
Introduction: New Asian Regionalism As a Global Paradigm Shift

I Introduction

This book offers a panoramic account of new Asian regionalism in international economic law. It explores interrelated theoretical and substantive claims on proliferating trade and investment agreements in the Asia-Pacific. More specifically, it argues that new Asian regionalism has emerged amid the third wave of global regionalism and contributed to the New Regional Economic Order (NREO), which reinvigorates the role of developing countries in shaping international trade norms. The research therefore serves as a timely response to the rival of the Asian century.¹

New Asian regionalism is of global significance and has attracted the attention of governments and businesses for several reasons. First, Asian countries have become the locomotives of international commerce and have energized the shift of the world's economic center of gravity to the region. In terms of global gross domestic product (GDP), Asia is poised to exceed the rest of the world in the 2020s.² In particular, China will replace the United States as the world's largest economy.³ India will overtake the United Kingdom (UK), Germany and Japan and become the third largest economy.⁴ As a ten-country bloc, the Association of

¹ Valentina Romei & John Reed, *The Asian century Is Set to Begin*, Mar. 26, 2019, Financial Times, www.ft.com/content/520cb6f6-2958-11e9-a5ab-ff8ef2b976c7 (last visited Feb. 16, 2021); Asian Development Bank (ADB), *Asia 2050: Realizing the Asian Century: Executive Summary* (2011), at 5.

² ADB, *supra* note 1, at 3–4.

³ Centre for Economics and Business Research (CEBR), *World Economic League Table 2021* (2020), at 70–71.

⁴ *Id.* at 113–14; PWC, *The Long View: How Will the Global Economic Order Change by 2050* (2017), at 7.

Southeast Asian Nations (ASEAN) will rise to the equivalent of the fourth largest economy in the world.⁵ Given the rising power of Asian economies, their legal and geopolitical strategies to trade policy have become critical areas of study.

Second, Asia has integrated at an unprecedented rate. In the past twenty years, Asian regionalism has witnessed a tenfold increase of free trade agreements (FTAs), which represent almost half of global trade pacts.⁶ The “ASEAN Plus Six” framework based on the bloc’s external agreements with Asia-Pacific economies has underlined the legal regimes of new Asian regionalism.⁷ This structure has enriched the NREO that is reconstructing a new hub-and-spoke system in the multipolar world.

Asian states have also played a leadership role in ushering in mega-FTAs, including the Comprehensive and the Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Regional Comprehensive Economic Partnership (RCEP).⁸ Given the stalled World Trade Organization (WTO) negotiations, these unprecedented pacts will shape global rulemaking. As the COVID-19 pandemic caused the decline of global trade by 32 percent and foreign direct investment by 42 percent, Asia’s new trade, investment and digital economy agreements manifest the region’s normative response to the economic recovery.⁹

Lastly, soaring populist nationalism in the West, as evidenced by Brexit and the Donald Trump administration’s “America First” policy, led to the US-China trade war and disrupted the global supply chain. Despite

⁵ Australian Government, *ASEAN’s Economic Growth*, www.austrade.gov.au/asean-now/why-asean-matters-to-australia/asean-economic-growth/ (last visited Feb. 16, 2021). At present, the Association of Southeast Asian Nations (ASEAN) is the world’s fifth largest economy. ASEAN, *ASEAN Key Figures 2020* (2020), at 39.

⁶ World Trade Organization (WTO), Regional Trade Agreements Database, <https://rtais.wto.org/UI/PublicMaintainRTAHome.aspx> (last visited Feb. 16, 2021); ADB, Table 2. FTAs by WTO Notification and Status (Cumulative), <https://aric.adb.org/fta> (last visited Feb. 16, 2021).

⁷ From 2002 to 2017, ASEAN concluded “ASEAN Plus One” free trade agreements (FTAs) sequentially with seven economies, including China, Japan, India, Korea, Australia and New Zealand, and Hong Kong. Vinod K. Aggarwal & Jonathan T. Chow, *The Perils of Consensus: How ASEAN’s Meta-regime Undermines Economic and Environmental Cooperation*, 17 (2) Rev. Int’l Pol. Econ. 262, 267–71 (2010); ASEAN, *ASEAN Integration Report 2019* (2019), at 131–32.

