

REGIONAL TRADE AGREEMENTS AND THE MULTILATERAL TRADING SYSTEM

The book contains a collection of studies examining trade-related issues negotiated in regional trade agreements (RTAs) and how RTAs are related to the WTO's rules. While previous work has focused on subsets of RTAs, these studies are based on what is probably the largest dataset used to date, and highlight key issues that have been negotiated in all RTAs notified to the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). New rules within RTAs are compared to rules agreed upon by WTO members. The extent of their divergences and the potential implications for parties to RTAs, as well as for WTO members that are not parties to RTAs, are examined. This volume makes an important contribution to the current debate on the role of the WTO in regulating international trade and how WTO rules relate to new rules being developed by RTAs.

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THE MULTILATERAL
TRADING SYSTEM

Edited by

ROHINI ACHARYA



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FOREWORD BY ROBERTO AZEVÊDO

The multilateral trading system and regional trade agreements have a long history of coexistence. Indeed the GATT was the result of a desire to consolidate bilateral preferences existing at the time. Throughout the history of the GATT and the creation of the WTO, there are examples of RTAs and the multilateral system “borrowing” ideas from each other and other international treaties and building further on them. The WTO’s TRIPS Agreement, for example, was an effort to synthesize existing international conventions on intellectual property rights. Similarly, most RTAs today base their provisions on existing WTO provisions, in some cases incorporating the WTO provision directly into the RTA text or expanding further on existing WTO provisions.

While this coexistence is undeniable, so is the spectacular growth in regional trade agreements, especially since the early 1990s. From an average of three RTAs notified per year during the GATT era, the number has risen to twenty-five during the WTO years. Moreover, RTAs today cover a wide range of WTO members, be they developed, developing or least-developed. There are over 260 RTAs in force that have been notified to the WTO, and negotiations continue on many others, including large plurilateral initiatives such as the Regional Comprehensive Economic Partnership Agreement in the Asia-Pacific, the Trans-Atlantic Trade and Investment Partnership Agreement and the Tripartite Agreement in Africa. In addition, negotiations were recently concluded on the Trans-Pacific Partnership Agreement.

While the rising numbers of RTAs clearly tell a story, less work has been done to determine what the RTAs are about, and even less to evaluate what their potential impact on the multilateral trading system might be. The goal of modern RTAs is to provide preferential market access but also increasingly to go behind the borders to address other potential barriers to trade. This book is the result of research carried out by WTO Secretariat Staff and collaborators, in an attempt to understand better the content, evolution and objectives of various provisions in RTAs. It is a first step

to improve our understanding about the evolving relationship between WTO and RTA rules and commitments to see how much further, if at all, the latter have gone.

Each of the chapters is based on information gathered on all RTAs notified to the GATT and WTO and currently in force. They do not try to distinguish “big” from “small” or bilateral from plurilateral agreements, as some previous studies have done. They are therefore truly representative of the range and diversity of the WTO membership and its trade policy goals and challenges. They look at issues for which the WTO has existing rules but which RTAs may be deepening. They include not only issues dealing with market access, such as tariffs and rules of origin, but also standards such as sanitary and phytosanitary measures and technical barriers to trade, and other provisions that affect international trade such as trade facilitation, trade defence, services rules, intellectual property rights and dispute settlement. The goal of each is to identify on which of these issues RTA rules are deepening and going beyond the existing WTO rules. Earlier versions of many of the chapters were presented at a seminar held at the WTO for its members in September 2014. I would like to thank the participants at the seminar for their thoughtful insights and comments which have provided much food for thought for the authors.

Much of the information that has been gathered to produce the book originates in the WTO’s transparency mechanism for RTAs which, as its name suggests, aims to make RTAs more transparent through information gathering and analysis by the WTO Secretariat. The information collected for individual RTAs is made available to the public through the WTO’s RTA database. These tools have enabled us to keep better track of developments in RTAs and will help WTO members to make better and more informed decisions regarding their trade policies. It is a precious resource and its continued improvement is crucial for us to better understand RTAs and more importantly their interaction with the multilateral trading system.

Roberto Azevêdo
WTO Director-General

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The opinions expressed in the book are those of the authors and not of the WTO Secretariat nor of its members. Any errors are the responsibility of the authors.

