Multilateralising Regionalism: Ideas for a WTO Action Plan on Regionalism
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Multilateralising Regionalism: Ideas for a WTO Action Plan on Regionalism

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The world trade system is suffering from a massive proliferation of regional trade agreements, but the WTO is not doing anything about it. This book argues that the WTO should engage in the problem and suggests a number of ideas for an Action Plan. We start with the argument that the WTO should be doing something.

Three facts and an implication

**Fact #1.** The world trade system is marked by a motley assortment of discriminatory trade agreements known as the ‘spaghetti bowl’ for reasons that Figure ES1 makes clear.

**Fact #2.** Regionalism is here to stay. Even if the Doha Round finishes tomorrow, free trade agreements will continue to proliferate and the motley assortment will continue to get even more motley.

**Fact #3.** This tangle of trade deals is a bad way to organise world trade. The discrimination inherent in regionalism is economically inefficient but its costs are rising rapidly as manufacturing becomes even more internationalised. Stages of manufacturing that used to be performed in a single nation are now often geographically unbundled in an effort to boost efficiency. Supply chains spread across many borders. Unbundling, which accelerated since the 1990s, is the most important new element in the regionalism debate. It is the reason why business is pushing so many nations to ‘tame the tangle.’

Regionalism is also unfair. While the spaghetti bowl is a problem for firms in big nations, it is much more of a problem for firms in poor nations. Rich nations have the resources and the negotiating leverage to navigate the tangle’s worse effects. The governments of small and poor nations do not. The spaghetti bowl falls much harder on the heads of the world’s small and poor nations.
Implication. As the spaghetti bowl’s inefficiencies are increasingly magnified by unbundling and the rich/poor asymmetry, the world must find a solution. Since regionalism is here to stay, the solution must work with existing regionalism, not against it. The solution must multilateralise regionalism.

WTO’s role

What has been the WTO’s role in all this? Strange as it may seem, the WTO has been an ‘innocent bystander’ in the rise of regionalism. Apart from gathering statistics and holding inconclusive discussions, the Organisation has stood entirely apart from the rapid rise of regionalism driven forward by the uncoordinated actions of its members.

The Choice. The WTO faces a choice. What that means is that the WTO membership faces a choice. Should the WTO remain as an innocent bystander, or should it engage constructively and creatively in making regionalism as multilateral-friendly as possible? Innocence or engagements are the choices. The problem will not go away on its own.

The innocence option poses many difficulties and pitfalls. Regionalism is so pervasive that some political leaders view it as an alternative to multilateralism – Plan B for the world trading system. Starting from this situation, the continued and uncoordinated proliferation of regionalism might kill the proverbial gold-laying goose – the multilateral trade system that brought post-war prosperity to today’s rich nations and helped to lift billions out of subsistence agriculture.
Engagement is also difficult. WTO members have shown little appetite for cooperating on regionalism. Recent progress on the Transparency Mechanism shows that they recognise the problem, but negotiating a WTO Action Plan on Regionalism would be difficult.

This book argues that engagement is the right option. Developing a WTO Action Plan on Regionalism is both necessary and feasible.

**Ideas for a ‘WTO Action Plan on Regionalism’**

The book discusses more than a dozen ideas for the Action Plan. Some ideas require WTO sponsorship, negotiations and actions while others would mainly engage the parties to RTAs with the WTO playing more of a coordinating and fair broker role. Here are the outlines of a few of the ideas fleshed out in the book.

- **Negotiate voluntary best-practice guidelines for new RTAs and modifications of existing RTAs.**

Nations around the world recognise the spaghetti-bowl’s threat. Not surprisingly, some have sought to tame the tangle by negotiating voluntary guidelines on RTAs (e.g. those of APEC and ASEAN). What is surprising is that the WTO has had zero involvement in these efforts. The spaghetti bowl is a global problem, so why should the guidelines be regional?

Research presented to the conference suggests that the APEC guidelines (based largely on US FTA template) have had no direct effect. To address the problem with one-size-fits-all guidelines, the Action Plan could:

- **Negotiate a hierarchy of best-practice guidelines for North-North, North-South and South-South RTAs.**

The hope is that WTO guidelines would have some ‘soft law’ benefit if they are appropriate enough to actually be used. A more ambitious idea would negotiate more comprehensive disciplines for rapidly developing WTO members.

One explanation for the embrace of regionalism by so many industrialising nations is that RTAs – especially North-South RTAs – provide anchorage for competitiveness-boosting reforms. Traditionally anchorage was a key role for the GATT/WTO, but WTO members have shied away from declaring themselves developed nations and embracing the WTO’s full disciplines. This suggests the need for more creative thinking on how the WTO can provide reform-anchorage. To this end, the Action Plan could:

- **Negotiate a level of RTA discipline that was in-between that of Article XXIV and the Enabling Clause. Nations would declare themselves and all of their RTAs as subject to this anchorage-building discipline.**

The benefit of self-declaration would be the signal it provided to potential investors that the nation was permanently committed to pro-market reforms. If the disciplines were well crafted, they could serve as a seal of good governance.
that would boost a nation’s locational competitiveness just as Bilateral Investment Treaties do now, but on a more comprehensive basis. Note that many rapidly developing nations have already committed themselves to deeper discipline, but they have done it bilaterally where they have minimal negotiating power.

**Taming the rules-of-origin tangle**

Much of the spaghetti bowl’s complexity arises from highly technical provisions of RTAs called ‘rules of origin’. To win duty-free status under an RTA, these rules typically require that a good contain a minimum share of parts and components produced in one of the partner nations. Because of this, overlapping and intersecting rules of origin pose big problems for businesses trying to set up competitive, international supply networks. It is difficult to have one supply network meet the requirements of several rules of origin. In this way, the rules balkanise supply chains and hinder industrialisation.

In reaction to business pressure, various nations have harmonized or are trying to harmonize rules of origin. The WTO has not been involved, but it should be since regional harmonization has spillover effects on third nations. To address this, the WTO Action Plan could:

- **Encourage nations to harmonize their rules of origin on a regional basis, but involve the WTO to ensure the harmonization is as multilateral-friendly as possible.**

**Making regionalism more development friendly**

Bilateral agreements are difficult to design, negotiate and implement, even for rich nations. For poor nations, negotiating multiple RTAs can overwhelm resources and result in poor policy choices. These problems are faced by developing nations all across the world, so a WTO Action Plan on Regionalism should set up a:

- **WTO advisory services and/or a Centre on RTAs for developing nations.**

This advisory centre would provide subsidised economic, legal and negotiation services and training to developing nations. The proposed centre’s role and practical details could take inspiration from the Advisory Centre on WTO Law. To avoid waste, it should link up with the efforts of regional banks (Inter-American Development Bank, Asian Development Bank, etc.).

**Development-friendly rules of origin**

The rules of origin and rules of cumulation in many trade agreements have an anti-development bias. Since small developing nations need to import many of the parts and components to produce competitive exports, rules-of-origin calculations that limit the scope of international supply chains have a larger negative
effect on poor/small nations.

The point has been recognised by some WTO members. The EU’s bilateral with South Africa, for example, encourages South African firms to outsource some industrial activity to ACP nations by allowing both parties to count all imports from ACP nations in the minimum share calculation. The EU does not, however, allow cumulation in all of its deals. The WTO Action Plan could:

- **Encourage nations to expand the cumulation zone of their RTAs to include as many developing country partners as possible.**

### Why the WTO must act

These ideas need more work, and they may not be the perfect answer as to what the WTO should do, but the wrong answer is ‘do nothing.’ If the WTO does nothing to adjust to the new realities of regionalism, it risks an erosion of its relevance.

The GATT/WTO survived and flourished during its half-century’s existence since it adapted to new realities. When the colonies became countries, the GATT expanded from a cosy club of two-dozen members to a global organisation. When the distinct trade needs of developing nations were recognised, the GATT responded with the Enabling Clause. When non-tariff barriers began to replace tariff barriers, the GATT expanded its negotiating agenda. When the need for greater institutional stability became clear, the GATT was embedded in the WTO. For 50 years, the GATT/WTO has survived because it adapted to new realities.

Today’s new reality is regionalism. If the WTO is to survive and flourish, it must adapt because regionalism is here to stay. Embarking on a WTO Action Plan on Regionalism would be strong step towards adapting to the new reality.
1 Introduction

The rush by countries to sign regional free trade agreements is one of the most noticeable features of the current global trading system. Countries are signing deals with each other at an increasingly rapid pace – there are some 400 regional, and bilateral, preferential trade agreements compared with just 120 in 1995. This has fostered a major reduction in the levels of tariffs across the world. That is the good news. The bad news is that world trade is now marked by a complex and overlapping network of bilateral, regional and plurilateral free trade arrangements – a ‘spaghetti bowl’ of trade deals, to use Jagdish Bhagwati’s memorable phrase. This spaghetti-bowl label is easy to understand from looking at the map of regional trade agreements in the Western Hemisphere (Figure 1.1).

Figure 1.1 One part of the global ‘spaghetti bowl’, RTAs in the Western Hemisphere

Source: Conference paper by Estevadeordal et al. (2007b).
Strange as it may seem, the WTO has been an ‘innocent bystander’ in this remarkable development in the world trade system. Apart from collecting some statistics and undertaking some reviews that produced no conclusions, the WTO as an organization has stood entirely apart from the rapid rise of regionalism.

This development has led to serious concerns that the ambition of securing multilateral trade agreements such as Doha Round is being overtaken by this network of regional trade deals. A lively scholarly debate arose on whether these regional trade agreements help or hinder multilateral trade liberalization. The question, to again use Jagdish Bhagwati’s phraseology, was: ‘Are trade blocs stumbling blocks or building blocks on the road to global free trade?’

The premise for this short book – and the conference on which it is based – is simple. It is time to move past the stumbling/building block debate. Regionalism is here to stay. The choices facing the world trade system are:

- to engage with regionalism in an effort to make it more WTO-friendly,
  - or
- to remain as innocent bystanders.

The national governments of WTO members must choose between engagement and innocence. Our goal is to argue that engagement is both necessary and feasible.

Engagement in making regionalism more WTO-friendly would not signal a lack of commitment to finishing the Doha Round. Even if the Doha Round were successfully wrapped up tomorrow, the uncoordinated proliferation of regionalism would continue, and this would continue to pose ever greater problems for the world trade system. If Doha slips into a two-year ‘holding pattern’, as most think it will, adoption of a WTO Action Plan on Regionalism could help maintain the WTO members’ engagement with the organization and each other, thereby helping to offset some of the centrifugal forces that could arise from a long pause in the negotiations. It is easier to keep a bicycle upright when it is rolling forward.

1.1 The conference

The conference that has led to this monograph was held at the World Trade Organization headquarters in Geneva, from 10 to 12 September 2007. It was opened and closed by the Director General of the WTO, Pascal Lamy. Twelve research papers were presented by leading scholars of international trade in addition to a presentation by the Chairman of Ericsson, and a Panel Discussion by the Ambassadors of Chile, China, Norway and Uganda, Jagdish Bhagwati, Richard Baldwin, and Pascal Lamy. The papers and presentations are all available on the WTO website (www.wto.org/english/tratop_e/region_e/conference_sept07_e.htm).

1.2 This book

This book distils the policy-relevant research findings from the conference in an effort to make these accessible to a broader audience, especially policy makers and policy shapers in the WTO’s member states.
The book starts by asking: ‘What is wrong with regionalism?’ It makes the case that addressing regionalism should be a priority. The next chapter draws on the conference’s research papers to answer the question: “What do we know about the spaghetti bowl of regional trade agreements?” This touches on tariff preferences but also the extent to which regional trade agreements address trade in services and non-tariff trade barriers. It also considers the extent to which these trade pacts have created a legal spaghetti bowl. The subsequent chapter focuses on developing nations, making the argument that the tangle of trade deals is much more of a problem for poor and/or small nations than it is for the large trading powers. Chapter 5 moves into more optimistic territory; it describes four successful precedents where nations have engaged in making regionalism more WTO-friendly. The final chapter presents proposals for a ‘WTO Action Plan on Regionalism’.
Regionalism is not all bad. It has removed many barriers to trade in recent decades, and it has not yet caused a ‘train crash’ for the multilateral trading system. Moreover, there is something about regionalism that allows nations to liberalize bilaterally what they refuse to liberalize multilaterally. One sees this in areas ranging from trade in services to investment guarantees, government procurement and technical barriers to trade.

But regionalism is a problem for global trade.

World trade is now regulated by a motley assortment of unilateral, bilateral and multilateral trade agreements – a ‘spaghetti bowl’ of trade deals. No one argues that this tangle of trade deals is the best way to organize world trade, but what exactly is the problem? Five things are worth stressing:

- Discrimination
- Complexity
- Pervasiveness
- Rich–poor asymmetries
- Stumbling block possibilities.

Consider these in turn.

### 2.1 Discrimination

Discrimination is the heart and soul of regionalism. Free trade agreements – or regional trade agreements as they are known in WTO jargon (RTAs to cognoscenti) – mean that nations charge different tariffs on the same good from different exporters. ‘Discriminatory liberalization’ and ‘preferential liberalization’ are synonyms.

Economically, the ‘discrimination’ part of discriminatory liberalization is inefficient; it distorts prices and thus hinders the market’s ability to allocate resources efficiently. In particular, the tariff discrimination – or putting it more diplomatically, tariff preferences – artificially shift production/purchases towards the favoured trade partners to the detriment of excluded nations.

RTAs, however, are a double-edged sword. The other edge is the ‘liberalization’ part of discriminatory liberalization. This tends to foster efficiency by removing the artificial barriers separating producers and customers in the RTA partner
nations. Two critical points flow from this classic trade creation/diversion line of thinking.

- RTAs may actually be bad for the members, if the efficiency-enhancing ‘liberalization’ part fails to offset the efficiency-hindering ‘discrimination’ part.
- Since excluded nations only see the discrimination part, there is a strong presumption that RTAs are bad for third nations.

This negative third-country effect is exactly why the GATT/WTO system has always had rules disciplining preferential liberalization. And it is exactly why the WTO, as guardian of the world trade system, should engage more deeply in regionalism.

