The proliferation of regional trade agreements (RTAs) over the past two decades has highlighted the need to look closely at the relationships between regional and WTO rules or disciplines. A major obstacle to advancing understanding of RTAs is the absence of detailed information about their contents. This has limited the debate between those who view RTAs as discriminatory instruments hostage to protectionist interests and those who see them as conducive to multilateral trade opening.

This book provides detailed analysis of RTA rules in six key areas – market access, technical barriers to trade, contingent protection, investment, services and competition policy – across dozens of the main RTAs in the world. The analysis helps to provide new insights into the interplay between regional and multilateral trade rules, advances understanding of the economic effects of RTAs and contributes to the discussion on how to deal with the burgeoning number of RTAs.

Antoni Estevadeordal is Manager at the Integration and Trade Sector of the Inter-American Development Bank in Washington.

Kati Suominen is Trade Economist at the Integration and Trade Sector of the Inter-American Development Bank in Washington.

Robert Teh is Counsellor in the Economic Research and Statistics Division of the World Trade Organization.
REGIONAL RULES IN THE GLOBAL TRADING SYSTEM

Edited by

ANTONI ESTEVADEORDAL,
KATI SUOMINEN AND
ROBERT TEH
From Kati Suominen, to Gen. Fred F. Woerner, Ret.

and

From Robert Teh, to Imelda de Leon
CONTENTS

List of figures page viii
List of tables x
List of Contributors xii
Foreword xiii
Acknowledgements xvi
List of abbreviations xvii

1 Introduction 1
   ANTONI ESTEVADEORDAL, KATI SUOMINEN
   AND ROBERT TEH

2 Big-Think Regionalism: a critical survey 17
   RICHARD BALDWIN

3 Market access provisions in regional trade agreements 96
   ANTONI ESTEVADEORDAL, MATTHEW SHEARER
   AND KATI SUOMINEN

4 Trade remedy provisions in regional trade agreements 166
   ROBERT TEH, THOMAS J. PRUSA AND
   MICSHELE BUDETTA

5 A mapping of regional rules on technical barriers to trade 250
   ROBERTA PIERMARTINI AND MICHIELE BUDETTA

6 Services liberalization in the new generation of preferential
   trade agreements: how much further than the GATS? 316
   MARTIN ROY, JUAN MARCHETTI AND HOE LIM

7 Mapping investment provisions in regional trade agreements:
   towards an international investment regime? 365
   BARBARA KOTSCHWAR

8 Competition provisions in regional trade agreements 418
   ROBERT TEH

Appendix: List of RTAs included in the survey 492
Index 503
FIGURES

2.1 The RTA diagram’s trade pattern page 27
2.2 The RTA (preferential trade arrangement) diagram 29
2.3 Ambiguous net welfare effects 30
2.4 The Johnson diagram (small Home and Partner nations) 31
2.5 The small PTA diagram: a simple case 34
2.6 Net welfare effects, FTA to global free trade 43
2.7 Stumbling-bloc FTAs 44
2.8 Juggernaut framework 52
2.9 Juggernaut building-bloc logic 52
2.10 Imported MFN liberalization 62
2.11 An economic theory of the GATT 64
3.1 Percentage of tariff lines duty free, by selected benchmark years 112
3.2a Reciprocity of concessions: Year 5 113
3.2b Reciprocity of concessions: Year 10 113
3.3a Duty-free lines in 5 years v. TRQ incidence 114
3.3b Duty-free lines in 10 years v. TRQ incidence 114
3.4a Agricultural duty-free lines in 5 years v. TRQ incidence 115
3.4b Agricultural duty-free lines in 10 years v. TRQ incidence 115
3.5a Evolution of duty-free treatment in selected RTAs 124
3.5b Evolution of duty-free treatment in selected RTAs: North–North agreements v. agreements with a Southern party 124
3.5c Evolution of sectoral duty-free treatment in selected RTAs 125
3.6a Distribution of liberalization by RTA parties in chapters, Year 5 126
3.6b Distribution of liberalization by RTA parties in chapters, Year 10 126
3.7a Distribution of liberalization of chapters in RTA parties’ schedules, Year 5 128
3.7b Distribution of liberalization of chapters in RTA parties’ schedules, Year 10 128
3.8 Evolution of duty-free treatment as trade-weighted percentage of tariff lines 130
3.9 Evolution of duty-free treatment as percentage of imports 130
3.10a Evolution of duty-free access in Canadian market for Costa Rican goods: a comparison using various measures 131
LIST OF FIGURES

