some regulations, national treatment for partner-country foreign investors, and a trade dispute settlement mechanism. With extension to Mexico, NAFTA also included agreements on labour and environmental issues.

A striking feature of NAFTA was the plethora of agreements on specific sectors or products, which were generally in response to pressure groups in the USA. These sometimes consisted of quantitative limits (e.g. on US sugar imports from Mexico) but the most common instrument was detailed rules of origin. To qualify for duty-free access to the USA, non-labour inputs into Mexican clothing exports had to be effectively all from US suppliers. Rules of origin for cars assembled in Mexico were tailored to favour input supplies from US-owned companies. The level of detail was reflected in the over 900 pages of text in a “free trade” agreement.

Two features of North American trade would be harbingers of twenty-first century trade issues. McCallum (1995), in an early use of the gravity model to identify when the gravity coefficient is not constant, showed that trade between two US states or two Canadian provinces was captured by the gravity model but trade between a province and a state was far less than would be predicted by distance and size. The results highlighted the larger costs of conducting international rather than domestic trade, even in the absence of tariff, geographical or major cultural barriers to crossing the US-Canada border. The existence of trade costs and pursuit of their reduction through trade facilitation would by 2005 become the leading policy issue in global trade negotiations.<sup>10</sup>

The second feature, reinforced by the design of NAFTA rules of origin, was the emergence of regional value chains. The phenomenon was not unique to North America and was already apparent in Europe (notably with the Ford Fiesta assembled in Spain using components from across western Europe) and in East Asia (with Japanese cars assembled in Thailand after the post-1985 appreciation of the yen).<sup>11</sup> The phenomenon, more commonly referred to as global value chains (GVCs) was a consequence of falling trade barriers during the GATT era and would be further facilitated by reduction of trade costs associated with the internet and other advances in information technology.

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<sup>9</sup> Additional protocols in 1988 and 1992 extended the CER to services and to harmonization of business law and competition policy.

<sup>10</sup> Anderson and van Wincoop (2003), in a high-profile article, highlighted the large trade costs in OECD countries. Trade facilitation became a major issue at the 2005 WTO ministerial meeting, with promises of aid for trade by G7 countries, and the 2017 Trade Facilitation Agreement has been the only output from the Doha Development Round negotiations.

<sup>11</sup> Other early GVC sectors included electronics, especially in East Asia, and clothing.

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### 3. RTA Proliferation in the WTO Era

Although the most pernicious discriminatory trade practices had been eliminated in the Final Act of the Uruguay Round, the WTO continued to be spooked by the regionalism versus multilateralism dichotomy. The WTO Secretariat keeps a database of regional trading agreements that showed an alarming increase in numbers in the 1990s and early 2000s. By June 2005, 312 RTAs had been notified to the GATT/WTO, and 196 of these notifications were in the decade after the establishment of the WTO in January 1995. A WTO Working Paper (Crawford and Fiorentino, 2005) opened with the sentence “Regional Trade Agreements (RTAs) are a major and perhaps irreversible feature of the multilateral trading system”.<sup>12</sup>

Citing the number of RTAs notified to the WTO as a measure of the extent of regionalism in the global trading system is an unfounded and misleading guide to the spread of regionalism (Pomfret, 2007). It is unfounded because not all notified agreements are of equal significance; the three deeper integration agreements referred to above are more systemically important than, say, the RTA between Switzerland and the Faroe Islands. Many agreements (e.g. between Chile and Costa Rica) are double-counted because they involve separate RTAs for trade in goods and trade in services.

Counting RTAs was especially misleading in the decade 1995-2005 because the surge in numbers reported to the WTO reflected the economic transformation of eastern Europe and the Soviet Union rather than an increase in regionalism in the global economy. When former Yugoslav republics and Soviet and Eastern European formerly centrally planned economies joined the WTO in the 1990s, they notified many RTAs of varying levels of significance, most of which were with countries that had not existed before 1990, i.e. they reflected the breakdown of large RTAs.<sup>13</sup> Some of the new RTAs were short-lived; at least 65 RTAs among eastern European countries or between those countries and the EU became redundant after the EU enlargements of 2004 and 2007, but the WTO list is cumulative and it did not allow for removal of redundant RTAs.