2.2 Complexity

The ‘spaghetti bowl’ inefficiencies are enormously magnified by two types of ‘complexity multipliers’.

**Unbundling.** The first stems from a shift in global business practice called by various names – ‘fragmentation’, ‘vertical specialisation’, ‘slicing up the value added chain’, or ‘unbundling’. Whatever it is called, various stages of manufacturing of goods – most of which were previously located in a single nation – are spatially unbundled. The various stages are dispersed to whichever nation is best suited to the requirements of each stage. Supply chains, in short, have become global. Michael Treschow, the chairman of Ericsson, graphically illustrated this at the conference by showing Figure 2.1.

The labels in the diagram show (in Swedish) the origin of all the major components of this ‘Swedish’ car. Major parts of the car are made in Japan, France, Germany, the United States, Britain, Italy, Argentina, Holland, Slovakia, Canada, and Norway. Some parts are even made in Sweden. Of course, if one took any one of these major parts, say the air conditioner made by the French company Valeo, the same level of complexity would appear. The ‘French’ air conditioner in the ‘Swedish’ car is made up of a fan, a heat exchanger, actuators, sensors, plastic housing and a regulator. Many of these are probably sourced all around Europe if not the globe.

What this means is that the global trade pattern has become radically more complicated – parts and components cross borders many times before they are finally sold to customers. In this world, the spaghetti-bowl of tariff discrimination has a negative impact on economic efficiency that is far, far greater than would have been the case before unbundling really got going in the 1990s. In particular, the spaghetti bowl prevents firms from arranging their production networks in the most efficient manner.

**Rules of origin.** The second ‘complexity multiplier’ arises from technicalities known as ‘rules of origin’. When a nation charges different tariffs on goods coming from different nations, its customs officers need rules for determining which tariff to charge. Due to the massive unbundling of manufacturing processes, the true ‘origin’ of a good is not at all obvious, so these ‘rules of origin’ are often high-
ly complex. This greatly complicates firms’ efforts to set up efficient international supply networks.

For example, an EU rule of origin might stipulate that 40% of a good’s value added must be added in Morocco, if the good is to be considered as ‘originating’ in Morocco for the purposes of getting duty-free treatment in the EU market. Now imagine that a Moroccan firm is considering sourcing more of the good’s components from Japan. If this switch is big enough, then the Moroccan good would lose its origin status – and thus its duty-free treatment – for sales to EU customers. Thinking carefully about this, one sees that the rule-of-origin is very much like a rise in the Moroccan tariff against the Japanese component. But it is worse. If the Moroccan firm is planning to sell its good to domestic customers, then the rule-of-origin has no effect. In essence, rules of origin create one set of trade barriers for components included in goods exported to the EU and another for components intended for local consumption. In this way, rules of origin massively complicate the spaghetti bowl – especially when it comes to trade in parts and components.

The two complexity-magnifiers – rules of origin and unbundling – independently worsen the efficiency impact of tariff discrimination on their own. But they also mutually magnify each other’s efficiency-dampening effect. Unbundling has made it much harder to determine where a particular good is made; more complicated rules are needed to assess the origin of items whose ingredients may be sourced from a host of countries.

This is a poor way to run the world trade system. Firstly, it opens up the potential for governments to use rules of origin to protect vested interests and thus

Figure 2.1 A complex global supply chain example: the Volvo S40

Source: Presentation by Ericsson Chairman Michael Treschow at the conference.
undermine the process of regional integration they were originally designed to support. Secondly, they tend to divert trade not only from more efficient suppliers but also away from smaller and poorer countries that do not have resources or the desire to join the RTA.

2.3 Pervasiveness

Regionalism is now so pervasive that it is seen by many political leaders as an alternative to multilateralism – Plan B for the world trading system. This is a big switch.

The main early-adopters of preferential liberalization – the West Europeans with their 1958 Treaty of Rome and 1960 Stockholm Convention, the United States and Canada with their 1965 Auto Pact, and New Zealand and Australia with their 1965 FTA – were simultaneously ardent supporters of multilateralism. For them, regionalism was in addition to multilateralism, not a substitute. Indeed, remembering what uncontrolled regionalism produced between the two world wars, these leading trade powers knew that supporting multilateralism was key to keeping regionalism’s effects benign. They supported the GATT by respecting its rules and they eroded the discrimination embodied in all of their regional deals by progressively lowering their multilateral tariffs in GATT negotiations.

Contrast this with the experience of the newly emerging trade powers – Brazil, India and China. Due to the special status accorded to developing nations in the GATT/WTO (Special and Differential Treatment and non-reciprocity), Brazil and India were largely free-riders in the last century’s multilateral tariff cutting process in the GATT. The United States, the EU, Japan and Canada dominated the GATT/WTO trade talks. India and Brazil were mostly on the sidelines and China was not yet a member. As far as multilateral tariff cutting was concerned, they were free-riders on the rich countries tariff cutting which was automatically extended to all GATT/WTO members due to the GATT/WTO principle of non-discrimination.

There is little sign that Brazil, India and China are switching their attitude towards the multilateral trade system in line with the growing global importance of their trade flows. They are not switching to leadership roles in the WTO. Brazil and China, and to some extent India, are finding that regionalism is an excellent route. They are learning that regionalism is the fast/easy/controllable way to liberalize trade; multilateral trade talks are the slow/hard/uncontrollable path. Similar trends are affecting political leaders in the United States, EU, Japan and Canada; they too are starting to find that the regionalism route may be a better/easier/faster way to get improved market access to developing nations.

In a world where regionalism is so pervasive that some nations view it as a viable alternative to multilateralism, further uncontrolled spreading of regionalism might kill the proverbial gold-laying goose – the world trading system that brought post-war prosperity to today’s rich nations and helped lift billions of poor people out of subsistence agriculture.
2.4 Rich–poor asymmetries: Trade hegemons

The confusion and inefficiencies of today’s spaghetti bowl of trade preferences is a problem for firms located in the leading trade powers but it is far, far more of a problem for firms located in poor and/or small nations. The governments of powerful nations can navigate around the worse problems thrown up by regionalism. They have the resources and the negotiating leverage. The governments of small and poor nations do not. The spaghetti bowl falls much harder on the heads of the world’s small and poor nations.

This problem has shown up in two ways that were amply demonstrated in the papers presented at the conference. First, much of the world’s regionalism is organized into ‘hub and spoke’ arrangements. That is, the EU and the United States (and increasingly Japan) have fairly cohesive sets of RTAs with many of their regional trade partners. They are ‘hubs’. The small and/or poor nations in their region, however, find themselves as ‘spokes’.

Hub-and-spoke bilateralism distorts trade, but the asymmetry in negotiating power means that, for example, the EU’s RTAs are crafted to suit the tastes of EU exporters much more than they are suited to meet the tastes of South African or Mexican exporters. Second, the hubs have used their asymmetric bargaining power to include in North–South RTAs a whole host of liberalization measures that developing countries as a group have rejected in WTO talks. This deeper-than-tariffs aspect has some positive aspects to it. It may be that more liberalization was undertaken than otherwise would have been the case, but the resulting liberalization may also have been systematically more favourable to the hubs than would have been the case if it had been conducted in the WTO setting. In the WTO’s multilateral forum, bilateral power-asymmetries are mitigated by the fact that many ‘hubs’ and many ‘spokes’ sit at the negotiating table.

2.5 Stumbling block possibilities

Is regionalism a substitute or complement for multilateralism? Before the mid-1980s, it was clearly a complement. Regionalism consisted of the European trade bloc, the EEC, and a slew of RTAs among developing nations that covered a trivial fraction of world trade with arrangements that rarely operated effectively. This regionalism did nothing to hinder the regular conclusion of multilateral tariff cutting negotiations conducted by the WTO’s predecessor, the GATT.

All this changed in the mid-1980s. Regionalism was re-ignited in North America with the US–Canada FTA, followed by NAFTA which triggered a domino-like cascade of regional trade deals in Latin America. European regionalism, which was reignited by the 1986 Single European Act and the progressive collapse of the Soviet Union, triggered its own domino effect (Baldwin, 1993). Since then, the number of RTAs has grown at an accelerating pace as the EU and United States have continued to sign agreements and many new players have joined the regionalism game. East Asian regionalism, which had been simmering for decades, was brought to a boil when China suggested a free trade agreement with ASEAN in 2000. The domino effect this triggered is still ongoing (Baldwin 2006b).
It is logically possible that trade blocs are stumbling blocks on the road to global free trade. The evidence, so far, is mixed on this point. A great many trade barriers have been liberalized by RTAs – in fact over one-third of world trade is conducted inside the world’s best functioning trade blocs (the EU and NAFTA). Moreover, the stumbling-block notion is not novel. The idea that regionalism might harm multilateralism was first discussed when the previous WTO trade talks – the Uruguay Round – suffered a four-year delay while North American and European regionalism raced ahead. Ultimately NAFTA entered into force in the same year that the Uruguay Round deal was finalised, so the stumbling-block notion faded into the background until the Doha Round ran into its current delay.
3 Meet the Spaghetti Bowl

The conference brought together experts on regionalism from the four corners of the earth. Papers were presented on regionalism from the most active regions – Europe, the Western Hemisphere, Africa and Asia. The scholarly papers contain a wealth of information that trade experts will find extremely useful. This chapter provides a very brief summary.

It starts by reviewing some trends and facts that speak to regionalism on the global level, before turning to region-specific issues, and finally to regionalism that goes beyond tariff cutting.

3.1 Global aspects of regionalism

The proliferation of RTAs is clear from Figure 3.1. The announcement of new RTAs (shown by the bars) has waxed and waned over the decades but the past 10 years has seen a remarkable acceleration. As a consequence, the cumulative number of RTAs (solid line) is rising rapidly.

Figure 3.1 RTAs notified to the GATT/WTO by year and cumulative total (right scale)

Notes: Some RTAs, for example those between the EU and Central European nations that subsequently joined the EU, are no longer in force.

Source: Fiorentino et al. (2006).
3.1.1 Who signs RTAs?

Every single WTO member has signed at least one RTA with the sole exception of Mongolia. The top trade powers – the EU, the United States, and Japan – are actively pursuing such agreements, and the emerging trading powers – China, Brazil and India are following suit. Only 16% of the existing RTAs are between developed nations – so-called North–North agreements. The rest are either South–South, i.e. among developing nations (about 50%), or North–South (about 30%). It is also worth noting that developing countries are involved in 125 out of 193 preferential agreements notified to the WTO Secretariat and in force as at March 2007 (see Table 3.1). A fact not shown in the table is that regional trade agreements are not exclusively regional any more; almost one-half of the deals currently under negotiation involve nations from different regions.

Table 3.1 Preferential agreements notified to WTO by type at March 2007

<table>
<thead>
<tr>
<th>FTAs, PTA unions</th>
<th>Customs unions</th>
<th>Services RTAs</th>
<th>Total</th>
<th>Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>South–South</td>
<td>76</td>
<td>5</td>
<td>16</td>
<td>97</td>
</tr>
<tr>
<td>North–South</td>
<td>44</td>
<td>1</td>
<td>20</td>
<td>65</td>
</tr>
<tr>
<td>North–North</td>
<td>15</td>
<td>8</td>
<td>8</td>
<td>31</td>
</tr>
<tr>
<td>Total</td>
<td>135</td>
<td>14</td>
<td>44</td>
<td>193</td>
</tr>
</tbody>
</table>

Notes: Transition economies are considered ‘south’ in this table. PTAs are FTAs announced under the Enabling Clause with its weaker discipline; in particular, tariffs need not go to zero.
Source: Authors’ calculations based on information in Rollo (2007).

WTO soft law

According to GATT/WTO rules, nations can preferentially liberalize tariffs – and thus violate the prime principle of non-discrimination – but only under certain conditions. The RTA must cover ‘substantially all trade’ and the preferential tariffs must go to zero after a reasonable phase-in period. These rules apply strictly to developed nations, but developing nations can break them with impunity as part of their ‘Special and Differential Treatment’ status. So what actually has happened to tariffs in RTAs?

A very interesting finding presented in the paper by Estevadeordal et al. (2007b) is that most RTAs – even those by developing nations – have in fact obeyed these rules. The facts are displayed in a rather condensed format in Figure 3.2. Each of the lines represents one of the 76 RTAs that the authors have investigated in detail. Drawing their data from a close scrutiny of the tariff phase-in provisions of each separate agreement, they plot (vertical axis) the share of tariff lines that will be set to zero by a given year after the signing (horizontal axis). The results resoundingly show that almost all the RTAs in the world are schedule to set RTA tariffs to zero within 10 or 15 years.

Finally, it should be noted that agriculture is excluded or only partially covered by many of the world’s RTAs. Regionalism, so far, has had no more success in liberalizing trade in food than has the multilateral process.
3.1.2 Rules of origin

These are rules put in place to prevent countries outside an RTA from trans-shipment goods via an RTA member in order to take advantage of duty-free treatment. For example, Ethiopia cannot simply import a good from China, package it up and export it to the EU duty-free as an Ethiopian good. All RTAs need rules that allow customs officers to decide which tariff to charge, i.e. to determine the products’ true origin. For example, a rule of origin might say that a good must have at least 50% of the value of the product added in an RTA partner country.

The principle for determining originating status is that ‘substantial transformation’ has taken place in the exporting country. This can be assessed using one of three tests or a combination of them. These are known as change in tariff classification (CTC), value content (VC) or specific production process (SPP):

- CTC: whether the transformation of the good results in a product with a different tariff classification line – the four- or six-digit code that makes up the customs officers’ rule book – after the manufacturing process;
- VC: the need for a minimum amount of domestic content as a ratio to the amount of inputs brought it from outside FTA area, for example 50%; or
- SPP: whether a particular specified production process has been employed.
These rules are inevitably complex and can amount to hundreds of pages in an FTA agreement. Academic literature has shown that they also distort trade flows and reduce efficiencies in the production process. For example, if country A signs an FTA with a trading partner, country B, to which it exports, it will benefit from the beneficial tariff arrangement. Assume that the VC rule sets demands 50% of the value is originated in A. But if A imports material from a third country C it will have to pay a tariff if the shares of imports from C breaks the 50% limit. Country A must decide whether to find a new, presumably more expensive, source of inputs, or carry on and pay the tariff. Even if country C were to sign its own FTA with country B, the final importer of the good, country A would still break the rules of origin on goods using inputs from C. As a result, trade between A and C, which are both ‘spokes’ to the country B’s ‘hub’ and which are both likely to be emerging or developing countries, will fall. The spaghetti bowl has created conflicting incentives for developing countries. While it helps some countries it discriminates against others.