3.10b Evolution of duty-free access in Costa Rican market for Canadian goods: a comparison using various measures 132
3.10c Evolution of duty-free access in Chilean market for Korean goods: a comparison using various measures 132
3.10d Evolution of duty-free access in Korean market for Chilean goods: a comparison using various measures 133
3.10e Evolution of duty-free access in EU market for South African goods: a comparison using various measures 133
3.10f Evolution of duty-free access in South African market for EU goods: a comparison using various measures 134
3.10g Evolution of duty-free access in Moroccan market for US goods: a comparison using various measures 134
3.10h Evolution of duty-free access in US market for Moroccan goods: a comparison using various measures 135
3.11 Coverage of selected market access disciplines in fifty RTAs 139
3.12 Coverage of selected RTAs, by NTM provision 140
3.13 Coverage of selected RTAs, by other measure provision 140
3.14 Coverage of selected RTAs, by special regime provision 141
3.15 Coverage of selected RTAs, by RoO provision 142
3.16 Coverage of selected RTAs, by customs procedure provision 143
3.17 Restrictiveness of RoO in selected RTAs 151
3.18 Facilitation of regime-wide RoO in selected RTAs 151
4.1a Frequency of anti-dumping initiations, 1980–2006 170
4.1b Frequency of anti-dumping measures, 1995–2006 170
4.2a Frequency of CVD initiations, 1995–2006 171
4.2b Frequency of CVD measures, 1995–2006 171
4.3a Frequency of safeguard initiations, 1995–2006 172
4.3b Frequency of safeguard measures, 1996–2006 172
4.4 Number of RTAs in sample coming into force, by decade 177
4.5 RTAs by level of development of members 177
4.6 Hub-and-spoke arrangement of RTAs in sample 178
6.1 Proportion of sub-sectors with new and improved commitments under mode 3, per WTO Member (when comparing the GATS offer to the GATS schedule (‘GATS’) and the PTA commitments to the GATS offer (‘PTA’)) 332
6.2 Proportion of sub-sectors with new and improved commitments under mode 1, per WTO Member (when comparing the GATS offer to the GATS schedule (‘GATS’) and the PTA commitments to the GATS offer (‘PTA’)) 361
7.1 Coverage by country 397
## TABLES

<table>
<thead>
<tr>
<th>Table</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>RTAs covered in the study</td>
</tr>
<tr>
<td>3.2</td>
<td>Products subject to tariff rate quotas in CAFTA: US tariff quotas on products entering from Central America and the Dominican Republic</td>
</tr>
<tr>
<td>3.3</td>
<td>Products subject to tariff-rate quotas in CAFTA: Central American and Dominican Republic tariff quotas on products entering from the United States</td>
</tr>
<tr>
<td>3.4</td>
<td>Three-level matrix for mapping market-access provisions in RTAs</td>
</tr>
<tr>
<td>4.1</td>
<td>Trade remedy actions, initiations and measures, 1995–2006</td>
</tr>
<tr>
<td>4.2</td>
<td>Anti-dumping template</td>
</tr>
<tr>
<td>4.3</td>
<td>Countervailing duties template</td>
</tr>
<tr>
<td>4.4a</td>
<td>Bilateral safeguards template</td>
</tr>
<tr>
<td>4.4b</td>
<td>Global safeguards template</td>
</tr>
<tr>
<td>4.5</td>
<td>Anti-dumping mapping</td>
</tr>
<tr>
<td>4.6</td>
<td>Countervailing duties mapping</td>
</tr>
<tr>
<td>4.7a</td>
<td>Bilateral safeguards mapping</td>
</tr>
<tr>
<td>4.7b</td>
<td>Global safeguards mapping</td>
</tr>
<tr>
<td>4.8</td>
<td>Characteristics of RTAs that have disallowed trade remedies</td>
</tr>
<tr>
<td>4.9a</td>
<td>Probit estimation results</td>
</tr>
<tr>
<td>4.9b</td>
<td>Multinomial logit estimation results</td>
</tr>
<tr>
<td>5.1</td>
<td>The structure of the template for mapping regional rules on standards, technical regulations and conformity assessment procedures</td>
</tr>
<tr>
<td>5.2</td>
<td>An overview of TBT provisions in RTAs</td>
</tr>
<tr>
<td>5.3</td>
<td>Characteristics of RTAs by hub</td>
</tr>
<tr>
<td>5.4</td>
<td>The extent of regional TBT liberalization</td>
</tr>
<tr>
<td>5.5</td>
<td>The likelihood of provisions encouraging the harmonization of technical regulation</td>
</tr>
<tr>
<td>5.6</td>
<td>The likelihood of provisions encouraging mutual recognition of conformity assessment</td>
</tr>
<tr>
<td>5.7</td>
<td>The likelihood of provisions encouraging notification of standards and procedures</td>
</tr>
<tr>
<td>5.8</td>
<td>The likelihood of provisions establishing a dispute settlement body</td>
</tr>
<tr>
<td>6.1</td>
<td>Preferential trade agreements reviewed</td>
</tr>
</tbody>
</table>
## List of Tables