An alternative measure of the extent of regionalism is the share of world trade conducted under RTAs. Schiff and Winters, co-leaders of a major World Bank research project on RTAs, stated that “some 55 to 60 percent of world trade now occurs within such trade blocs” (1998, 178) and

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<sup>12</sup> As of 20 November 2020, a grand total of 496 RTAs had been notified to the WTO <http://rtais.wto.org/UI/publicsummarytable.aspx>

<sup>13</sup> In 1998, the Kyrgyz Republic was the first Soviet successor state to join the WTO and it notified the WTO of six RTAs with other former Soviet republics. Georgia did the same after WTO accession in 2000. Given the complexity of trade relations between members of the Commonwealth of Independent States, there was some arbitrariness about the number between one and eleven of intra-CIS agreements notified, all of which reflected bilateral relations no better, and often worse, than had existed before 1991.

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Crawford and Fiorentino (2005) reported that preferential trade represented over 90 percent of some WTO members' total trade. However, these are also dubious indicators of the extent of regionalism primarily because they ascribe causality without considering the counterfactual. After the 1987 Canada-US trade agreement (CUSTA), all of the world's biggest bilateral trade flow could be considered to be within an RTA, even though CUSTA had only a minor impact on trade flows because most US and Canadian tariffs were already below 5% before 1987. A similar observation applies to most imports of the world's major economies. Estimates of the MFN-tariff tipping point below which it will not be worth the bureaucratic cost of claiming preferential treatment range from 4% (Francois et al., 2005) to 5% (Amiti and Romalis, 2006), suggesting that once MFN tariffs have fallen below 5% any preferential tariff rate is ineffective.

The new RTAs outside the countries in transition from central planning were most numerous in Asia, a continent which had been largely absent from the regionalism of the second half of the twentieth century. The Asian success stories had flourished on the basis of the multilateral trading system and had substantially reduced their own tariffs by the 2000s. The Asian country with the most RTAs is Singapore (Table 1); clearly, countries negotiating bilateral trade agreements with Singapore, which has minimal tariffs, are not negotiating preferential tariff reductions.<sup>14</sup>

A further puzzle with labelling the new Asian bilateral agreements "RTAs" is that many are not regional. Thailand began by negotiating bilateral trade agreements with Bahrain and Australia before moving on to the USA and Japan, eroding preferential treatment negotiated within the regional Association of Southeast Asian Nations (ASEAN). South Korean started its bilateral negotiations with Chile and New Zealand, hardly regional neighbours and never likely to generate large trade flows.

The most comprehensive attempt to measure the depth of trade agreements is a World Bank database (Hofmann et al., 2017) which identifies 52 policy areas, of which they identify eighteen "core provisions". Falvey and Foster-McGregor (2018, 1092) show that between 1980 and 2010 the composition of trade agreements including the core provisions shifted dramatically from traditional emphasis on market access, anti-dumping measures and state aid, competition policy and export taxes to include trade-related investment measures, intellectual property rights, public procurement, technical barriers to trade and sanitary and phytosanitary standards, services, and,

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<sup>14</sup> A simple operational measure of the extent to which preferential tariffs are used is the ratio of actual government revenues from import duties to the import-weighted average of a country's MFN tariffs (Hayakawa et al., 2018). Based on results for 94 countries from years around 2010, they found ratios implying that exporters to the ASEAN countries, Australia, China, Japan, South Korea and New Zealand make very little use of preferential tariffs, despite those countries' numerous trade agreements. These results reinforce the point that Asian regionalism has been less about preferential tariff reduction than about deeper integration measures.

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to a lesser degree, customs administration, countervailing measures and state trading enterprises. Despite the heterogeneity of the agreements covered in this research, the picture is of a shift to deeper agreements focusing especially on matters of interest to GVC participants.

#### **4. Open Regionalism**

The origin of the term “open regionalism” lies in Asia Pacific Economic Cooperation (APEC). APEC aimed to be a forum for like-minded countries to coordinate trade policy reforms. It was not an RTA with preferential trade policies among a group of members.

In 1989, the six members of ASEAN and its six dialogue partners responded to a call from Australian Prime Minister Bob Hawke for more effective economic cooperation across the Pacific Rim region by meeting in Canberra. Australia, Brunei Darussalam, Canada, Indonesia, Japan, Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand and the USA created APEC in 1990, and established an APEC Secretariat, based in Singapore, to coordinate the organization’s activities. Membership expanded as China, Hong Kong, and Taiwan joined in 1991, Mexico and Papua New Guinea in 1993, Chile in 1994, and Peru, Russia and Vietnam in 1998. In 1993, US President Clinton established the practice of an annual APEC Leaders' Meeting to provide greater strategic vision and direction for cooperation in the region.