As mentioned, the problem has become much more difficult as today’s manufacturing has turned increasingly to international supply chains. This means that most exports are made up of parts and components, many of which are imported. As Michael Treschow, the chairman of Ericsson graphically illustrated at the conference, Electrolux makes one model of professional chainsaw from 150 components bought from 250 suppliers in 20 countries, and the chainsaws are then sold on to purchasers in 100 countries. With such complexity in production, the problem of overlapping and intersecting RTAs – the spaghetti bowl – can become a nightmare. In many instances, firms decide to pay the MFN tariff rather than attempt to incur the cost of complying with the rules of origin.

Families of rules of origin
The conference presented a great deal of original and important research on the nature and impact of rules of origin. Estevadeordal et al. (2007a) examined the rules in 58 RTAs. They found huge variation across different regions, but also found that one can speak of ‘families’ of RTAs, with the ‘kinship’ defined by the nature of the rules of origin. The two largest families are those that use the EU rules of origin and those that use NAFTA’s.

The EU is the world’s champion when it comes to RTAs. By one count, the EU has preferential trade agreements with all but nine of the WTO’s 148 members (Baldwin and Wyplosz, 2006, Chapter 12). In order to reduce the complexity of negotiating and administering its rules of origin, the EU applies very similar rules to all its preferential agreements – including the unilateral preferential schemes such as those it maintains with former French, British and Portuguese colonies, as well as its GSP tariffs (Estevadeordal et al., 2007a). These rules – called the PECS or Paneuro rules of origin – govern more than half of the world’s exports to the EU. Figure 3.3 illustrates this graphically.

In the Western Hemisphere, the NAFTA rules of origin (the most complex in the world) have spread throughout the Hemisphere as Figure 3.4 shows. Indeed many of the spoke-spoke FTAs in the region find it convenient to adopt the NAFTA rules since their exporters have to comply in any case with them for their major export market, the United States.
Meet the Spaghetti Bowl

The NAFTA family has been exported by the United States with its trans-Pacific RTAs with Singapore, Australia and Korea. The rules continue to spread as Australia renegotiated its rules of origin with its long-time partner, New Zealand, to bring them in line with the rules in its US bilateral (thus avoiding having its firms face two sets of rules). The same sort of phenomenon occurred when NAFTA-like rules were embraced by a collection of bilaterals that includes Chile’s deals with Korea, Japan, New Zealand, and Singapore, Peru–Thailand and Mexico–Japan.

The Latin American Integration Association – an RTA that dates back to 1980 – has quite simple rules of origin, and these have largely been embraced by the biggest Latin American RTA, Mercosur. Other Western Hemisphere RTAs tend to be a blend of the NAFTA and Mercosur rules.

When it comes to sectors, the evidence showed that agricultural products, and textiles and apparel feature by a particularly restrictive rule in all of the RTAs considered.

Given the complexity of international production, the existence of divergence rules of origin in a regional is becoming a major issue, especially as the spider’s web of criss-crossing RTAs gets more tangled. The problem arises when a single nation faces different rules of origin in its various RTAs. This increases the costs of
information management for governments’ customs administrations, a burden that is particularly problematic for developing countries. For companies, inventory management costs rise because of the need to store so many products and materials.

### 3.2 Regionalism in the major RTA-using regions

#### 3.2.1 Asia-Pacific

A late-comer to the RTA game, Asia is now the place where regionalism is growing fastest. As Figure 3.5 shows, the actual number of RTAs in Asia alone has soared from just a handful in the mid-1990s to over a hundred in 2007. Many of these, however, have not yet been signed and implemented; fewer still have been notified to the WTO. The situation in this region is developing so quickly that one needs to follow it closely; the ADB has an excellent website devoted to this at www.aric.adb.org.

There are two ‘hub’ nations in East Asia – China and Japan. For various historical and political reasons, however, neither has taken as strong a leadership role as the United States has in the Western Hemisphere, or the EU has done in the Euro-Med area. Instead, a collection of relatively small nations – the ASEANs – have been the pivotal point for East Asian regionalism. As Figure 3.6 shows, ASEAN is part of all the major agreements in the area.

It is in part due to the lack of a regional hegemon that the ‘spaghetti bowl’ (or ‘noodle bowl’ as it is known in the region) is so severe in Asia. According to the conference paper by Estevadeordal et al. (2007a), Asian RTAs are, together with African RTAs, the most divergent in the world in terms of their rules.
It is also worth noting that Asia is the region of the world where the unbundling of manufacturing has proceeded to its most advanced state. For example, the vast majority of trade among ASEANs is in parts and components (Ando and Kimura, 2005).

Source: Modified Figure 1 of Hufbauer and Schott (2007).
3.2.2 Western Hemisphere

The complexity of regionalism in this region is legendary, as Figure 1.1 shows graphically. The region has been through several waves of RTAs, starting back in the 1960s and each new wave added a layer of complexity.

The conference paper by Estevadeordal et al. (2007b) notes that, by 2013, the spaghetti bowl of the Americas should have rendered 80% of trade in the region duty-free. But the spaghetti bowl is large, dense and complex. There are also many exceptions such as tariff rate quotas in agriculture and restrictions on textiles and apparel, food, chemicals and footwear.

As a result of all these agreements, and the natural geography of trade, RTAs now cover a very substantial portion of the exports for several nations in the region (see Estevadeordal et al., 2007b, for details). For example, over 70% of Mexico’s and Chile’s exports take place under the aegis of RTAs. For many others, including the United States, the figure is above 30%.

3.2.3 Africa

Regional trade agreements among African nations have as long a tradition. The result is a highly complex spaghetti bowl of overlapping, intersecting arrangements, as Table 3.2 illustrates.

<table>
<thead>
<tr>
<th>Membership of Southern and Eastern Africa RTAs</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESA–EU EPA</td>
</tr>
<tr>
<td>-----------</td>
</tr>
<tr>
<td>Angola</td>
</tr>
<tr>
<td>Botswana</td>
</tr>
<tr>
<td>Burundi</td>
</tr>
<tr>
<td>Comoros</td>
</tr>
<tr>
<td>Djibouti</td>
</tr>
<tr>
<td>DRC</td>
</tr>
<tr>
<td>Egypt</td>
</tr>
<tr>
<td>Eritrea</td>
</tr>
<tr>
<td>Ethiopia</td>
</tr>
<tr>
<td>Kenya</td>
</tr>
<tr>
<td>Lesotho</td>
</tr>
<tr>
<td>Madagascar</td>
</tr>
<tr>
<td>Malawi</td>
</tr>
<tr>
<td>Mauritius</td>
</tr>
<tr>
<td>Mozambique</td>
</tr>
<tr>
<td>Namibia</td>
</tr>
<tr>
<td>Rwanda</td>
</tr>
<tr>
<td>Seychelles</td>
</tr>
<tr>
<td>South Africa</td>
</tr>
<tr>
<td>Sudan</td>
</tr>
<tr>
<td>Swaziland</td>
</tr>
<tr>
<td>Tanzania</td>
</tr>
<tr>
<td>Uganda</td>
</tr>
<tr>
<td>Zambia</td>
</tr>
<tr>
<td>Zimbabwe</td>
</tr>
</tbody>
</table>

Source: Draper and Qobo (2007).
According to the authors of the conference paper on African regionalism (Draper and Qobo, 2007), regional economic co-operation in sub-Saharan Africa is weak. Many of the agreements are not implemented or only loosely implemented. There are three potential regional leaders – South Africa, Kenya and Nigeria – but Draper and Qobo wonder whether a real consolidation of African regionalism might not produce a growth-pole/growth-sink outcome that would be resisted by other nations in the region. That is, real free trade in the region might spur industrialization in the regional leader economies but produce de-industrialization in the smaller nations.

Many African governments feel defensive and vulnerable when it comes to trade policy, owing in part to structural imbalances and inequitable rules governing agricultural trade. Unilateral trade policy reforms are not widely embraced, regional agreements are often partial and shallow, and the general posture on the international scene is preoccupied with preference erosion, residual interest in import substitution, policy space and special and differential treatment, and the need for external resource flows.

### 3.3 The spaghetti bowl in services and non-tariff barriers

When lay people are asked about international trade they tend to think about trade in physical goods. However in the modern knowledge-based economy, commercial services are becoming increasingly important. Services now represent about two-thirds of global GDP and the share of services value-added in GDP tends to rise with countries’ levels of incomes making it increasingly important for industrialized nations. However, the share of services trade in total cross-border trade is just 20% – $4.8 trillion out of a total of $21.2 trillion according to the most recent WTO statistics. The discrepancy between the role of services within national economies and their role in international trade partly reflects the difficulties in trading services across borders.

At the same time, the growth in international trade and the processes of globalisation have led to ‘deep integration’ where countries take on commitments that go beyond tariff regimes. These include areas of domestic and regulatory policy that are not primarily aimed at discriminating against foreign companies, but are extremely burdensome for cross-border traders. This includes issues such as standards and competition policy, labour rights, environmental standards and property rights in assets such as intellectual property and financial investments.

One of the striking features in both areas is the extent to which WTO members have signed up to RTAs that include disciplines that they firmly rejected at the multilateral level. At the end of 2006 the WTO counted 54 RTAs with a services component despite resistance by some developing countries to their inclusion in multilateral talks. The acceptance by some countries of rules on areas such as investor protection and competition policy also runs counter to the developing countries’ rejection of those issues – which contributed to the collapse of the WTO Cancun ministerial in 2003.

The issue for the goal of multilateralising regionalism is whether the spaghetti bowl problem now extends to trade in services and to non-tariff barriers and the extent to which RTA commitments in these areas have been or could be multilateralised.
3.3.1 Trade in services

Technology has vastly expanded the range of services that can be traded internationally. Production unbundling and outsourcing have created dynamic new export industries in services. Moreover, many governments have transferred the provision of infrastructure services to the private sector, and this has expanded the scope for foreign participation in services. Indeed, foreign direct investments (FDI) in the services sector have grown faster than total FDI as service providers from high- and middle-income countries are seeking out new commercial opportunities abroad.

On the import side, services are coming to be viewed as much more than simple consumption possibilities. Nations – especially developing nations – increasingly view access to world-class services as an essential aspect of competitiveness. Nations seek to improve their attractiveness to investors by assuring access to first-rate and reasonably priced trade financing and insurance, air and surface transportation services, telecommunications services, accounting and legal services, electricity and water services as well as many other highly specialized production-related services.

Barriers to trade in services

Barriers to trade in services are distinctive from those on imported goods due to the difference in the nature of the trade. Trade in goods happens when a product is made in one nation and sold in another. Trade in services is a richer phenomenon. Some services trade resembles goods trade in that the producer and consumer remain on opposite sides of the border – think of internet translation services. However, many services require the producer and consumer to be physically close to each other. Either the consumer goes to the producer – e.g. someone travels for medical treatment – or the producer goes to the consumer – e.g., a foreign bank establishes a local branch. According to WTO jargon, these types of trade in services are mode 1 (cross-border), mode 2 (consumers move) and mode 3 (firms move).

The conference paper by Fink and Jansen (2007) shows that about 35% of world services trade is mode 1, 13% is mode 2 and 50% is mode 3. The fourth mode, which involves workers temporarily crossing borders, accounts for about 2%.

In addition to the need for proximity, services trade is different since many services are intangible. Intangibility makes it hard to determine what crossed the border and when, so governments have found it difficult or impossible to impose border measures like tariffs. Moreover, the intangibility has led governments to pursue their regulatory goals (protecting consumers, etc.) by regulating service providers rather than the service itself. It is important to acknowledge that government regulation plays a stronger role in domestic services industries because of the domestic importance of preventing a market failure in sensitive or fundamental services such as water, telecommunications or banking.

With few exceptions, barriers to trade in services are not explicitly protectionist in the way that tariffs or anti-foreign procurement rules are. The policy measures are explicitly intended to achieve regulatory goals such as guarding the health and safety of consumers. Given the realities of special-interest politics, such policies often end up protecting domestic firms, but the trade barriers are ‘incidental protection’. They are not accidental – powerful vested interests are likely to have promoted the protectionist content – but they are incidental to the government’s stated goal for the policy. What this means is that governments typically have few
‘tools’ with which to enforce discriminatory trade liberalization. The consequences is that the spaghetti-bowl problem is much less present in trade in services.

**Services trade RTAs**

A remarkable feature of the recent wave of RTAs is the inclusion of a trade in services component in many agreements. At the end of 2006, the WTO counted more than 50 services RTAs; only five of these were signed before 1994. The way in which services RTAs can liberalize trade fall into three broad categories.

- Services RTAs can provide preferential market access by equalising regulation and tax regimes between domestic and partner-nation firms and by granting better market access to them such as recognizing partner-nation professional qualifications.
- Services RTAs can rule out future discrimination among RTA partners by assuring that whatever preference is given by one partner any other nation in the future is automatically extended to all the RTA partners. This is known as non-party most favoured nation (MFN) status in the WTO jargon.
- Services RTAs include rules of origin (ROO) although they are substantially different from those applied to trade in goods. The issue tends to relate to origination of the person or firm rather than the services they are supplying.

When services trade was included in the WTO in 1994, members made a variety of ‘commitments’ to remove services trade barriers. Since the barriers are complex, the commitments are complex and indeed most WTO members did not make commitments in most service sectors. For reasons discussed above (privatisation and competitiveness concerns), many WTO members have unilaterally removed many barriers, so some of the RTAs signed since 1994 have led to commitments that go beyond their WTO commitments.

What all this means is that a great deal of the trade liberalization in RTA services is not discriminatory in the same way that RTAs are on tariffs.