<table>
<thead>
<tr>
<th>Table</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.2</td>
<td>Cross-tabulation of countries and PTAs</td>
<td>328</td>
</tr>
<tr>
<td>6.3</td>
<td>Examples of commitments providing for the phasing-in of liberalization</td>
<td>346</td>
</tr>
<tr>
<td>7.1</td>
<td>Agreements used in sample and date of entry into force</td>
<td>376</td>
</tr>
<tr>
<td>7.2</td>
<td>Mapping of investment provisions: results by geographic pairing</td>
<td>382</td>
</tr>
<tr>
<td>7.3</td>
<td>Mapping of investment provisions: results by levels of development</td>
<td>386</td>
</tr>
<tr>
<td>7.4</td>
<td>Scope and coverage</td>
<td>401</td>
</tr>
<tr>
<td>7.5</td>
<td>Non-discrimination: most favoured nation and national treatment standards</td>
<td>403</td>
</tr>
<tr>
<td>7.6</td>
<td>Standards of treatment</td>
<td>406</td>
</tr>
<tr>
<td>7.7</td>
<td>Performance requirements and restrictions on nationality</td>
<td>409</td>
</tr>
<tr>
<td>7.8</td>
<td>Denial of benefits, transparency and dispute settlement</td>
<td>412</td>
</tr>
<tr>
<td>8.1</td>
<td>Competition template</td>
<td>424</td>
</tr>
<tr>
<td>8.2</td>
<td>Competition mapping</td>
<td>426</td>
</tr>
<tr>
<td>8.3</td>
<td>Correlation of competition provisions in selected hubs</td>
<td>486</td>
</tr>
</tbody>
</table>
CONTRIBUTORS

Richard Baldwin is Professor of International Economics at the Graduate Institute of International Studies in Geneva.

Michele Budetta is a graduate student at the University Cattolica del Sacro Cuore in Milan

Antoni Estevadeordal is Manager in the Integration and Trade Sector at the Inter-American Development Bank.

Barbara Kotschwar is Research Associate at the Peterson Institute for International Economics.

Aik Hoe Lim is Counsellor at the Trade in Services Division of the World Trade Organization.

Juan Marchetti is Counsellor at the Trade in Services Division of the World Trade Organization.

Roberta Piermartini is Counsellor at the Economic Research and Statistics Division of the World Trade Organization.

Thomas J. Prusa is Professor of Economics at Rutgers University.

Martin Roy is Counsellor at the Trade in Services Division of the World Trade Organization.

Matthew Shearer is Statistician and Economist at the Inter-American Development Bank.

Kati Suominen is International Trade Specialist in the Integration and Trade Sector at the Inter-American Development Bank.

Robert Teh is Counsellor at the Economic Research and Statistics Division of the World Trade Organization.
FOREWORD

The number of regional trade agreements (RTAs) has grown enormously over the last decade. Over 200 RTAs currently in force have been notified to the World Trade Organization, with many more being currently negotiated. More and more areas, that traditionally were not part of trade agreements, are being covered by these agreements. RTAs now typically include rules on competition policy, the environment, labour, services, investments, intellectual property, trade remedies or technical barriers to trade, in addition to the usual market access provisions in merchandise trade.

The proliferation of RTAs requires increased attention to be paid to the potential conflicts and complementarities between ‘regional’ and ‘global’ rules. The relationship between regionalism and multilateralism has sometimes been framed as one where RTAs are either a building bloc or a stumbling bloc to multilateralism. But, having closely witnessed integration arrangements in Europe, Latin America and the Caribbean, Africa, Asia and elsewhere around the globe, we believe that this is not as black and white. RTAs have delivered important trade gains for their participants. But, often, they have also been a source of trade diversion and have hampered movement towards greater multilateral liberalization, as is the case with certain rules of origin. In our view, the key research question is to identify those regional rules that promote complementarities with the multilateral trading system and those that conflict with it.