In the mid-1990s APEC combined a broad vision of non-discriminatory trade liberalization with country-specific liberalizing measures. During the 1994 summit, APEC leaders adopted the Bogor Goals that aimed for free and open trade and investment in the Asia-Pacific by 2010 for industrialized economies and by 2020 for developing economies. During the early and mid-1990s, members used APEC fora to announce unilateral tariff reductions or other measures; politically this was attractive in offsetting opposition from import-competing activities by an impression of reciprocal benefits for export industries.

At the 1997 APEC summit, APEC members were pressed by the USA to commit to Early Voluntary Sectoral Liberalization (EVSL). The pressure for formal specific commitments was resisted by several countries, notably Japan, who considered the EVSL proposal not truly “voluntary” (Wesley, 2001). Combined with a perceived failure of APEC to react to the 1997-8 Asian Crisis, this episode led to effective demise of APEC as a force for trade liberalization.

APEC retains its importance as a meeting place of major leaders, but its impact on trade policies has been limited since 1998. The Policy Unit of the APEC Secretariat prepares relevant reports and continues to monitor progress towards the Bogor Goals, but the Goals have yet to be fulfilled even though the deadlines have passed. Nevertheless, APEC has an important legacy in introducing the concept of open regionalism, i.e. the reduction of barriers to trade and

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encouragement of regional cooperation without discrimination against outsiders combined with openness to any new members who share the ideals.<sup>15</sup>

During the 2002 APEC summit, leaders of New Zealand, Singapore and Chile began negotiations on the Pacific Three Closer Economic Partnership, with the aim of creating a comprehensive, forward-looking trade agreement that set high-quality benchmarks on trade rules and would help to promote trade liberalization and facilitate trade within the APEC region. After Brunei joined the talks, they were renamed the Trans-Pacific Strategic Economic Partnership agreement or Pacific-4, and the agreement entered into force in 2006. The P4 agreement was non-discriminatory and open to new signatories willing to accept the elements that went beyond WTO commitments. The agreement was not about tariffs, which are at or close to zero in all four countries (Table 2). It was the first twenty-first century example of open regionalism.

In 2008, Australia, Peru, the USA and Vietnam opened negotiations to extend the P4. They were joined by Malaysia in 2010, Mexico and Canada in 2012, and Japan, in 2013. The twelve countries concluded what became known as the TransPacific Partnership (TPP) negotiations in 2016. The negotiations were lengthy because the TPP agreement was far-reaching, including tariff and product-specific trade rules, customs administration and trade facilitation, investment, trade in services, temporary entry for businesspeople, telecommunications, e-commerce, public procurement, competition policy, state-owned enterprises, intellectual property, labour, environment, small and medium-sized businesses, regulatory coherence, transparency and anti-corruption, and dispute settlement. However, the TPP never entered into force because the USA withdrew in January 2017 before ratification.<sup>16</sup>

## **5. Megaregional Agreements and the 2020s Trade Landscape**

Despite the Trump administration's attacks on the multilateral trading system, other countries have proceeded with agreements that go beyond the WTO to cover the Singapore issues, digital trade and other new areas. One aspect has been the emergence of megaregional agreements which can be seen as the latest version of open regionalism even though the two leading examples are not necessarily regional. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP) are only loosely defined geographically, and appeal to like-minded countries agreeing on terms that go

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<sup>15</sup> Closed regional trade agreements such as ASEAN, the European Union or the Eurasian Economic Union tended to have geographical boundaries and existing members evaluated applications to join (often largely on non-trade-related grounds).

<sup>16</sup> Ratification was required by countries representing a minimum share of the negotiators' GDP and this was unattainable without the USA. Thus, the TPP was dead after January 2017, and the remaining eleven partners had to conclude a new agreement with a revised ratification process.