*A less tangled spaghetti bowl*

Empirical results presented to the conference showed that preferential agreements concerning trade in services had not created a ‘spaghetti bowl’ in the way that tariff preferences have. Service RTAs contain weak levels of discrimination due to non-discriminatory implementation of liberalization commitments, liberal rules of origin and the widespread inclusion of non-party MFN clauses (i.e. clauses that automatically extend concessions granted in future RTAs by either party).

The reason for this can be found in the nature of service protection. Since much of the protection in services is unintentional, it is relatively difficult to craft regulatory barriers that open a nation’s service market to the RTA partner’s firms while leaving it closed for service providers from other nations. A common solution in services RTAs is to insist that service providers are legally established in one of the RTA member states. Because of this, non-member state firms can benefit from the RTA opening by establishing themselves inside the RTA.
Non-party MFN clauses and mutual recognition agreements

Another important and distinct feature of many RTAs is the so-called ‘non-party most-favoured-nation (MFN) clause’. Here is an example from the Japan–Malaysia Economic Partnership Agreement: ‘Each Country shall accord to services and service suppliers of the other Country treatment no less favourable than that it accords to like services and service suppliers of any third State.’ This means that the countries will extend to each other any preference granted to any third country. This is something like an automatic anti-spaghetti bowl mechanism. In the East Asia region, 12 out of 25 services RTAs feature such non-party MFN obligations (Fink and Molinuevo, 2007). Most RTAs negotiated by the European Free Trade Association, Japan, and the United States have incorporated them.

One area where discrimination is more evident is in mutual recognition agreements (MRA). These involve nations agreeing to recognize and accept each other’s testing of each other’s products. Since this involves a high level of trust, these are only signed among nations with very high standards of governance.

3.3.2 Behind the border trade barriers

The steady decline in tariff levels since the foundation of GATT in 1947 has redirected attention by both business and government towards non-tariff measures (NTM). Not only has the draining of the tariff ‘swamp’ revealed these barriers more clearly, NTMs have also become more important as governments seek to regulate more of the modern economy.

These measures include a host of commitments on everything from product standards and regulations to the lack of a competition policy that allows domestic firms to collude against their foreign rivals. As with the service sectors many of the barriers are incidental to the main regulatory justification for the policies. Most of these are highly technical, making it difficult to ascertain the extent to which they act as a tariff barrier. It is often unclear whether the measure is intentionally imposing a trade barrier to raise costs for foreign suppliers or whether the protectionism is incidental to the main aim of securing effective domestic regulation.

Leaving aside trade in services, discussed above, there are five broad groupings of NTM, each of which has several forms. They are

- Trade remedies: anti-dumping measures, countervailing duty measures and safeguards;
- Government procurement: preferential access to bidding on government contracts;
- Investment performance requirements: requirement on foreign investors on issues such as use of domestic inputs and suppliers and currency exchange;
- Competition policy: regulating anti-competitive practices; and
- Technical barriers to trade (TBT): product regulation, testing procedures.

The issues are the extent to which NTMs contained in RTAs have added to the spaghetti bowl effect and the potential for the WTO to help multilateralise these commitments.
Empirical research showed that the precise circumstances varied greatly for each different NTM. The severity of the spaghetti bowl problem ranged from high for RTAs on government procurement to modest for TBTs and slight for trade remedies, investment requirements and competition policy. It is noticeable that ROOs do not contribute to the spaghetti bowl effect in four out of the five groups. The exception is government procurement where it applies to goods in the same way it was with general merchandise trade and only slightly for services because it is so difficult to ascertain where a particular service is made. For example, it may be impossible to determine how much of the value-added in a bank loan obtained on an international call to Canada actually originated in Canada.

The conference paper on this issue, Baldwin et al. (2007), presented a summary of the nature of the spaghetti bowl in each area and a judgement on its severity. This can be found in Table 3.3.

### Table 3.3 Spaghetti bowl in behind the border measures

<table>
<thead>
<tr>
<th>Trade remedies</th>
<th>Government procurement</th>
<th>Investment performance requirements</th>
<th>Competition law</th>
<th>Services</th>
<th>TBTs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discriminatory tariffs (AD, CVD and safeguards)</td>
<td>Preferential access to bidding on government contracts</td>
<td>Preferential application of performance criteria</td>
<td>Rare (e.g. CARICOM merger rules)</td>
<td>Preferential market access</td>
<td>Mutual recognition; norms and testing</td>
</tr>
<tr>
<td>National implementation, Article VI</td>
<td>RTAs, national practices, WTO GPA</td>
<td>BITs, RTAs</td>
<td>RTAs (rarely)</td>
<td>RTAs, MRAs (qualifications)</td>
<td>RTAs, MRAs (testing)</td>
</tr>
<tr>
<td>No</td>
<td>Yes for goods, slight for services</td>
<td>No</td>
<td>No</td>
<td>Slight (‘leaky No ROOs’)</td>
<td></td>
</tr>
<tr>
<td>Joint Committee clauses and diplomatic pressure</td>
<td>Expanding WTO GPA (strong), third party MFN clauses (weaker), leaky ROOs</td>
<td>MFN commitments in RTAs (e.g. NAFTA 1106)</td>
<td>Formal competition law implemented without nationality bias</td>
<td>Leaky ROOs, third party MFN, application of ‘concessions’ on an MFN basis</td>
<td>Lack of ROOs on MRAs, harmonization to international standards</td>
</tr>
<tr>
<td>Slight</td>
<td>High in RTAs, Modest in GPA</td>
<td>Slight</td>
<td>Slight</td>
<td>Modest</td>
<td>Modest</td>
</tr>
<tr>
<td>Yes (GATT and GATS)</td>
<td>No</td>
<td>Partial (TRIMs and GATS)</td>
<td>No</td>
<td>GATS</td>
<td>TBT Agreement</td>
</tr>
</tbody>
</table>

Source: Baldwin et al. (2007).

### 3.4 The international-law spaghetti bowl

To borrow from one of Arthur Conan Doyle’s best-known Sherlock Holmes stories, the WTO’s legal mechanism is the ‘dog that didn’t bark’ at the explosive growth of regionalism. Since its start in 1947, non-discrimination has been the core principle of the GATT (the WTO’s predecessor) and this continues into the WTO. The
principle, called the most favoured nation (MFN) principle, is laid out in the first Article of the GATT/WTO founding document.

Preferential trade deals of all sorts are plainly a violation of this core precept. The GATT and WTO prescribed procedures for checking abusive regionalism. The WTO goes further by creating legal powers to challenge and make a ruling on discriminatory RTAs.

In reality these disciplines are non-functional according to the conference paper by international law professor Joost Pauwelyn (2007). The administrative checks are rarely conclusive, neither confirming nor denying an RTA’s consistency with WTO principles. This is perhaps hardly surprising given that all members (bar Mongolia) are members of one or more RTAs. As one commentator put it: ‘People in glass houses don’t throw stones’. Even in dispute settlements, members shy away from challenging regional agreements and the WTO’s highest court, the Appellate Body, does everything it can to avoid using the WTO’s rules disciplining the nature of RTA as the basis of their legal rulings.

3.4.1 Legal spaghetti

We have already seen how RTAs create a spaghetti bowl when it comes to tariffs, services and behind-the-border measures. For international jurists, however, the issue is how the WTO and RTAs interact outside the limits of the GATT/WTO’s main provision on the discriminatory trade liberalization which is known as Article XXIV. According to research presented at the conference, there are four main areas of legal interest:

- Overlaps of substantive trade rules versus overlaps in dispute settlement procedures. For example, the WTO may sanction a safeguard measure but an RTA may prohibit its application in the region;
- Overlaps between WTO and RTAs versus overlaps among different RTAs. Here an example might be how FTAs between the United States and Chile and the EU and Chile interact;
- Overlaps where the rules are substantively equivalent versus overlaps where one agreement may prevent breach of another. This refers to cases where the WTO and an RTA may have broadly similar rules, which begs the question as to where the dispute should be brought. In the Mexico soft drinks case, the US government brought a claim to the WTO’s dispute settlement body, while private US investors used a North American Free Trade Agreement (NAFTA) tribunal. The added complication was that Mexico sought to excuse its breach of WTO rules with reference to the NAFTA; and
- Overlaps where the two agreements are binding on both parties versus overlaps where an agreement is binding on only one.

The paper presented to the conference, Pauwelyn (2007), looks at four specific examples.

The first is the overlap between the WTO agreement on trade-related aspects of intellectual property rights (TRIPs) and more stringent intellectual property standards in RTAs (such RTAs, often signed by the United States, are known as TRIPs+ agreements). The crucial legal fact here is that WTO’s agreement on TRIPs contains
no exception for regional arrangements and no recourse to Article XXIV. In other words intellectual-property regionalism is automatically multilateralised so no spaghetti bowl can arise. The interesting difference between TRIPs and goods tariffs is that regionalism does not discriminate against third parties – anyone can adopt the tougher TRIPs+ measures if they want to. However, it may mean that one party – probably a developing country – has signed up to tougher intellectual-property protection as part of its RTA.

A second example concerns the overlap of dispute settlement procedures in the WTO and RTAs. The overlap arises since the WTO has a dispute settlement mechanism and yet many RTAs set up their own dispute procedures and institutions. This overlap raises two issues – whether parties can choose which panel to go before and whether choosing one panel precludes them from recourse to the other later on. It is worth pointing out that there have been very few cases brought before RTA dispute settle mechanisms whereas over 400 cases have been brought before the WTO’s.

A third example of legal ‘spaghetti’ concerns developments in the WTO and/or RTAs that do not occur in parallel. For example, what happens to the RTAs that refer to or incorporate WTO arrangements, when those WTO arrangements are subsequently modified? If that RTA reference is fixed at the time of signing, a very complex spaghetti bowl of obligations could rise.

A fourth case concerns the issue of sanctions. Some RTAs limit the ability of the signers to retaliate against each other, but if both signers were also WTO members, some ambiguities arise. Could trade sanctions authorised by the WTO violate an FTA and vice versa? Or could bilateral sanctions authorised by an RTA be viewed as WTO-illegal? What would happen if the country hit by sanctions sought to appeal to the WTO?

The notion of a legal spaghetti bowl is quite new and thoroughly under-researched, but the examples listed above suggest that a tangle of preferential trade deals could pose a substantial threat to the smooth functioning of the WTO’s legal mechanisms.
4 Developing Countries

One of the strongest public policy objections to regionalism is that bilateral negotiations allows developed countries to take advantage of the weaker bargaining power of developing countries to push through onerous trade agreements. Supporters of the WTO believe, in effect, that the organization should stand as the Statue of Liberty does, offering succour to the ‘tired, the poor and the huddled masses’. The fear is that the spread of these deals will lead to one of the unhealthiest forms of multilateralisation possible – where standards that developing countries were pressurised to accept in FTAs become the global standard.

Yet developing countries are in a majority when it comes to preferential trade agreement participants. Of the 193 agreements notified to the WTO Secretariat and in force as at March 2007, 125 involved developing countries. The challenge for negotiators in a bilateral trade agreement is to negotiate an outcome that maximises benefits and minimises costs. It is clear that in these terms bilaterals deals for developing countries may be second-best to multilateral deals.

The WTO’s legal mechanisms have not been used to exert much discipline on these agreements and in any event are only applicable after the event rather than during the negotiations. Developing countries do not tend to have the human resources needed to evaluate properly the implications of a bilateral agreement. Even relatively simple trade conditions such as tariffs require a specialized set of analytical skills. The problem is exacerbated by the fact that RTA now increasingly include services and other areas of deep integration such as competition policy, investment protection and intellectual property.

This applies particularly to Africa where countries tend to be takers rather than shapers of globalisation, regionalism and technological development. This creates a vulnerable sensitivity that is played out in negotiations. Across Africa regulatory and legislative frameworks have been inherited from an assortment of colonial powers, to which African states frequently turn to for aid to assist in building their institutional and regulatory capacities, thereby reinforcing their status as recipients of imported frameworks.

The South African writers of the conference paper on Africa (Draper and Qobo 2007) likened African nations to the rabbits in the book *Watership Down*, sitting petrified on the road in the glare of an oncoming lorry. Their negotiating stance is primarily a defensive one. Africa, and sub-Saharan Africa in particular, is by and large incorporated into the global economy as an exporter of commodities based substantially on preferential access to developed country markets. It is therefore motivated by the desire to protect these preferences.
They argued that the economic logic of reversing that trend and embarking on greater integration between the ‘North’ – industrialized nations – and the ‘South’ – developing countries in Africa as well as some in Latin America and Asia – is compelling. It would reinforce comparative advantage, promote income convergence and promote knowledge transfers from rich to poor states. Unfortunately, integrating more deeply into the world economically is not a popular political position among developing countries. Certainly vulnerable economies would be unlikely to cope with competition from efficient northern producers if the FTAs they negotiated were not sensitive to development needs.

4.1 Helping developing nations with their RTAs

One clear implication is that developing countries would benefit from a systematic analytical framework to assess the potential impact on their economy of any given agreement. One already exists – the Sussex Framework designed by economists at the University of Sussex with the funding from the UK’s Department for International Development. It aims to provide a clear and robust framework for analysing a given proposed agreement with relatively light human resources. It can also drill down to a sectoral or geographical level. It requires training in its use and experience of its application to embark on complex tasks such as assessing any potential for deep integration gains that might offset any trade diversion losses. Of course, this is only one available model but it shows the capacity exists to provide developing countries with an analytical toolbox to aid their negotiations. Having a standardised framework with which to assess an RTA would give non-members of the RTA, academics, NGOs, parliamentarians, business and media a way to scrutinise proposals in a consistent way.

The WTO has a strong interest in helping developing countries negotiate RTAs effectively. Negotiations on procedures and disciplines on RTAs were included in the Doha Mandate, and the new Transparency Mechanism, agreed to, albeit provisionally, in December 2006, is the first product of that. The challenge the WTO faces is, as we have seen, that its rules apply after the agreement has been signed rather than while it is being negotiated. Obviously, as an institution the WTO cannot be seen to take sides in a negotiation between two members and that would preclude it helping any member to use a framework.