ABBREVIATIONS AND ACRONYMS

ACP	African, Caribbean and Pacific Group of States
AD	anti-dumping
AFTA	ASEAN Free Trade Area
ANZCERTA	Australia–New Zealand Closer Economic Relations Trade Agreement
AOs	authorized operators
APEC	Asia-Pacific Economic Cooperation
APTA	Asia-Pacific Trade Agreement
ASEAN	Association of Southeast Asian Nations
Berne Convention	Berne Convention for the Protection of Literary and Artistic Works
BIT	bilateral investment treaty
BoP	balance of payments
Brussels Convention	Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite
CACM	Central American Common Market
CAFTA–DR	Dominican Republic–Central America–United States Free Trade Agreement
CARICOM	Caribbean Community and Common Market
CARIFORUM	Forum of the Caribbean Group of African, Caribbean and Pacific States
CCJ	Caribbean Court of Justice
CEFTA	Central European Free Trade Agreement
CEMAC	Communauté Économique des États de l’Afrique Centrale (Economic and Monetary Community of Central Africa)
CEPA	Closer Economic Partnership Agreement
CEZ	Common Economic Zone
CIS	Commonwealth of Independent States
COMESA	Common Market for Eastern and Southern Africa
CRTA	Committee on Regional Trade Agreements
CTC	change in tariff classification
CTH	change in tariff heading
CTSubH	change in tariff sub-heading

CU	customs union
DSB	WTO Dispute Settlement Body
DSM	dispute settlement mechanism
DSU	Dispute Settlement Understanding
EAC	East African Community
EAEC	Eurasian Economic Community
EAEU	Eurasian Economic Union
ECJ	European Court of Justice
ECO	Economic Cooperation Organization
ECOWAS	Economic Community Of West African States
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
EIA	economic integration agreement
EIF	entry into force
EOL	end of the liberalization period
EPA	economic partnership agreement
EPC	European Patent Convention
ESA	Eastern and Southern Africa
EU	European Union
fob	free on board
FTA	free trade agreement
FYROM	The Former Yugoslav Republic of Macedonia
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GI	geographical indication
GSP	Generalized System of Preferences
GSTP	Global System of Trade Preferences among Developing Countries
HS	Harmonized System
IC	integrated circuit
ICANN	Internet Corporation for Assigned Names and Numbers
IDB	Inter-American Development Bank
IP	intellectual property
IPIC Treaty	Treaty on Intellectual Property in Respect of Integrated Circuits
IPPC	International Plant Protection Convention
IPRs	intellectual property rights
ITA	Information Technology Agreement
LAIA	Latin American Integration Association
LDC	least-developed country

ABBREVIATIONS AND ACRONYMS

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MENA	Middle East and North Africa
MERCOSUR	Mercado Común del Sur (Southern Common Market)
MFN	most-favoured nation
MRA	mutual recognition agreement
MSG	Melanesian Spearhead Group
NAFTA	North American Free Trade Agreement
Northern Triangle	El Salvador, Guatemala and Honduras
OCT	Overseas Countries and Territories
OECD	Organisation for Economic Co-operation and Development
OIE	World Organisation for Animal Health
OP	outward processing
Paris Convention	Paris Convention on the Protection of Industrial Property
PCA	post-clearance audit
PICTA	Pacific Island Countries Trade Agreement
PRO	preferential rule of origin
PSA	partial scope agreement
PSI	preshipment inspection
PTA	preferential trade agreement
PTN	Protocol on Trade Negotiations
PTR	Permanent Tribunal of Review
QIZ	qualifying industrial zones
QRs	quantitative restrictions
RCEP	Regional Comprehensive Economic Partnership
RJLSC	Regional Judicial and Legal Services Commission
RoO	rules of origin
RTA	regional trade agreement
S&D	special and differential treatment
SAARC	South Asian Association for Regional Cooperation
SACU	Southern African Customs Union
SADC	Southern African Development Community
SAFTA	South Asian Free Trade Agreement
SAP	Stabilization and Association Process
SAPTA	SAARC Preferential Trading Arrangement
SAR	special administrative region
SBO	substantive business operations
SDT	special and differential treatment
SPS	sanitary and phytosanitary
TACB	technical assistance and support for capacity-building
TBT	technical barriers to trade
TF	trade facilitation
TFA	WTO Trade Facilitation Agreement
TFEU	Treaty on the Functioning of the European Union

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ABBREVIATIONS AND ACRONYMS

TiSA	Trade in Services Agreement
TK-GR	traditional knowledge or genetic resources
TPP	Trans-Pacific Partnership
TPR	Trade Policy Review
Trans-Pacific SEP	Trans-Pacific Strategic Economic Partnership Agreement
TRIMs Agreement	WTO Agreement on Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	tariff-rate quota
TTIP	Transatlantic Trade and Investment Partnership
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UN ECE	United Nations Economic Commission for Europe
UPOV	International Union for the Protection of New Varieties of Plants
USSR	Union of Soviet Socialist Republics
WAEMU	West African Economic and Monetary Union
WCO	World Customs Organization
WHO	World Health Organization
WIPO	World Intellectual Property Organization
WTO-X	WTO-extra issues

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