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beyond WTO commitments. A second aspect has been bilateral agreements negotiated by the EU that overlap in WTO+ coverage with the megaregionals. Several EU partners are also CPTPP signatories which implies consistency between the agreements. EU agreements with Japan and Canada included six of the G7 economies and, together with the CPTPP and RCEP, cover all the major trading nations except the USA and three of the BRICs. After the UK left the EU in 2020, it quickly moved to negotiate third-country agreements as consistent as possible with pre-existing EU agreements and signalled an intention to consider CPTPP accession.

After the USA announced its intention not to ratify the TPP, the eleven remaining TPP countries agreed in May 2017 to renegotiate the agreement and in March 2018 they signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). The CPTPP remains substantially the same as the TPP but contains a list of twenty-two "suspended provisions", primarily from chapters on investment, public procurement and intellectual property rights, that were of primary interest to the USA. After ratification by Australia, Canada, Japan, Mexico, New Zealand and Singapore, the CPTPP entered into force for those countries on 30 December 2018.

The CPTPP is a 'living agreement' with an accession clause designed to attract new members. Indonesia, Republic of Korea, the Philippines, Taiwan and Thailand all indicated interest in membership as the agreement was negotiated and the United Kingdom has expressed interest in joining post-Brexit.<sup>17</sup> Although the agreement originated among APEC members, there is little geographical coherence among the eleven CPTPP signatories and it is unlikely that a country from outside the Asia-Pacific region would be refused membership for geographical reasons.<sup>18</sup>

The RCEP negotiations began in 2012 between the ten ASEAN member countries and six partners. The twenty chapters went beyond the pre-existing trade agreements between ASEAN and the individual partners, and covered areas like investment, intellectual property rights, competition, trade remedies, standards, e-commerce and dispute settlement. Besides aiming for a deeper trade agreement, the negotiations aimed to harmonize the bilateral agreements between ASEAN and the six partners as well as formalizing trilateral arrangements among the three large northeast Asian countries (China, Japan and South Korea). In November 2019 India withdrew from the negotiations, facilitating conclusion of agreement among the more like-minded countries. The other fifteen countries signed the agreement on 15 November 2020 at a virtual summit hosted by Vietnam.

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<sup>17</sup> It is difficult to quantify the economic effects of regulatory change and other elements of deep integration. The most widely cited estimates, from computable general equilibrium modelling by Petri and Plummer (2016; 2020), show substantial net benefits to the eleven CPTPP signatories and to the USA and China if they were to join the CPTPP.

<sup>18</sup> Malaysia and Australia are as much Indian Ocean as Pacific nations and Canada and Mexico are Atlantic as well as Pacific nations.

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The RCEP agreement was not as deep as the CPTPP. Negotiations were driven by ASEAN with the goal of standardizing conflicting rules in ASEAN's bilateral agreements with the six other countries. A major success is standardization of rules of origin, which had differed across the various ASEAN+1 RTAs; once RCEP is in force, an Indonesian firm, for example, will know that, if its products qualify for entering New Zealand under the RTA, then they also qualify to enter Australia, China, Japan or Korea. While CPTPP partners eliminated virtually all tariffs, RCEP covered only about 90% of tariffs, and was less comprehensive than CPTPP on agriculture and services.<sup>19</sup> RCEP is slightly weaker to CPTPP in some chapters; RCEP added little to existing intellectual property rules, did not mention the environment or state-owned enterprises, and said little about standards or e-commerce and cross-border data flows. However, ASEAN has a history of slow but gradual liberalization of trade arrangements over time; eight years of negotiating the RCEP was typical of the "ASEAN way" which could presage convergence towards CPTPP rules.

That the RCEP final text is consistent with that of the CPTPP should not be surprising, given that seven countries (Australia, Brunei, Japan, Malaysia, New Zealand, Singapore and Vietnam) are signatories of both agreements. The numerical overlap would be even greater if Indonesia, Korea, the Philippines and Thailand accede to the CPTPP, leaving only Cambodia, Laos and Myanmar among ASEAN countries not signed up to the deeper integration. China is the other country in the RCEP but not in the CPTPP.