However, there are a number of actions that the WTO could take, according to research presented to the conference. For one, it could assist in getting international agreement on the content and structure of an analytical framework. It could sponsor or deliver training on the implementation of the framework. It could also certify private providers who could give training and technical assistance in preparing their negotiating positions. Another function would be to manage a trust fund, perhaps funded from Aid for Trade funds, to subsidise that technical assistance. Lastly it could even give written and approved legal guidance on how to ‘WTO-proof’ any agreement.

Such a package might be seen as too much for the membership to accept, as it would be seen as close to creating a conflict of interest. However, there are strong public policy justifications for public provision of such services. The first is that
countries without sufficient analytical resources may make mistakes that are likely to be locked in, given the infrequency with which RTAs are renegotiated. Secondly, there is no incentive for parties negotiating a RTA to take into account their contribution to the spaghetti bowl effect or the discriminatory impacts on third parties.

The proposal put forward at the conference was for an advisory centre on regional training agreements (ACORTA) that would provide an analytical framework, training and advice on the framework’s application and on the implications for a negotiating strategy and accreditation of providers of training and advice. The closest precedent for such a centre is the Advisory Centre for WTO Law that was set up in 2001 to provide advice and training for developing countries engaged in dispute settlement actions. It was set up specifically to provide a level playing field between developing and least developed countries and their more powerful Northern neighbours. It also provides a roster of private providers and therefore provides a useful template for the proposed ACORTA.

However, greater negotiating power is a necessary but not sufficient condition towards being able to harness the pressure created by regionalism. Developing countries also need the infrastructure – institutional, financial and technological – to harness the potential benefits of regionalism. Customs and transport make up the greatest share of costs for African traders, a fact that has negative implications for supply chain management.

The challenge for African countries is to deliver more liberal and better regulation of core services such as finance and telecoms and to create a framework for competition policy and investor protection if they want to use the advantages they have vis-à-vis Asia, such as lower wage levels. This prescription might appear similar to the Singapore issues that developing country groups rejected at the 2003 Cancun WTO ministerial conference. However, as discussed above, developing countries seem prepared to sign up to conditions in RTAs that they reject on a multilateral basis because the RTA is more likely to contain reciprocal benefits for the developing country, such as access to a rich nation’s agricultural markets, that negotiators can take back to the domestic politicians and voters as a gain. The reciprocity for poor countries in a multilateral agreement can sometimes be hard to identify. Some countries believe the lesson from the Uruguay Round is that they made concessions on issues such as intellectual property but received little in return in terms of access to agricultural markets.

Africa faces a more uphill struggle than other Southern regions to multilateralise the pressures towards regionalism that it faces. The continent has a network of regional integration schemes with overlapping memberships. There is a lack of dynamic and active private sector players outside South Africa and Mauritius, which – along with Angola – receive the majority of the FDI into the region. These regional economic communities are seen as predominantly weak while Africa lacks a regional leader.

One option would be to develop other hubs outside South Africa, which dominates the sub-Saharan region with 70% of its GDP. Latin America may provide a template for that as its regional trade groupings surrounding a hegemon have aided its efforts to multilateralise regionalism on that sub-continent. Nigeria could fill that role, as could Kenya, which has emerged as a regional manufacturing hub for East Africa.
5 Multilateralising Regionalism:
Real World Precedents

There is anecdotal evidence that businesses are frustrated by the growth in the complexity of global trade rules and are seeking their own solutions. The conference highlighted four instances where businesses and governments had achieved, or were seeking to achieve, some level of multilateralisation of the regional trade arrangements in their country or sector. These provide important lessons for what a WTO Action Agenda on Regionalism might look like.

5.1 How the EU multilateralised the European spaghetti bowl: PECS

Before the 1989 fall of the Berlin Wall, Western Europe was one great big free-trade zone. The EU ensured free trade within its borders and the Europe Free Trade Association (EFTA) ensured free trade among the remaining Western European nations. Free trade agreements between the EU and EFTAns completed the picture.

5.1.1 Emergence of the European spaghetti bowl

This harmonious picture – depicted in the left panel of Figure 5.1 – rapidly turned into a spaghetti bowl as the EU signed bilateral trade deals with the newly free countries of Central and Eastern Europe. EFTA complicated the picture by signing its own bilaterals with these nations, and the spaghetti bowl got really tangled when various Central and Eastern European countries signed various trade deals among themselves, as the right panel shows.

Around 1993, European trade was regulated by a complex network of about 60 bilateral and plurilateral free trade agreements (Stewart-Brown, 2001). These eliminated of tariffs on industrial goods, but the many intersecting and overlapping FTAs did not add up to a continent-wide free-trade area. Product coverage and rules of origin varied and in many cases were incompatible. Despite the almost-complete lattice of FTAs, goods that included significant material or components from elsewhere within the lattice could be denied duty-free status.

The complexity only got worse when the EU and EFTA started signing FTAs with various Mediterranean nations, and various subsets of these new partners started signing bilateral and plurilateral agreements among themselves.

The cost to EU business of this tangle of trade deals mounted with production unbundling. The independence of the Central European nations opened a new
source of competitively priced yet highly disciplined labour. As EU manufacturers moved to take advantage of this opportunity, they found their supply networks hindered by the spaghetti bowl complexity. They lobbied the EU to tame the tangle.

One major obstacle was that under the bilateral FTAs, an exporter to the EU in, say, Poland could not add together – or ‘cumulate’ in trade jargon – the combined contributions of parts and components from Poland and Hungary, even though Hungary also had an FTA with the EU. So, if the rule of origin required 50% value added and the Polish good had 25% of its value added in Poland and 35% in Hungary, only the 25% would count towards the 50% rule. In the trade jargon this is called bilateral cumulation since only inputs from the EU and Poland count for the EU-Poland FTA.

5.1.2 The PECS solution

The solution, which came in 1997, was a deal that effectively brought all the partners into a single trade area for the purposes of duty-free trade and rules of origin. The deal was called the Pan-European Cumulation System, or PECS for short. At the EU’s urging, the EU, EFTAns and the Central and Eastern European nations completed the matrix of bilateral FTAs and amended their various FTAs by substituting one common set of rules of origin for those they originally contained. This, however, was not enough due to the ‘bilateral cumulation’ described above. Under PECS, firms can cumulate inputs from any member of the PECS in doing their rule of origin calculations. This is called regional cumulation, or diagonal cumulation.

PECS completely eliminated the spaghetti bowl in Europe, as Figure 5.2 illustrates. The net effect of the common rules of origin, the complete matrix of bilateral FTAs and regional cumulation was that any good that was deemed as originating in one country within the PECS zone was granted originating status in every other country in the zone. Such products can therefore be traded duty-free anywhere within the PECS zone. This significantly increased manufacturers’ flexibility when it came to setting up international supply chains within the PECS zone; they could source components and materials from anywhere, both inside and outside the PECS zone, without risking losing duty-free status on trade with-
in the PECS zone. The biggest effect was on the ‘spokes’ in the EU’s system of FTAs, since it allowed factories located in the spokes to source parts from anywhere inside PECS without regard to rules of origin.

The PECS area has grown in scope and is now often called the Pan-Euro-Med system. Turkey joined in 1999 and it is being progressively extended to Mediterranean nations that are part of the EU’s ‘Barcelona Process’ (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, West Bank and Gaza Strip).

5.1.3 Research on PECS’s effects

Only three other trade areas – all small-scale bilateral agreements – use cumulation, which makes PECS an ideal testing ground for studying the implications of multilateralising rules on tariffs on this scale. A major study of trade flows between 38 countries – the 33 countries that have joined PECS over the last ten years, and five others: the United States, Canada, China, Japan and Australia – was carried out. The results presented to the conference showed strong evidence that cumulation boosts trade flows, by making it easier for firms to source for intermediate goods from cheaper or more efficient sources (Gasiorek et al 2007).

Importantly, the multilateralisation was especially good for trade among the spokes. This suggests that after the rules of origin were smoothed out, it became easier to spread international production networks into the smaller, lower-cost nations near the huge EU market. As it turned out, the tangle was bad for all European nations, but especially for the smaller poorer nations – a lesson that should serve to illustrate the fact that taming the tangle is not a project that should concern only rich nations.

The obvious conclusion is that countries should seek to extend this type of arrangement – known as diagonal cumulation – wherever possible. One obstacle to that is it requires all the countries concerned to have signed FTAs with identi-
5.2 Taming the tangle for global trade in IT goods

For ardent supporters of multilateralism, the Holy Grail is a declaration of zero tariffs on all manufactured goods. This would at a stroke eliminate the need for ROOs, cut administrative costs and reduce the incentives for bilateralism. Countries such as the United States have offered a zero-tariff deal in the Doha Round negotiations but it has failed to become a reality. But in one sector this is exactly what has happened.

By the end of the 1980s, tariffs on information technology (IT) goods were quite low but this was due to a motley collection of bilateral, plurilateral, multilateral and unilateral tariff cutting. This spaghetti bowl of deals did not produce global free trade since the low/zero tariff treatment did not cover all global trade flows and rules of origin keep the international supply chains fragmented.

As with the PECS initiative, governments faced pressure from businesses frustrated by the way this spaghetti bowl hindered the establishment of efficient international supply networks – a problem that was especially marked in this highly competitive, highly globalised, fast-moving sector.

The solution to this tangle came in the mid-1990s when four countries with sizeable IT exporting sectors met under the auspices of the WTO and proposed setting the tariffs at zero on a most favoured nation (MFN) basis. Rather than adopt the usual form of reciprocal negotiation – the *quid pro quo* of trade deals – they said they would go ahead with the plan as long as countries representing 90% of exports signed the Information Technology Agreement (ITA) by 1 April 1997.

As with PECS, the ITA created a domino effect as smaller nations followed the larger countries in order to boost their attractiveness as a base for foreign direct investment. As of today, 44 countries or entities are signed up and the ITA now covers 97% of global trade in IT goods.

5.3 APEC’s code of conduct as a model

The Asia-Pacific region has proved to be the testing ground for trends in multilateralism, regionalism and bilateralism. Some 13 years ago leaders of the APEC (Asia-Pacific Economic Co-operation) Group declared common aims, known as the Bogor goals after the Indonesian town, of free trade and investment for 2010 for industrialized economies and for 2020 for developing ones. However, 37 RTAs have been signed in Asia in the last seven years alone. Given the diverse nature of these pacts and the spaghetti bowl effect, APEC members have sought to develop guidelines for rights and obligations that would encourage harmonization of RTAs, which in turn would lead to higher standards and promote the achievement of the Bogor vision.
This appears to be more than a talking shop. APEC has produced seven chapters of guidelines on trade in goods, technical barriers to trade, transparency, government procurement, co-operation, dispute settlement and trade facilitation. Although they have not yet had a perceptible impact on RTAs, which continue to follow national templates, it remains an open question as to whether they can support a process of multilateralising regionalism.

Now the focus is on seeking deeper and wider regional trade agreements. ASEAN, the 10-member Association of South-East Asian Nations, is considering an ASEAN+3 agreement to include China, Korea and Japan, and an ASEAN+6 to extend it to Australia, India and New Zealand. APEC is now considering broader integration initiatives including the Free Trade Area for the Asia-Pacific (FTAAP).

### 5.4 Developing nations’ unilateral tariff cutting

All the difficulties of the spaghetti bowl arise directly or indirectly from the existence of preferential tariffs. One tactic for taming the tangle that nations can apply unilaterally is to cut their applied MFN tariffs in tandem with their preferential tariffs. This tactic has been widely employed by ASEAN nations. Indeed, this has kept margins of preferential so low within the ASEAN free trade agreement that the preferential tariffs are rarely used (Baldwin, 2006b). In Latin America, a similar trend has been followed, although not with such enthusiasm. In this region, the nations have autonomously brought down their MFN tariffs in line with their preferential tariffs, but margins of preference are still large enough to generate some preferential trade (Estevadeordal et al., 2006)
Pascal Lamy, Director General of the WTO, closed the conference by stating that it was time to move from words to actions. He said that during the two and half days of the conference we had moved:

‘...from a discussion of the pros and cons of regional trade agreements to a discussion on how do we cope with that and how do we multilateralise these agreements to gain both in coherence and in economic efficiency, taming the tangle, as we said. And this means, rolling up our sleeves and looking into many ‘nitty gritty’ issues as we have to do it in the World Trade Organization.’

He went on to list several areas in which where the WTO could move on, notably ‘variable geometry’ arrangements that would increase coherence in a given region (as the PECS did in Europe) or in given sectors (as the ITA did in 1997). He also mentioned addressing rules of origin, boosting WTO rules on transparencies and surveillance of RTAs, working to straighten out the legal spaghetti bowl, developing guidelines or codes of conduct.

The conference presented a good deal of fresh thinking on regionalism and how the WTO should deal with it. This concluding chapter describes a number of the ideas that seem most promising – limiting the choice to things that could be undertaken in the coming year or two without threatening the Doha Round negotiations. To structure ideas, we divide the proposals for ‘Action Plan’ items into proposals for WTO-level action, RTA-level action and nation-level action both in the short term and the medium term.

6.1 Action Plan elements: WTO-led ideas for the immediate term

6.1.1 Deepen the Transparency Mechanism

Facts on the ground show that the WTO is interested in and willing to do more on regionalism. In December 2006, the WTO General Council established a new ‘Transparency Mechanism for Regional Trade Agreements’. The new obligations aim to get countries to notify the WTO when they are negotiating RTAs and then supplement that notice with details about the pact once it is signed. This speeds
up the notification process by specifying that it should come no later than the
time of ratification and before the application of preferential treatment. The new
mechanism also requires that members of existing RTAs notify RTA changes and
affords members an extra opportunity for consultations on the RTA.\(^2\)

The WTO Action Plan on Regionalism could make two concrete steps on this
point:

- WTO members could reaffirm their commitment to the new mecha-
nism and ensure that the hundred+ RTAs now under negotiation are
actually reported on time.
- WTO members could expand the range of data reported, especially on
services.