⁸ For the analysis of plurilateralism, see Meredith Kolsky Lewis, *The Origin of Plurilateralism in International Trade Law*, 20 J. World Invest. & Trade 633, 637–40 (2019).

⁹ WTO, Trade Shows Signs of Rebound from COVID-19, Recovery Still Uncertain, Oct. 6, 2020, www.wto.org/english/news_e/pres20_e/pr862_e.htm (last visited Feb. 17, 2021); United Nations Conference on Trade and Development (UNCTAD), *Investment Trends Monitor* (2021), Issue 38, at 1.

the signing of the European Union (EU)-UK Trade and Cooperation Agreement and US President Joe Biden's pledge to regain America's credibility and alliances, isolationist approaches have crippled the hegemony of neoliberalism.¹⁰ Developing countries, particularly those in Asia, are in search of an alternative model of economic integration. Neither the Washington Consensus nor the Brussels Effect provide holistic answers to new Asian regionalism.¹¹

The intended objective of Asian countries is to devise a new trade-development approach for the South (developing nations) and subsequently transform its dependent relationship with the North (developed nations). Nevertheless, I caution that it is inappropriate to ignore the impact of the US Indo-Pacific strategy and the EU's "strategic engagement" with Asia on interregional trade agreements.¹² As Asian regionalism should not be perceived as a pure intra-regional process, the book will evaluate both endogenous and exogenous influences.¹³

It is now urgent and necessary to have a comprehensive and coherent understanding of new Asian regionalism, especially from a legal perspective that has not been fully explored before. By focusing on Asian trade and investment initiatives as legal regimes, this book seeks to fill a major gap in the literature on regionalism, which commentators have criticized as Euro-centric.¹⁴ As Asian regionalism has been in the conventional domain of international relations (IR), most books are authored by political scientists and explain regionalism theories from political and economic perspectives.¹⁵ Legal books on pertinent topics are primarily edited collections that focus on either single agreements or countries and

¹⁰ European Commission, *EU-UK Trade and Cooperation Agreement: A New Relationship, with Big Changes* (2020), at 1–2; White House, *Remarks by President Biden on America's Place in the World*, Feb. 4, 2021, www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/ (last visited Feb. 8, 2021).

¹¹ For these two terms, see Sonia E. Rolland, *Development at the WTO* 51–52 (2012); Anu Bradford, *The Brussels Effect: How the European Union Rules the World* 26–36 (2020).

¹² Department of State, *A Free and Open Indo-Pacific Advancing a Shared Vision* (2019), at 5–21; European Commission, *Trade for All: Towards a More Responsible Trade and Investment Policy* (2015), at 31–32.

¹³ Björn Hettne, *The New Regionalism Revisited*, in *Theories of New Regionalism* 22, 26–27 (Fredrik Söderbaum & Timothy M. Shaw eds. 2003).

¹⁴ E.g., Amitav Acharya, *Regionalism beyond EU-Centrism*, in *The Oxford Handbook of Comparative Regionalism* 109, 109–19 (Tanja A. Börzel & Thomas Risse 2016); Fredrik Söderbaum, *Rethinking Regionalism* 7–8 & 174–75 (2016).

¹⁵ E.g., Christopher M. Dent, *East Asian Regionalism* (2d ed. 2016); Ellen L. Frost, *Asia's New Asian Regionalism* (2008); Edward J. Lincoln, *East Asian Economic Regionalism* (2004); *Network Power: Japan and Asia* (Peter J. Katzenstein & Takashi Shiraishi eds. 1997).

mostly predate the entry into force of the CPTPP and the conclusion of the RCEP.¹⁶

While there are legal monographs on economic integration in the EU, North America and Africa, this is the first book-length analysis of the legal frameworks of new Asian regionalism.¹⁷ There are extremely few legal texts prepared for teaching and researching international economic law that systematically explores evolving legal regimes of Asian agreements and their impact on the multilateral trading system. I hope that this book not only advances new legal and theoretical arguments, but also serves as the most up-to-date reference book that bridges academia and practice.