Five CPTPP chapters will be difficult for China to accept (Petri and Plummer, 2020, 27-8): a level playing field for state-owned and state-controlled enterprises and their private competitors, intellectual property rights, rules for foreign investors (no requirements for technology transfer, domestic partners or performance), e-commerce and data transfer (including a ban on data localization requirements), and labour rights (including freedom of association and collective bargaining). China may also face resistance from existing CPTPP members concerned about Chinese competition in their markets or doubting market-opening commitments.<sup>20</sup> The Trump administration added a poison-pill clause to the revision of NAFTA (the USMCA Article 32.10) that allows termination of the USMCA if any partner signs an agreement with a non-market economy; that clause could force Canada and Mexico to choose between accepting China in the CPTPP or maintaining the USMCA.<sup>21</sup>

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<sup>19</sup> RCEP was negotiated in secrecy and the published text with annexes includes thousands of pages detailing exemptions and transition periods over which tariffs will be reduced (Elms, 2020).

<sup>20</sup> Such doubts do not include China's tariff barriers, which have declined substantially since 1978. Although significant tariffs remain and a zero-tariff policy would incur domestic adjustment costs, China appears to be moving in this direction and already has accepted elimination of tariffs in trade agreements with Singapore and New Zealand (Su and Zang, 2020).

<sup>21</sup> The force of this clause is unclear. Canada has continued to discuss a potential trade agreement with China.

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US accession to the CPTPP would presumably be easier. The original TPP agreement was primarily drafted by the USA. Removal of specific items favoured by the USA may have made CPTPP less attractive than TPP and the other CPTPP partners may be unwilling to reinsert these clauses. However, the new US administration in 2021 will be more positive about such agreements than the Trump administration.

Since the 1990 Montréal ministerial meeting, the EU has shifted away from trade policy based on protecting key domestic producers and offering varying degrees of preferential treatment to imports (Pomfret, forthcoming, Chapter 5.7). The emphasis on competitiveness, including easy access to imported inputs, and participation in GVCs is set out explicitly in the 2015 *Trade for All* strategy document.<sup>22</sup> After tentative negotiation of new era trade agreements with countries such as Chile, Mexico, South Korea, Colombia, Peru and Ecuador (Table 3), the EU has concluded deeper agreements with Canada (applied since 2017), Japan (in force since 2019), Singapore (in force since 2019) and Vietnam (in force since 2020).<sup>23</sup> Negotiations are under way with Australia, Indonesia, New Zealand and the Philippines among others. The early partners Chile, Mexico, Peru and Singapore are all CPTPP signatories. The deeper recent agreements with Singapore, Canada and Japan cover similar areas to the CPTPP and the two sets of deeper agreements are largely consistent.

The EU-US Transatlantic Trade and Investment Partnership (TTIP) negotiations were launched in 2013 and ended without conclusion at the end of 2016. Nevertheless, in a July 2018 joint statement, President Trump and European Commission President Juncker committed “to work together toward zero tariffs, zero non-tariff barriers, and zero subsidies on non-auto industrial goods . . . [and] also work to reduce barriers and increase trade in services, chemicals, pharmaceuticals, medical products, as well as soybeans” and “to launch a close dialogue on standards in order to ease trade, reduce bureaucratic obstacles, and slash costs”.<sup>24</sup>

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<sup>22</sup> Available at [https://trade.ec.europa.eu/doclib/docs/2015/october/tradoc\\_153846.pdf](https://trade.ec.europa.eu/doclib/docs/2015/october/tradoc_153846.pdf). The difference between the EU’s twentieth century Pyramid of Preferences based on discriminatory tariffs is highlighted by the current focus on the agreements listed in Table 3, which are the “Agreements in Focus” on the official website <https://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/>. The delay in ratifying investment agreements, as with Singapore, is due to legal conditions that allow EU institutions to ratify trade agreements but require investment agreements to be ratified by each member country.

<sup>23</sup> The process can be dated back to the 1996 Framework Cooperation Agreement with Chile and the 1997 EU-Mexico Association Agreement, both of which involved partners committed to outward-oriented strategies with whom the EU had little previous trade policy history. Although notified to the WTO as a free trade agreement, the EU-Chile Association Agreement negotiated between 1999 and 2002 had deep integration elements such as provision for annual meetings of specialized committees to discuss technical and sanitary and phytosanitary (SPS) barriers to trade, customs procedures and rules of origin.

<sup>24</sup> Joint U.S.-EU Statement following President Juncker's visit to the White House, available at [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_18\\_4687](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_18_4687).