A great amount of scholarly interest has been spawned by regionalism, with both eminent economists and political scientists making many valuable theoretical contributions. But, with a few notable exceptions like NAFTA and the EU, very little research has as yet been devoted to the actual contents of these RTAs. There is not enough understanding of the diversity in regional rules, the difference between these regional rules and multilateral rules, the feasibility of converging towards some common
standard and the appropriate methods for assessing the compatibility of regional rules with multilateral rules.

As part of the effort to remedy this gap in knowledge, the Inter-American Development Bank and the World Trade Organization have carried out a joint research project to enhance our understanding of regional rules and their implications for the global trading system. This research attempts to complement the already rich vein of economic theorizing by assembling a comprehensive mapping of the trade and trade-related rules that govern RTAs around the globe. It maps various provisions or rules across dozens of the most important RTAs in six key areas: market access, trade remedies, technical barriers to trade, services, investment, and competition policy. For the first time, a framework for analysing these regional rules and a mapping of these rules have been put together in a single volume.

One of the early harvests of the WTO Doha Round has been the establishment, on a provisional basis, of a new transparency mechanism for RTAs. Regional trade agreements have been the subject of some multilateral examination since the days of the GATT. This new transparency mechanism brings a higher level of examination to RTAs. It provides for early announcement of any RTA, and its notification to the WTO. It requires a factual presentation of the notified RTAs to be made to WTO Members on the basis of a report prepared by the WTO Secretariat. It mandates that any changes affecting the implementation of an RTA, or the operation of an already implemented RTA, will be notified to the WTO. Finally, at the end of the RTA’s implementation period, it calls for the parties to the RTA to submit to the WTO a written report on the realization of liberalization commitments in the RTA as originally notified. We believe that the contributions in this volume can provide relevant conceptual frameworks, methods of analysis and data which could be of help in the context of the new transparency mechanism.

This volume, which addresses one of the key challenges faced by the multilateral trading system, represents another facet of the fruitful partnership between the IDB and the WTO. The IDB has a long history of research and capacity-building on trade and integration issues and, together with other regional and multilateral lending agencies, is heavily involved in supporting the WTO’s Aid for Trade initiative. We look
forward to more collaborative endeavours between our two institutions that will help improve the workings of the global trading system.

Pascal Lamy  
Director-General  
World Trade Organization

Luis Alberto Moreno  
President  
Inter-American Development Bank
ACKNOWLEDGEMENTS

The research collaboration between the Inter-American Development Bank and the World Trade Organization Secretariat which gave rise to this publication has made the editors indebted to numerous colleagues rich in ideas and enormously interested in regional integration.

We would like to express our deepest thanks to all the authors of the papers in this volume for their contribution and involvement in this joint research undertaking. We are grateful for the financial support extended by the Inter-American Development Bank without which this research would not have been possible.

Along the way, several seminars and workshops were organized in Geneva and Washington, D. C. We appreciate the comments and suggestions made by seminar and workshop participants that have provided our contributors with fresh perspectives and valuable insights. Particular thanks are due to Chad Bown, Simon Evenett and Ken Vandevelde for their careful reading and thoughtful comments on several chapters of this volume.

We are beholden to staff members of the IDB and WTO Secretariats for their assistance, patience and many helpful suggestions. We would like to make specific mention of Patrick Low, Clem Boonekamp, Robert Anderson, Stefania Bernabé, Jo-Anne Crawford, Jesse Kreier, Anthony Martin, Andreas Sennekamp and Hiromi Yano of the WTO Secretariat; and Santiago Levy of the IDB, as well as Robert Devlin and Nohra Rey de Marulanda, who served at the IDB during the launch of this joint research project. Finally, we wish to thank Finola O'Sullivan of Cambridge University Press for her support in preparing this volume.
ABBREVIATIONS

ACCC Australian Competition and Consumer Commission
ACE Acuerdo de Complementación Económica
AD Anti-dumping
AFAS ASEAN Framework Agreement on Services
AFTA ASEAN Free Trade Area
ALADI Asociación Latinoamericana de Integración
ANZCERTA Australia New Zealand Closer Economic Relations Trade Agreement
ASEAN Association of Southeast Asian Nations
AUSFTA Australia–US Free Trade Agreement
BIT bilateral investment treaty
BOP balance of payments
CA Central America
CACM Central American Common Market
CAFTA Central America Free Trade Agreement
CARICOM Caribbean Community and Common Market
CDC Comité de Defensa de la Competencia
CEMAC Communauté Économique et Monétaire de l’Afrique Centrale
CEN Committee for Standardisation
CENELEC European Committee for Electrotechnical Standardisation
CER Australia–New Zealand Closer Economic Relations
CET common external tariff
CITT Canadian International Trade Tribunal
COMESA Common Market for Eastern and Southern Africa
COMTRADE United Nations Commodity Trade Statistics
LIST OF ABBREVIATIONS