The new mechanism requires notification mainly on tariffs and other traditional
border measures. For services, RTA members are supposed to submit general eco-

### Table 6.1 Ideas for the WTO Action Plan on Regionalism

<table>
<thead>
<tr>
<th>Timing: Actor</th>
<th>Immediate-term</th>
<th>Medium-term</th>
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<tr>
<td></td>
<td>2. Establish international RTA advisory centre for developing nations.</td>
<td>2. New ITA-like sector initiatives.</td>
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<td></td>
<td>4. Negotiate a voluntary ‘intermediate’ WTO discipline for rapidly industrializing nations (weaker than Article 24 but stronger than Enabling Clause).</td>
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<tr>
<td><strong>RTAs</strong></td>
<td>1. Negotiate plurilateral convergence of rules of origin.</td>
<td>1. Implement ‘docking arrangements’ in plurilateral agreements.</td>
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<tr>
<td></td>
<td>2. Allow plurilateral cumulation.</td>
<td>2. Switch to value added rules of origin and implement ‘Lloyd tariffs’.</td>
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<td></td>
<td>3. Adopt third-party MFN clauses in service and investment provisions.</td>
<td>3. Adopt ‘either/or’ rules of origin to reduce problems of overlapping rules.</td>
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<td></td>
<td>5. Implement development-friendly cumulation (as in EU–South Africa FTA).</td>
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<tr>
<td><strong>Individual nations</strong></td>
<td>1. Autonomous MFN tariff cutting.</td>
<td>1. Negotiate new RTAs based on regional templates.</td>
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<tr>
<td></td>
<td>2. Autonomously extend GATS+ commitments to all WTO members.</td>
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\(^2\) See the discussion in conference paper Hufbauer and Schott (2007)
on firms from RTA member countries are not included. The papers at the conference made it clear that the ‘spaghetti bowl’ in GATS+ agreements depend upon a much wider range of measures. Gathering more of such information in a WTO ‘information clearinghouse’ would help tame the tangle without directly impinging on members’ freedom to craft RTAs to their wishes.

### 6.1.2 Helping developing countries with regionalism’s challenges

The spaghetti/noodle bowl falls hardest on the heads of poor and small members of the WTO – a point that several conference papers demonstrated in depth.3

Bilateral agreements are difficult to design, negotiate and implement. Even for rich nations with well-resourced administrations, the bureaucratic stresses of negotiating RTAs can be substantial. For poor nations, where human capital is often the binding constraint, the resource demands of negotiating one or more RTAs alongside multilateral and unilateral trade policy-making are potentially much greater. In this sort of situation, developing nations may have difficulty fully evaluating specific policy changes that are being demanded in an RTA, especially by developed nation partners.

The result is likely to be RTAs that are sub-optimal from the perspective of the developing nations. To the extent that they are not as WTO-friendly as they might be, this sort of policy-making constraint makes the spaghetti bowl worse than it needs to be.

Since these problems are faced by developing nations all across the world, a WTO Action Plan on Regionalism should probably include two concrete steps:

- A WTO forum for small nations on RTA experiences.
- WTO advisory services on RTAs for developing nations.

Since these problems are faced by developing nations all across the world, a WTO Action Plan on Regionalism should probably include some form of forum for small nations to share experiences on RTA negotiations. Given the political economy realities of regionalism, such a forum could not hope to reverse the asymmetries in bargaining power, but it might achieve useful scale economies in the more technical aspects of negotiations. It might also help formulate propositions for post-Doha agendas on WTO institutional reform.

The WTO could play a role in alleviating developing countries’ disadvantages in RTA negotiations. This part of the Action Plan could set up an advisory centre to provide subsidised economic, legal and negotiation services and training.4 It could be devoted to South–South RTAs alone, or North–South ones as well.

The new Centre’s role and perhaps some of its practical details could take inspiration from WTO experience on legal issues. The WTO Secretariat has special legal advisers for assisting developing countries in any WTO dispute and for giving


4 This was first proposed in Baldwin (2006a, page 1511).
them legal counsel. Lessons from the Advisory Centre on WTO help could also help guide this part of the Action Plan. There are also many local initiatives with similar goals whose experience would be helpful: e.g., the Regional Economic Policy Support Facility ASEAN–Australia Development Co-operation Programme. To avoid waste, the WTO Action Plan initiatives in this area should link up with the regional banks providing similar support to developing nations (Inter-American Development Bank, Asian Development Bank, etc.).

6.1.3 WTO soft-law disciplines on RTAs

Each RTA in the world was subject to some hard-law WTO discipline, but these have never worked (Pauwelyn, 2007). The WTO Action Plan on Regionalism should therefore abandon the idea of strengthening formal WTO disciplines. There is no chance that the EU or NAFTA members would accept changes that forced them to revise their RTAs. Stronger disciplines would therefore only apply to new RTAs. In practice, this means those of developing countries – an asymmetry that gives such proposals zero political chance of being adopted under the WTO’s consensus rule.

There is hope, however, on the discipline front. While WTO hard-law has never worked for RTAs, soft-law disciplines have. Many RTAs de facto comply or come very close to complying with the main provision of Article XXIV discipline – including South–South RTAs that don’t officially have to comply with this sort of standard (see Figure 3.2).

This hard/soft law contrast holds an important lesson for how the WTO should engage with regionalism. WTO members act in the spirit of the WTO disciplines on regionalism, but they do not want to tie their hands in legally binding procedures. Building on this point, the WTO can engage constructively with regionalism by negotiating more soft-law guidelines on what RTAs should and shouldn’t do. Three concrete steps could be included in the Action Plan.

- Negotiate voluntary best-practice guidelines for RTA disciplines for new RTAs and for modifications of existing RTAs.

These would go beyond existing WTO disciplines in an effort to tame the tangle by promoting transparency and co-operation. At the very least, the best-practices exercise can help governments learn lessons from the experience of other countries.

This thought has already occurred to several sub-groups of WTO members who find themselves affected by increasingly tangled regionalism. The best known effort is the APEC Guidelines and sets of Best Practices on RTAs. There are other initiatives such as those of ASEAN, and the new Pacific-11 forum (El Foro sobre la Iniciativa de la Cuenca del Pacífico Latinoamericano, or ‘Forum on the Initiative of the Latin American Pacific Rim’). Several of the regional development banks also have more technocratic projects in this area. These projects hold important lessons for the Action Plan.

5 This idea is fleshed out in one of the conference papers, Rollo (1997).
The APEC initiative has yielded ‘model chapters’ on trade in goods, technical barriers to trade, transparency, government procurement, co-operation, dispute settlement, trade facilitation, rules of origin, sanitary and phytosanitary standards, and e-commerce. These model chapters tend to follow chapters of the US–Chile FTA and the US—Australia FTA (Hufbauer and Schott, 2007). This is perhaps why the APEC guidelines have had little perceptible impact; APEC members have continued to follow national templates (Hufbauer and Schott 2007). The lesson seems to be that what constitutes a ‘model chapter’ for the United States seems to be sub-optimal for ASEANs. This suggests:

- Negotiate a hierarchy of best-practice guidelines for North-North, North–South and South–South RTAs.

To the extent that developing nations are looking for appropriate templates of their own, WTO guidelines – especially guidelines that were explicitly meant to be appropriate to South–South RTAs – might have a bigger impact than the APEC guidelines that were based largely on the US model with its advanced industrial base and elaborate legal traditions.

More ambitiously, the Action Plan could:

- Negotiate a level of RTA discipline that was in between that of Article XXIV and that Enabling Clause. Nations would be free to self-declare themselves as subject to this anchorage-building discipline.

The last two decades have witnessed a volte face by rapidly industrializing developing nations. Trade liberalization – which used to be viewed as a political ‘sacrifice’ – is now readily and rapidly undertaken autonomously. Slashing tariffs and opening certain service sectors is seen as a way of enhancing competitiveness, fostering industrialization and boosting growth.

Autonomous reforms, however, only work if domestic and foreign investors believe that they will last long enough to provide a reasonable rate of return on the adoption of new technology, training of new workers and building of new factories. Many developing nations have sought ‘anchorage’ or credibility by committing to such reforms in RTAs, especially with powerful trade partners.

Why can’t the WTO provide this sort of commitment device? Anchorage is a raison-d’être for many WTO disciplines. The Action Plan could explore interest in establishing an anchorage-building level of discipline that would not require nations to declare themselves as developed nations, but we provide more specific disciplines than the Enabling Clause’s anything-goes approach.

6.2 Action Plan elements: RTA-led ideas for the immediate term

A second set of ideas could be implemented within RTAs with minimal WTO coordination.
6.2.1 Plurilateralise rules of origin and cumulation

A good deal of the spaghetti bowl’s complexity arises from the highly technical provisions of RTAs called ‘rules of origin’ (see Chapter 2). Overlapping and intersecting rules of origin pose problems for businesses in setting up competitive international supply networks and thus for the nations trying to attract such industry. It is not surprising that various groups of nations around the world have made or discussed efforts to harmonize rules of origin, with the EU’s PECS being the most extreme example to date. What is surprising is that the WTO has not been involved in this issue.

The WTO Action Plan could:

- Encourage regions to tame the tangle regionally, i.e. to harmonize their rules of origin on a regional basis.

A good example can be found in the Western Hemisphere (Figure 6.1). Currently, the region is marked by dozens of different sets of rules of origin. Yet, the various sets of rules are not that different. Detailed analysis presented to the conference shows that there are three broad families (Estevadeordal et al., 2007a). The oldest family is the Latin American Integration Association rules, which are not very restrictive. A modified form has been embraced by the economically large Mercosur trade bloc. At the other extreme of the complexity/restrictiveness scale are the NAFTA rules of origin and their application to many bilaterals signed by the NAFTA.

The Action Plan could encourage the harmonization of the dozens of rules of origin into just three sets. Presumably the WTO’s participation in this would guide the harmonization towards an outcome that was as multilateral-friendly as possible, or at least it would help eliminate avoidable encroachment to the third-party interests. Analysis presented to the conference (Kawai and Wignaraja, 2007, Table 9) suggests that a similar regional spaghetti-to-lasagna conversion might be possible in Asia.

The WTO Action Plan could also:

- Encourage extended cumulation within regional sets of rules of origin.

Evidence presented to the conference showed that rules of origin are especially restrictive – and especially trade-dampening – when they only allow products that are made inside the specific RTA to count as far as establishing origin is concerned. Broadening these so-called rules of cumulation can reduce the restrictiveness of regionalism. In particular, it tends to remove rules-of-origin-related barriers to locating industry in small RTA members. Of course, the trade creating aspects of such initiatives may well imply additional trade diversion for third nations, but such spillovers are exactly why it makes sense to involve the WTO. Discrimination will always be a feature of discriminatory liberalization, but regional harmonization of rules of origin and extended cumulation are things that are happening or are likely to happen with or without the WTO’s involvement. The WTO Action Plan on Regionalism would be a way to engage the problem in a manner that makes the final outcomes as WTO-friendly as possible.
6.2.2 ‘Anti-spaghetti’ clauses in RTAs

Research presented to the conference revealed that many existing RTAs contain what might be called ‘anti-spaghetti’ clauses. These agreements anticipate that parties to the RTA may sign RTAs with third parties and so set in place automatic adjustments to the original RTA – adjustments that reduce the extent to which any new RTAs will complicate the trade environment for businesses.

The classic examples are ‘third-party MFN clauses’ observed in some RTAs on trade in services (also called ‘non-party MFN’). These say, in essence: ‘whatever preference either of us gives to someone else in the future will be automatically extended to each other’. Instead of each new RTA adding a new spaghetti strand, the third-party MFN makes it into an ever-expanding lasagna plate. Currently RTAs include such clauses for only certain preferences, mainly on services and government procurement. However, more extensive use could help tame the tangle.

The WTO Action Plan could:

- Encourage the adoption of third-party MFN clauses in RTAs.
6.2.3 Development friendly rules of origin and cumulation

Rules of origin act as protectionist devices, but this is not their official justification. The legitimate reason for rules of origin is the need to avoid tariff cheats – to prevent firms in a third nation from exploiting a bilateral FTA by transhipping their good via one of the FTA partners.

Following this line of logic suggests an innovative way of multilateralising regionalism in a way that would be particularly development friendly. The idea, mooted in the conference paper by Gasiorek et al. (2007), is that rules of origin should be suspended on imports of all goods where the developing nation maintains a higher MFN tariff. For example, if Kenya has a higher MFN tariff on, say, toaster ovens than does the EU, then unscrupulous firms in third nations would never tranship to the EU via Kenya to avoid the EU’s MFN tariff. Logically, if there is no incentive for trade deflection then there is no need to apply rules of origin.

Since rich nations have generally cut their MFN tariffs to lower levels than those applied by developing nations, especially those in Africa, this mechanism would apply quite widely. Hence it could be a big step towards making rules of origin more ‘development friendly’.

The WTO Action Plan could:

- Encourage developed nations to suspend or greatly simplify rules of origin applied to imports from developing nations that have higher MFN applied rates on the concerned products.

Development-friendly cumulation

Rules of cumulation can also be anti-development. An important part of industrial competitiveness in today’s world is an efficient supply chain. For small nations, especially small developing nations, this means importing many of the parts and components used in their manufactured exports. Bilateral cumulation rules hinder efficient sourcing of parts and components and thus discourage industrialization in small, developing nations.

The point is best seen by contrasting examples of the EU’s bilateral RTAs. The EU grants preferential treatment to exports from a broad set of developing nations called the Africa–Caribbean–Pacific (ACP) nations. It also has a free trade agreement with South Africa. To encourage South African firms to outsource some industrial activity to ACP nations, the EU–South Africa RTA allows both parties to count all imports from ACP nations as originating. As a counter-example, the EU has RTAs with Chile and Mexico, and Chile and Mexico have an RTA between them, but Mexico cannot count Chilean goods as originating when exporting to the EU. This tends to discourage production sharing between Chile and Mexico, and thus industrialization in either.

The key concept here is the size of the cumulation zone. All RTAs allow bilateral cumulation, but the WTO Action Plan could:

- Encourage nations with many bilateral RTAs to expand the cumulation zone to all or at least regional groupings of their bilateral RTA partners.