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British trade policy is in flux since withdrawal from the EU on 31 January 2020 and future UK-EU trade relations are uncertain. In May 2020, the British government published the UK Global Tariff (UKGT) which would apply after 31 December 2020. The UKGT differs in product-specific incidence from the EU tariff, reinforcing the need for monitoring the customs border without in itself signalling a more or less open trade policy. The UK government has expressed interest in maintaining pre-existing agreements with third countries and in joining the CPTPP.<sup>25</sup>

An example of an area not covered by the WTO in which countries, especially those participating in GVCs, desire to standardize regulations is digital trade and e-commerce. The USA introduced an e-commerce chapter in the 2012 US-Korea Free Trade Agreement and a stronger market-based approach to e-commerce in the 2018 US-Mexico-Canada Agreement. The Japan-Mongolia Economic Partnership Agreement has a similar chapter, while EU e-commerce chapters generally give more limited scope to market forces and pay particular attention to privacy concerns. The desire to establish standards could explain why, when the USA withdrew from the Trans Pacific Partnership, Japan and Australia led the remaining countries to sign the CPTPP, which retained the e-commerce chapter almost intact.<sup>26</sup> In the EU-Japan Trade Agreement finalized in December 2017, Japan also retained TPP-type provisions with the main differences being tailored to the EU's privacy protection regime. The RCEP provisions appear to be similar.<sup>27</sup> In sum, the large trading nations are pushing ahead with e-commerce chapters in trade agreements and appear to be cognizant of the noodle-bowl dangers of uncoordinated rules.

## **6. Conclusions**

Participation in GVCs based on ever finer specialization along fragmented supply chains and the rapid rise of e-commerce and role of data over the last two decades as facilitators of efficient GVCs have created pressures for common rules and norms on topics that were not considered when the WTO was established in 1995. The function of avoiding a noodle bowl of conflicting standards that increase the complexity of international trade would ideally be handled by a multilateral agency

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<sup>25</sup> The UK started bilateral trade negotiations in 2020 but it is unclear to what extent partners will extend to the UK concessions made to the 28-member EU.

<sup>26</sup> Kelsey (2018) provides a good account of these developments, although her predilection for ascribing overwhelming power to the USA pushed on by BigTech seems at odds with developments since President Trump withdrew from the TPP and from negotiations with the EU. The interests of Japan, Australia, Canada or the EU in e-commerce chapters is surely driven by trade facilitation rather than by the big-data companies.

<sup>27</sup> All of the countries involved in these deeper trade agreements are among the 71 signatories proposing WTO action on e-commerce since 2017, which suggests that arguments of incompatibility between three main approaches to e-commerce and digital trade (a market-based US approach, a privacy-focused EU approach, and a security-centred Chinese approach) overlook common interest in agreeing on trade-related rules.

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with global membership, but the issues do not fit well with the WTO's consensus requirement and there is no other satisfactory forum for setting common universal standards on new trade-relevant matters.<sup>28</sup>

Trade-related regional cooperation is no longer mainly about promoting intra-regional trade behind barriers to external trade; it is much more about regional cooperation to improve competitiveness in world markets, which includes low trade barriers so that producers can access world-best inputs. The significance of tariffs as a trade barrier has declined substantially, as leading trading nations have been willing to agree to zero-tariff trade with an increasing number of selected partners or even remove tariffs unilaterally. Institutional arrangements for countries wanting to push agreement in new areas have varied from deeper regional or bilateral agreements to mega-regionals that are to varying degrees "open". The difficulty with this approach is that it may lead to conflicting regulatory standards across different negotiating blocs (a noodle bowl effect), which would be incompatible with the vision of GVCs that have global reach in identifying participants.

The threat to the WTO is not from regionalism but from inability to respond to changes in the global trading system over the quarter century since the WTO was created. Consensus is a straitjacket because a substantial number of WTO members are on the wrong side of the digital divide and many countries do not participate in GVCs; WTO members in these two overlapping groups are unconvinced of the need for reform or extension of the WTO's reach, and block change to WTO rules. A WTO option could be plurilateral agreements like the 1997 Information Technology Agreement.<sup>29</sup> Open regional agreements may be more flexible in covering a range of topics and in permitting bargaining over the degree of restrictions, in contrast to the ITA whose signatories must remove all tariffs and similar trade barriers on all of the listed products. A more important potential obstacle to new plurilateral agreements is fear that their proliferation would undermine the WTO's claim to be a universal institution, all of whose members acknowledge a common set of obligations and rights.