CRTA  WTO Committee on Regional Trade Agreements
CU  customs union
CUSFTA  Canada–US Free Trade Agreement
CVD  countervailing duty
DOC  US Department of Commerce
DR  Dominican Republic
ECJ  European Court of Justice
EEA  European Economic Area
EEC  European Economic Community
EFTA  European Free Trade Association
ETSI  European Telecommunications Standards Institute
EU  European Union
FDI  foreign direct investment
FTA  free trade agreement
FTC  Federal Trade Commission
FYROM  Former Yugoslav Republic of Macedonia
GATS  General Agreement on Trade in Services
GATT  General Agreement on Tariffs and Trade
GCC  Gulf Cooperation Council
GDP  gross domestic product
GPA  Government Procurement Agreement
HKC  Hong Kong, China
HS  Harmonized System
IADB  Inter-American Development Bank
IAF  International Accreditation Forum
ICSID  International Centre for Settlement of Investment Disputes
IEC  International Electrotechnical Commission
ILAC  International Laboratory Accreditation Cooperation
ISO  International Organization for Standardization
ITO  International Trade Organization
LAIA  Latin American Integration Association
MAI  Multilateral Agreement on Investment
MERCOSUR  Mercado Comun del Sur
MFN  most-favoured-nation
MRA  mutual recognition agreement
MTN  Multilateral Trade Negotiations
NAFTA  North American Free Trade Agreement
NATO  North Atlantic Treaty Organization
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NGO</td>
<td>non-governmental organization</td>
</tr>
<tr>
<td>NT</td>
<td>national treatment</td>
</tr>
<tr>
<td>NTM</td>
<td>non-tariff measure</td>
</tr>
<tr>
<td>NZCC</td>
<td>New Zealand Commerce Commission</td>
</tr>
<tr>
<td>OCT</td>
<td>Overseas Countries and Territories</td>
</tr>
<tr>
<td>OECD</td>
<td>Organization for Economic Co-operation and Development</td>
</tr>
<tr>
<td>PTA</td>
<td>preferential trade agreement</td>
</tr>
<tr>
<td>QM</td>
<td>quantitative measures</td>
</tr>
<tr>
<td>RoO</td>
<td>rules of origin</td>
</tr>
<tr>
<td>RoW</td>
<td>rest of the world</td>
</tr>
<tr>
<td>RTA</td>
<td>regional trade agreement</td>
</tr>
<tr>
<td>SADC</td>
<td>Southern African Development Community</td>
</tr>
<tr>
<td>SAPTA</td>
<td>South Asian Preferential Trade Arrangement</td>
</tr>
<tr>
<td>SAT</td>
<td>substantially all trade</td>
</tr>
<tr>
<td>SCM</td>
<td>subsidies and countervailing measures</td>
</tr>
<tr>
<td>SEP</td>
<td>(Trans-Pacific) Strategic Economic Partnership</td>
</tr>
<tr>
<td>SITC</td>
<td>Standard International Trade Classification</td>
</tr>
<tr>
<td>SPARTECA</td>
<td>South Pacific Regional Trade and Economic Cooperation Agreement</td>
</tr>
<tr>
<td>SPS</td>
<td>sanitary and phytosanitary</td>
</tr>
<tr>
<td>SSG</td>
<td>special safeguard</td>
</tr>
<tr>
<td>TBT</td>
<td>technical barriers to trade</td>
</tr>
<tr>
<td>TRIMs</td>
<td>Trade-Related Investment Measures</td>
</tr>
<tr>
<td>TRIPS</td>
<td>Trade-Related Intellectual Property Rights</td>
</tr>
<tr>
<td>TRQ</td>
<td>tariff rate quota</td>
</tr>
<tr>
<td>UEMOA</td>
<td>L’Union Economique et Monétaire Ouest Africaine</td>
</tr>
<tr>
<td>UN/EDIFACT</td>
<td>United Nations/Electronic Data Interchange for Administration, Commerce, and Transport</td>
</tr>
<tr>
<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
</tr>
<tr>
<td>VER</td>
<td>Voluntary Export Restraint</td>
</tr>
<tr>
<td>WAEMU</td>
<td>West African Economic and Monetary Union</td>
</tr>
<tr>
<td>WCO</td>
<td>World Customs Organization</td>
</tr>
<tr>
<td>WTO</td>
<td>World Trade Organization</td>
</tr>
</tbody>
</table>