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6 For further examples and analysis see Estevadeordal et al. (2007a), Section 3.
6.3 Action Plan elements: unilateral ideas for the immediate term

The spaghetti bowl complexity of the world trade system is a problem for all nations, but especially small developing nations that are pursuing export-oriented development strategies. Some of these nations have unilaterally implemented anti-spaghetti policies. The WTO Action Plan could gather information on such strategies and share it among all members in order to foster the adoption of best-practice policies worldwide.

The most obvious and effective of these ‘unilateral anti-spaghetti policies’ is the autonomous cutting of applied MFN tariff rates. This practice is very widespread in East Asia, where it is common for nations to reduce the applied MFN tariff rates as the phase in preferential tariff cuts under agreements such as the ASEAN free-trade agreement. East Asian nations tend to apply this strategy to limited sectors such as mechanical and electrical machinery, but since these are sectors with high volumes of intra-East Asia trade the strategy goes a very long way to eliminating the spaghetti/noodle bowl problem in the region.

The WTO Action Plan could:

- Encourage nations to autonomously lower their applied MFN tariff rates on goods that dominate intra-regional trade.

6.3.1 Unilateral extension of service preferences

There is an increasing awareness in developing nations that certain types of services – infrastructure and transport services – are key elements in fostering manufacturing exports. They have, as a consequence, embraced autonomous reforms in these sectors and frequently made GATS+ commitments in their RTAs – especially those with developed nations such as the United States, EU and Japan. Some of these nations have unilaterally extended the preferences to service providers from third nations. The reasoning here is that multilateralising the GATS+ commitment fosters competition. For example, it increases the degree of competition among US and EU banks when it comes to offering, say, export financing to the developing nation’s firms.

Following this, the WTO Action Plan could:

- Encourage nations to autonomously multilateralise the GATS+ commitments in their RTAs.

6.4 Action Plan elements: WTO-led ideas for the medium term

We now turn to ideas that might take longer to implement, again working through the ideas grouped whether the action would be lead by the WTO, the RTAs, or individual nations.

The first set concerns a global effect to smooth out the complexity created by overlapping and conflicting rules of origin.
6.4.1 Taming the rules of origin tangle

The authors of one conference paper propose a bold strategy for a global initiative on rules of origin – the so-called ‘cap and converge’ initiative.

Countries around the world continue to negotiate RTAs bilaterally or in small groups. The result is many small, overlapping RTAs that channel trade into narrow paths. These paths prevent producers from sourcing inputs efficiently. As discussed above, nations have taken matters into their own hands and tamed the tangled by harmonizing rules of origin and cumulation on a regional basis. The resulting ‘taming of the tangle’ was driven by regional hegemons without explicit consideration of the implications for the WTO-centric trade system. The Pan-European Cumulation System – PECS – is the ultimate example of convergence without capping. In practice, PECS did little to alter rules of origin since the EU had already imposed quite similar rules on all its bilateral trade partners, but there was nothing to prevent the EU from harmonizing, for example, at the most restrictive rules in the whole area.

Since these regional tangle-taming exercises have effects on all WTO members, there is a clear argument for introducing WTO discipline. Estevadeordal et al. (2007a) propose setting up WTO-led ‘cap and converge’ negotiations. By way of background, it is necessary to note that the WTO has made substantial progress on harmonization of non-preferential rules of origin. While these talks have lasted many years, they are, apart from a number of contentious sectors, largely complete.

The ‘cap’ part of their proposal would have RTA members commit to limit the overall restrictiveness of their rules of origin. Specifically, the negotiations would establish a measure of each RTAs overall ‘excess’ restrictiveness by comparing RTA’s rules to a global standard – the non-preferential rules of origin. The commitment would be that any PECS-like regional scheme would have to respect a ‘cap’ on excess restrictiveness; the harmonized rules should not on average be more restrictive than the rules of the RTAs being harmonized. This is analogous to the Article XXIV restriction on a customs union’s external tariff, which caps that common external tariff at the average of the tariffs previously charged by the customs union’s members.

6.4.2 New sectoral free-trade agreements

The ITA multilateralised regionalism on a global scale but just for one sector – Information Technology goods. Are there other sectors where this could happen? One element of the WTO Action Plan on Regionalism could be:

- Consider ITA-like initiatives in new sectors.

There are no obvious candidates, but transportation equipment has recently seen unilateral tariff cutting in many nations and an increasingly internationalised supply chain. Pro-green technology capital goods might be another example.

A bolder initiative that open the door to more inter-sectoral bargains would be:

- A global free trade agreement for all manufactured goods, or at least parts and components.
6.5 Action Plan elements: RTA-led ideas for the medium term

A strong theme in the conference was the impact of production unbundling on the political economy forces underpinning today's trade protection. That is, as production networks become more international – which usually means more regional – businesses increase the pressures on their governments to tame the tangle, at least regionally. The conference threw up two new ideas for RTA-led elements that could, in the medium term, make it easier to tame the tangle at the regional level.

6.5.1 ‘Docking arrangements’: encouraging open-ended accession clauses

One way that this can happen is to enlarge existing plurilateral agreements: for example, expanding the ASEAN+1 concept to ASEAN+3, ASEAN+6, etc. Such moves are facilitated by ‘docking arrangements’. The earliest post-war RTAs – the EEC (now the EU) and EFTA – had anticipated enlargement possibilities. Their founding documents included rules on accession of new members, and less ambitious ‘association agreements’ with non-members. Although these provisions were rarely used (in EFTA’s case), or used only after decades (in the EU’s case), the fact that they were agreed at the start made it easier to tame the European spaghetti bowl. This example illustrates the fact that forward-looking provisions included in RTAs may make it easier to multilateralise regionalism in the medium term.

An action Plan on Regionalism could include:

- Encouraging RTAs to adopt docking arrangements that would make it easier to expand RTA membership or merge RTAs in the future.

6.5.2 Switching to value-added rules of origin and ‘Lloyd tariffs’

The authors of one conference paper (Gasiorek et al., 2007) proposed a highly innovative way of taming the tangle. Since it would involve fairly substantial reforms of most RTAs it can be considered a medium-term proposition.

The plan by Gasiorek et al. involves three stages. The first would have RTAs switching to value-added rules in rules of origin (i.e. rules where origin was determined by the percentage of value added inside the RTA). This might not be too difficult for nations that already impose value-added taxes (VAT) – their firms already keep track of their value added – but it might prove extremely costly for non-VAT nations like the United States.

The second step would be to introduce ‘full’ cumulation: that is to say, any value that was added anywhere in the cumulation zone would count for every nation’s rules of origin. The final step would be to allow for ‘value-added tariffs’, as proposed by the Australian economist Peter Lloyd in a series of papers (Lloyd, 1993, 1997, 2001).

7 Other RTAs have followed the practice. For example, when NAFTA was under negotiation, the parties hoped that it would be the first step on the road to Hemisphere-wide free trade. NAFTA therefore includes an ‘accession clause’ (article 2205). Some of the RTAs in the Asia-Pacific region have also included accession clauses, but none have been used (Hufbauer and Schott, 2007).
What is a value-added tariff? This is a rule that sets the tariff charged in proportion to the amount of non-originating inputs. For example, suppose the EU signs a PTA with country B, where country B used intermediates from outside PECS and these non-originating intermediates amounted to 60% of the final price of the good. If the EU MFN tariff on the final good were 10%, the good would be charged a tariff of 6%, i.e. 60% of the 10% tariff. This rule could easily be combined with a minimum value-added rule, which confers originating status. Failure to meet the minimum originating requirement would no longer result in such a binary penalty system, thus giving producers greater incentive to buy their intermediates from the cheapest suppliers.

This is a clever scheme with many interesting features. First, it works even when countries have different MFN tariff rates. And it allows nations the freedom to impose their own idiosyncratic value-added rules of origin for granting duty free treatment. It is entirely possible for countries B and C to apply the same minimum value content rule in their bilateral FTA. Such rules, however, would not affect the trade between the EU and B and C. Ultimately, whether a tariff is levied on export to the EU will depend on the relevant proportions of value added from the different suppliers. The proposal would be transparent, flexible and negotiable. It would reduce the distortionary impact of ROOs as well as deal with the multilateral problems arising from the increasingly overlapping nature of regional trade agreements. It would, in short, make regionalism more WTO-friendly.

The Action Plan on Regionalism could include:

- A initiative to encouraging groups of RTAs to switch to pure value-added rules of origin, adopt ‘Lloyd tariffs’ and allow full cumulation.

6.5.3 Switching to an ‘either/or approach’ to rules of origin

Firms located in the world’s trade hubs – the United States, EU and Japan – rarely face the problem of conflicting rules of origin. It is firms located in the ‘spokes’ that face the worse problems of ensuring that their exports can meet multiple rules of origin. Research presented in Kawai and Wiganaraja (2007) shows that multiple rules of origin in East Asia complicates production decisions and leads to increased costs, either through dealing with complicated administrative procedures or changes to productions processes.

The ultimate solution is to harmonize rules of origin regionally and globally, as suggested above. But there is something that ‘spoke’ economies can do among themselves to reduce the problem – adopt an either/or approach to rules of origin among the spokes. This idea has been implemented by Central American nations who face NAFTA-like and CACM rules of origin depending upon the export destination. Under what is called the ‘multilateralism principle’, Central American producers may choose between the CACM and CAFTA regimes when exporting to the other markets on the Central American isthmus; a third set of rules of origin will exist as an option for trade between CACM countries and the Dominican Republic. For example, one firm may have the United States as its main export market, so it designs its supply chain to meet CAFTA rules of origin. Allowing the either/or principle would then make it easier for this company to sell to other CACM nations. Australia took a related but more radical move after it negotiated
an FTA with the United States. Since the United States insisted on NAFTA-like rules and these conflicted with Australia’s rules of origin for trade with New Zealand, Australian exporters would have had to deal with two sets of rules of origin. To avoid this, Australia renegotiated its RTA with New Zealand to include NAFTA-like rules of origin.

The value of adopting such an either/or approach to multiple rules of origin depends on coordinated adoption by many affected nations, so this is the sort of initiative that may take some time for RTAs to implement. To sum up, the Action Plan on Regionalism could include:

- An initiative to foster the either/or principle for trade among nations that are involved in multiple rules of origin schemes (the case for many developing nations).

6.6 Action Plan elements: Unilateral ideas for the medium term

The final category of ideas concerns things that individual WTO members could do on their own in the medium term to reduce the tangle. The only element in this box of the table is the use of regional templates for future RTAs.

The most rapid growth in RTAs is coming from the South–South category. Many nations – following the lead of Mexico, Singapore and Chile – have decided that the best way to avoid being a ‘spoke’ in a hub-and-spoke trade arrangement is to sign free trade agreements with almost all trade partners. This is quite similar in its effect to unilateral free trade, but it provides the country’s exporters with as much preferential access as possible.

This trend could multiply the number of RTAs in the world by many times over. For example, there are already more than 2,500 Bilateral Investment Treaties signed, while there are fewer than 500 RTAs signed or under negotiation today.

To make this proliferation as WTO-friendly as possible, it would be useful if the new RTAs followed a limited set of templates. This would also make it easier to eventually multilateralise the RTAs in the future. This would reduce strain on negotiating resources in these developing nations while also reducing the red-tape burden facing their firms. While developing nations are unlikely to have a choice when it comes to their RTAs with major trading powers, they have much more leeway when it comes to South–South agreements, especially those covering trade with partners that are relatively unimportant in terms of commercial transactions.

Thus the Action Plan on Regionalism could include:

- An initiative to encourage nations to use regional templates for new RTAs.
At the heart of the debate over regionalism and multilateralism lies a paradox. Members of the WTO are busy in both striking bilateral agreements and seeking to negotiate a multilateral trade deal. As Ugandan Ambassador Arsene Balihuta puts it: ‘Some WTO members talk about multilateralisation and then go back and cook spaghetti outside Geneva.’ This contradiction shows that the issue is not one of WTO versus something else. It is in-built into each and every WTO member. As Pascal Lamy, the director-general of the WTO, said in his closing address to the conference, members should ‘bring the debate home’. In other words, this debate will achieve a higher importance and greater momentum if WTO delegates, academics, NGOs, businesses and the media highlight the issues in the domestic political and economic context.

If regionalism has not been a major problem to date it is because the multilateral system has remained solid. The WTO membership has adapted multilateralism to meet the realities presented on the ground. But no one should be under any illusion that regionalism will fade – it is here to stay. Regionalism poses serious challenges to the world trading system and the WTO needs to adapt. Its membership has a choice between remaining a bystander and engaging creatively and constructively – innocence versus engagement is the choice. This book attempts to see how regional trade agreements might be tamed through a multilaterally based approach to redefining trade co-operation.