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<sup>28</sup> The Organisation for Economic Co-operation and Development (OECD) has capacity to recommend benchmark standards, but limited legitimacy due to its rich-country image and few Asian members. When in 1997 OECD members shared a draft Multilateral Agreement on Investment that was intended to establish a new body of universal investment laws, it drew widespread criticism. The proposal was allowed to die in October 1998.

<sup>29</sup> At the WTO's 2017 Buenos Aires Ministerial Conference 71 Members launched the joint initiative for exploratory talks on the potential negotiation of trade rules on electronic commerce and 76 members signed a second Joint Statement in January 2019, announcing the intention of the JSI's signatories to begin negotiations. The number of participating members stands at 86 in November 2020. Participating members seek to achieve a high-standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible. The proposal is likely to be discussed at the 12<sup>th</sup> WTO Ministerial in Kazakhstan that has been postponed until June 2021.

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**Table 1:** Regional Trade Agreements involving ASEAN+6 Countries, November 2020

	<b>Framework Agreement</b>	<b>Under Negotiation</b>	<b>Signed, but not in force</b>	<b>Signed and in force</b>
Singapore	0	7	1	25
China	0	10	4	18
Japan	0	8	0	18
Korea	0	14	1	17
Malaysia	1	6	1	16
Australia	0	6	1	16
Thailand	1	9	0	14
India	1	16	0	13
Viet Nam	0	3	0	13
Indonesia	0	7	3	12
New Zealand	0	7	1	12
Brunei	0	1	0	10
Philippines	0	3	0	9
Lao PDR	0	1	0	9
Cambodia	0	2	1	7
Myanmar	1	2	0	7

Source: Asia Regional Integration Center at <https://aric.adb.org/fta> - Table 6 *FTA Status by Country* (accessed 24 November 2020).

Notes: other ADB regional members with ten or more agreements signed and in force are Soviet successor states (Armenia 12, Georgia 13, Kazakhstan 12 and Kyrgyz Republic 12), whose agreements are mainly with other Soviet successor states.

**Table 2:** Megaregional Signatories' average *ad valorem* applied tariffs.

<b>CPTPP</b>		<b>RCEP</b>			
Canada	1.5%	Australia	0.9%	Cambodia	9.8%
Chile	0.5%	Brunei	0.0%	China	3.4%
Mexico	1.2%	Japan	2.5%	Indonesia	2.0%
Peru	0.7%	Malaysia	4.0%	Korea	4.8%
		New Zealand	1.4%	Laos	0.7%
		Singapore	0.2%	Myanmar	1.7%
		Vietnam	4.4%	Philippines	2.1%
				Thailand	3.5%

Source: World Bank database at <https://data.worldbank.org/indicator/TM.TAX.MRCH.WM.FN.ZS> (accessed 1 December 2020)

Notes: weighted average based on bilateral trade in 2018 at HS 6-digit level, except New Zealand 2017, Cambodia and Malaysia 2016, Laos and Thailand 2015.

Comparison: EU 1.7%, USA 1.6%.

**Table 3:** Twenty-first Century EU Trade Agreements

<b>Partner(s)</b>	<b>Date in force</b>
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EU-Chile Association Agreement	1 February 2003
EU-Mexico Global Agreement - to be replaced by an Association Agreement	Applied for goods since 1 July 2000; applied for services since 1 March 2001.  Negotiations on an Association Agreement started in 2016. Agreement in principle on the trade part was reached in April 2018.
EU-South Korea Free Trade Agreement	1 July 2011
EU-Colombia-Peru-Ecuador Trade Agreement	1 March 2013 for Peru; 1 August 2013 for Colombia; 1 January 2017 for Ecuador.
Singapore Free Trade Agreement and Investment Protection Agreement	Trade agreement 21 November 2019. The investment protection agreement is still to be ratified by all EU Member States.
EU-Canada Comprehensive Economic and Trade Agreement	21 September 2017
EU-Japan Economic Partnership Agreement	1 February 2019
Vietnam Trade Agreement and Investment Protection Agreement	Trade agreement 1 August 2020. The investment protection agreement is still to be ratified by all EU Member States.
Mercosur	Agreement in principle June 2019
Australia	Under negotiation, expected completion 2021
New Zealand	Under negotiation, expected completion 2021

Source: adapted from <https://ec.europa.eu/trade/policy/countries-and-regions/negotiations-and-agreements/>

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