Everything discussed in the book would still hold true if the Doha Round finished tomorrow. Key figures in world trade – negotiators, ministers, the WTO secretariat, academics, civil society and the media – need to look beyond the Doha Round. Doha or not, countries will continue to strike bilateral and regional deals. Doha will do little or nothing the ‘tame the tangle’. What is needed is a WTO Action Plan on Regionalism.
References


Appendix 1
List of papers presented at the Conference

**Multilateralising Regionalism: Relaxing Rules of Origin**
Michael Gasiorek, CARIS, University of Sussex
Patricia Augier, CEFI, Aix-en-Provence
Charles Lai-Tong, CEFI, Aix-en-Provence

**The Information Technology Agreement: Sui Generis or Model Stepping Stone?**
Catherine L. Mann (Brandeis University)
Xuepeng Liu (Kennesaw State University)

**Fitting Asia-Pacific Agreements into the WTO System**
Gary Hufbauer (Peterson Institute for International Economics)
Jeffrey Schott (Peterson Institute for International Economics)

**Multilateralising Regionalism: Case Study of African Regionalism**
Peter Draper (South African Institute of International Affairs)
Mzukisi Qobo (South African Institute of International Affairs)

**Multilateralising RTAs in the Americas**
Antoni Estevadeordal (Inter-American Development Bank)
Matthew Shearer (Inter-American Development Bank)
Kati Suominen (Inter-American Development Bank)

**Services Provisions in Regional Trade Agreements: Stumbling or Building Blocks for Multilateral Liberalization?**
Carsten Fink (World Bank)
Marion Jansen (WTO Secretariat)

**Harmonizing Preferential Rules of Origin Regimes around the World**
Antoni Estevadeordal (Inter-American Development Bank)
Jeremy Harris (Inter-American Development Bank)
Kati Suominen (Inter-American Development Bank)
Beyond Tariffs: Multilaterising Deeper RTA Commitments
Richard Baldwin (Graduate Institute of International Studies and CEPR)
Simon Evenett (University of St Gallen)
Patrick Low (WTO Secretariat)

Multilateralising Regional Trade Arrangements in Asia
Masahiro Kawai (Asian Development Bank Institute)
Ganesh Wignaraja (Asian Development Bank)

Legal Avenues to ‘Multilateralising Regionalism’: Beyond Article XXIV
Joost Pauwelyn (Graduate Institute of International Studies)

Multilateralising ‘Deep Regional Integration’: A Developing Country Perspective
Bernard Hoekman (World Bank)
L. Alan Winters (University of Sussex)

The Challenge of Negotiating PTAs for Developing Countries: What Could the WTO do to Help?
Jim Rollo (University of Sussex)
Appendix 2
Short Biographies of Conference Authors

Roderik Abbot is one of the most experienced trade officials in the world. He has been involved in almost every aspect of multilateral trade policy, with particular emphasis on negotiations and trade disputes. He was the deputy Director General in DG Trade at the European Commission, Ambassador and Head of the EU Delegation in Geneva from 1996 to 2000. He participated in the Tokyo Ministerial that launched the Tokyo Round in 1973 and during the negotiations (1975–9) was attached to the EC delegation in Geneva.

Richard Baldwin is Professor of International Economics at the Graduate Institute of International Studies in Geneva, Switzerland since 1991 and Policy Director of the Centre for Economic Policy Research. He was Co-Managing Editor of the journal Economic Policy from 2000 to 2005, and Programme Director of CEPR's International Trade programme from 1991 to 2001. Before that he was Senior Staff Economist for the President's Council of Economic Advisors in the Bush Administration (1990–1). He is the author of numerous books and articles; his research interests include international trade, regionalism and European integration.

Claude Barfield is a Resident Scholar at the American Enterprise Institute. He is a former consultant to the office of the United States Trade Representative. Current research interests include international trade policy (including trade policy in China and East Asia), the World Trade Organization (WTO), intellectual property, science and technology policy. His many books include Free Trade, Sovereignty, Democracy: The Future of the World Trade Organization, in which he identifies challenges to the WTO and to the future of trade liberalization.

Jagdish Bhagwati is University Professor at Columbia University and Senior Fellow in International Economics at the Council on Foreign Relations. He has been Economic Policy Adviser to Arthur Dunkel, Director General of GATT (1991–3), Special Adviser to the UN on Globalisation, and External Adviser to the WTO. He has served on the Expert Group appointed by the Director General of the WTO on the Future of the WTO and the Advisory Committee to Secretary General Kofi Annan on the NEPAD process in Africa, and was also a member of the Eminent Persons Group under the chairmanship of President Fernando Henrique Cardoso on the future of UNCTAD. Five volumes of his scientific writings and two of his public policy essays have been published by MIT Press. He is the author of over 50 books.
Philippe Burrin is Professor of History and International Politics at the Graduate Institute of International Studies and has been a member of the teaching staff since 1988. His research interests included fascism and Nazism, the military occupations of the 19th and 20th centuries, and the World Wars. His books include *Hitler and the Jews and France under the Germans*.

Olivier Cadot is Professor of Economics at the University of Lausanne and one of the world's leading experts in trade issues. He recently edited a Cambridge University book on rules of origin.

Inkyo Cheong is Professor of Economics at Inha University, Incheon, Korea and Director of the university's Centre on FTA Studies. He has been actively involved in Korea's FTA policy formation, both as a member of Korea's negotiation team, and in official studies for economic feasibilities in Korea's major FTAs such as a Korea–Japan FTA, a Korea–ASEAN FTA, a Korea–US FTA, etc. He was Research Fellow for eight years at the Korean Institute for International Economic Policy (KIEP), Seoul, Korea. He has published many articles and books on FTAs, APEC, and East Asian economic co-operation.

Peter Draper is Research Fellow and Head of the Development Through Trade programme at the South African Institute of International Affairs. His areas of expertise are trade and investment policy, and trade negotiations, with particular reference to the World Trade Organization, the Southern African region and South Africa's bilateral ties with key trading partners. He has published widely on these matters and is an established trade policy commentator. Previous positions include head of the Department of Economics and Economic History at the University of Durban-Westville; the Asia and Mercosur desks at the Department of Trade and Industry; and the Economic Analysis and Research department in the DTI's International Trade and Economic Development Division.

Cédric Dupont is Professor of Political Science at the Graduate Institute of International Studies since 1995. He is Associate Editor of Business and Politics. His research interests concentrate on international political economy, regional integration, game theory and international relations theory and Swiss foreign economic policy. His recently published works include: *Goods, Games, and Institutions and Catching the EC Train: Austria and Switzerland in Comparative Perspective*. Previous positions include Visiting Assistant Professor at the University of California at Berkeley (1–7).

Simon J. Evenett is Professor of International Trade and Economic Development at the University of St. Gallen, Switzerland. In addition to his research into the determinants of international commercial flows, Professor Evenett is particularly interested in the relationships between international trade policy, national competition law and policy, and economic development. He obtained his Ph.D. in Economics from Yale University and a B.A.(Hons) from the University of Cambridge. Professor Evenett has been a (non-resident) Senior Fellow of the Economic Studies Programme in the Brookings Institution,
Washington, DC. Previously, he has taught at Oxford University and Rutgers University as well as serving twice as a World Bank official.

Antoni Estevadeordal is Principal Advisor of the Integration and Regional Programs Department of the Inter-American Development Bank (IDB, Washington, DC). He has expertise in trade, economic integration and co-operation policies in Latin America and the Caribbean, Asia and Europe. He coordinates IDB’s technical assistance and the research programme on trade and integration issues as well as several joint IDB initiatives with the World Trade Organization (WTO), Asian Development Bank (ADB), European Union (EU), Organization for Economic Co-operation and Development (OECD) and UN agencies. Before joining the IDB he taught at the University of Barcelona and Harvard University. He has contributed to several books and has published widely in major journals.

Carsten Fink is a Senior Economist in the Trade Team of the World Bank Institute, working out of the World Bank Office in Geneva, Switzerland. His current work program focuses on enhancing the capacity of developing countries to put in place sound national trade policies and to effectively participate in international trade negotiations. Previously, he was an Economist in the Trade Team of the World Bank’s Development Research Group. He also has worked in Bank operations in the area of telecommunications policy reform. Dr Fink’s research work has focused on the law and economics of trade in services and the effects of intellectual property protection in the developing world. His research has been published in academic journals and books.

Joe Francois is professor of economics at the Johannes Kepler Universität Linz. He is also a fellow of the Centre for Economic Policy Research (London) and the Tinbergen Institute (Amsterdam/Rotterdam), director of the European Trade Study Group, and a board member of the Global Trade Analysis Project. He serves on the editorial board of the German Economic Review, the Review of Development Economics, and the World Trade Review. He is also a member of the policy advisory group TradePartnership. Current research interests include: trade in services; open economy competition policy and the regulation of firm behaviour; and financial market integration. Previous positions include professor of economics at Erasmus University Rotterdam, research economist for the World Trade Organization, and chief of research and acting director of economics for the US International Trade Commission.

Michael Gasiorek is a Senior Lecturer in Economics at the University of Sussex at Brighton in the UK. His research interests encompass both empirical and theoretical research. His empirical research has focussed on the impact of trade liberalization within the EU, between the EU and third countries, and between regions within countries. His current applied research is focused on the process of trade liberalization between the EU and the Southern Mediterranean, as well as intra-Southern Mediterranean trade liberalization, with a particular focus on rules of origin. His theoretical research interests lie principally in the implications of trade liberalization on the welfare consequences of the localisation and agglomeration of production. Current work in this area involves looking at these issues in the
presence of multinationals. Michael Gasiorek has published widely in both books and journals. He has produced a number of reports for the European Commission and the UK government. He is also an Associate Professor at GREQAM.

Jean-Daniel Gerber is Secretary of State for Switzerland. He is Director of SECO and has been Director of the Foreign Economic Affairs Directorate since April 2004. [Anil: Need to check this?] Previously he was Director of the Federal Office for Refugees (from 1998). From 1993 to 1997 he was Executive Director and Dean (since 1997) of the Board of the World Bank Group. He entered government service in 1973.

Ambassador Eirik Glenne is the permanent representative of Norway to the WTO and EFTA in Geneva. As part of his duties in the WTO, he served as the chair of the General Council and chair of the working group on the accession of Viet Nam to the WTO. Previous appointments include Ambassador to Sweden (1999–2003), Director General Ministry of Foreign Affairs, and Ambassador to Malaysia (1989–93).

Bernard Hoekman is Research Manager of the International Trade group in the Development Research Group of the World Bank. Before taking up his present position he managed the international trade and global integration activities of the World Bank Institute’s Economic Policy division. He has worked extensively in countries in the Middle East and North Africa. Between 1988 and 1993 he was on the staff of the GATT Secretariat in Geneva. His current research focuses on the functioning of the multilateral trading system (WTO), international transactions in services, the relationship between competition and trade policy, the economics of regional economic integration, and channels of international technology diffusion.

Gary Clyde Hufbauer is Reginald Jones Senior Fellow at the Peterson Institute for International Economics (since 1992). He was formerly the Marcus Wallenberg Professor of International Finance Diplomacy at Georgetown University (1985–92), senior fellow at the Institute (1981–5), deputy director of the International Law Institute at Georgetown University (1979–81); deputy assistant secretary for international trade and investment policy of the US Treasury (1977–9); and director of the international tax staff at the Treasury (1974–6). He has written extensively on international trade, investment, and tax issues.

Marion Jansen is a Counsellor in the Economic Research and Statistics Division of the World Trade Organization based in Geneva and is a fellow of the Centre for Economic Policy Research in London. Before joining the World Trade Organization she was active in government consulting and provided policy advice on industrial and social policy issues to the British Government and the European Commission. Her publications in the field of international economics cover the areas of development, government regulation, international finance, services liberalization and labour markets.

Alejandro Jara is deputy director of the World Trade Organization (since 2005). In June 2000 he was appointed as Ambassador, Permanent Representative of Chile
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**Vera Thorstensen** is Chair of the WTO’s negotiations on non-preferential rules of origin and Head of the Brazilian delegation to the WTO.

**Michael Treschow** is Chairman of the Board of Ericsson since March 2002. Previously he was President and Chief Executive Officer of the Electrolux Group, a position to which he was appointed in 1997. As of May 2004, Mr Treschow is Chairman of the Board of AB Electrolux. Before joining Electrolux, Michael Treschow was President and Chief Executive Officer of Atlas Copco AB. He spent three years in the United States as Area Manager out of his 22 years with Atlas Copco. Mr Treschow also spent one year in France as responsible for the set-up of
Bahco Ventilation’s operation in France. For his excellent efforts in Swedish trade issues, Mr Treschow received in June 2000 the King’s Medal of the Twelfth Dimension with the Ribbon of the Order of the Seraphims from His Majesty the King of Sweden. In May 2000, Mr Treschow was awarded the Spanish order ‘Insigna de Gran Cruz de la Orden del Mérito Civil’ for strengthening the trade relations between Sweden and Spain. In September 2002, Mr Treschow was awarded the French order ‘Grade de Chevalier dans l’Ordre National de la Légion d’Honneur’ for strengthening the trade relations between Sweden and France. In 2004 he was bestowed the title of Commandor of the Order of the Crown for strengthening the trade relations between Sweden and Belgium.

Alan Winters is Professor of Economics at the University of Sussex. He is a Research Fellow of the Centre for Economic Policy Research (CEPR, London), and a Senior Visiting Fellow of the Centre for Economic Performance, at the London School of Economics. He has previously worked in the Universities of Cambridge, Bristol, Wales and Birmingham and as Research Manager for International Trade in the World Bank. In addition he has advised, inter alia, the World Bank, OECD, the European Commission, the European Parliament, UNCTAD, the WTO, DFID and the Inter-American Development Bank. Alan Winters specialises in empirical and policy analysis of international trade. His one hundred and seventy published books and articles cover areas such as regional trading arrangements, non-tariff barriers, European Integration, East-West trade, global warming, agricultural protection, trade and poverty, and the world trading system. He is currently working on trade and the location of industry in the UK and Europe (ESRC), trade liberalization and poverty (DFID), the brain drain (DFID), temporary migration and the world trading system.
Appendix 3
Abbreviations

ACORTA  Advisory Committee on Regional Trade Agreements
ACWL  Advisory Committee on WTO Law
APEC  Asia-Pacific Economic Co-operation
ASEAN  Association of South East Asian Nations
BTA  Bilateral trade agreement
CACM  Central American Common Market
CAFTA  Central American Free Trade Agreement
CEFTA  Central European Free Trade Agreement
DSU  Dispute Settlement Understanding
EFTA  European Free Trade Association
FDI  Foreign direct investment
FTA  Free trade agreement
FTAA  Free Trade Area of the Americas
FTAAP  Free Trade Agreement of Asia-Pacific
GATS  General Agreement on Trade in Services
GATT  General Agreement on Tariffs and Trade
IMF  International Monetary Fund
IT  Information Technology
ITA  Information Technology Agreement
MFN  Most favoured nation
MTA  Multilateral trade agreement
NAFTA  North American Free Trade Agreement
PECS  Pan-European Cumulation System
PRSP  Poverty Reduction Strategy Paper
PTA  Preferential trade arrangement
RTA  Regional trade agreement
ROO  Rules of origin
TBT  Technical barriers to trade
TRIM  Trade-related investment measures
TRIPS  Trade-related intellectual property
WTO  World Trade Organization