II New Asian Regionalism in the Global Context

New Asian regionalism is a paradigm shift in international economic law. In my view, new Asian regionalism can be defined as a new normative integration process that has evolved with the ASEAN Plus Six framework, which underpins Asia's ascending economic power. The scope of "Asia" as a region has been subject to debate because Asia and its relevant geographic terms such as the Asia-Pacific, East Asia and the Indo-Pacific are by their nature heterogeneous and lack a consensus on their definitions.¹⁸ National governments and international institutions, including the Asia-Pacific Economic Cooperation (APEC), the Asia-Europe Meeting (ASEM) and the WTO, adopted their own interpretations delineating the region.¹⁹ Instead of exhausting definitions or

¹⁶ E.g., *Megaregulation Contested: Global Economic Ordering after TPP* (Benedict Kingsbury et al. 2019); *The China-Australia Free Trade Agreement: A 21st Century Model* (Colin B. Picker et al. 2018); *Paradigm Shift in International Economic Law Rule-Making: TPP as a New Model for Trade Arrangements?* (Julien Chaisse et al. eds. 2017); *China in the International Economic Order: New Directions and Changing Paradigms* (Lisa Toohey et al. eds. 2015).

¹⁷ A rare legal monograph on "non-Western" regionalism is James Thuo Gathii, *African Regional Trade Agreements as Legal Regimes* (2011).

¹⁸ Anja Jetschke et al., *Asia*, in *The Oxford Handbook of Comparative Regionalism* 225, 226–27 (Tanja A. Börzel & Thomas Risse 2016); Shaun Breslin et al., *Regions in Comparative Perspective*, in *New Regionalism in the Global Political Economy: Theories and Cases* 1, 5–6 (Shaun Breslin et al. eds. 2002).

¹⁹ Department of State, *supra* note 12, at 8–15; *Asia-Pacific Economic Cooperation, Member Economies*, www.apec.org/about-us/about-apec/member-economies (last visited Feb. 19, 2021); *Asia-Europe Meeting, Fostering Dialogue & Cooperation between Asia & Europe*, www.aseminfoboard.org/about/overview (last visited Feb. 19, 2021); WTO, *World Trade Statistics Review 2020* (2020), at 63.

demarcating the boundaries of Asia, I focus on countries that have energized major normative changes to new trade dynamics.

A Early Waves of Global Regionalism

Legal scholars have conventionally analyzed regional integration from the lens of WTO law. Debates have centered on Article XXIV of the General Agreement on Tariffs and Trade (GATT), Article V of the General Agreement on Trade in Services (GATS) and the Enabling Clause.²⁰ Trade agreements' compatibility with these legal bases, as well as WTO-plus and extra provisions and commitments, provide key indications for "deep" or "high-level" regionalism.

Unlike the narrow lens of the legal discourse, political scientists have developed operational definitions of regionalism. To them, regionalization and regionalism are different concepts. Regionalization denotes informal integration or soft regionalism that enhances economic, political and cultural interactions, which are often propelled by non-state actors.²¹ Regionalism is nonetheless "a primarily state-led process of building and sustaining formal regional institutions and organizations" and can encompass mandates for economic and security cooperation.²² While regionalization usually indicates bottom-up efforts, it can energize states to pursue regionalism based on a top-down approach.²³ Empirically, Asian integration includes both regionalization and regionalism as the IR literature has defined. Furthermore, legal schemes such as ASEAN and other FTAs signify "a solid form of" Asian regionalism, but consultative forums without binding instruments including APEC and the ASEM also promote integration.²⁴

It is essential to contextualize new Asian regionalism in the international context. In the post-World War II era, there have been three waves of global regionalism.²⁵ Jagdish Bhagwati coined the term "First

²⁰ WTO, *The WTO's Rules*, www.wto.org/english/tratop_e/region_e/regrul_e.htm (last visited Feb. 19, 2021).

²¹ Tanja A. Börzel & Thomas Risse, *Introduction: Framework of the Handbook and Conceptual Clarifications*, in *The Oxford Handbook of Comparative Regionalism* 3, 8 (Tanja A. Börzel & Thomas Risse 2016); Andrew Hurrell, *Regionalism in Theoretical Perspective*, in *Regionalism in World Politics: Regional Organization and International Order* 37, 39–40 (Louise Fawcett & Andrew Hurrell eds. 1995).

²² Dent, *supra* note 15, at 8–10; Börzel & Risse, *supra* note 21, at 7–8.

²³ Edward D. Mansfield & Etel Solingen, *Regionalism*, 13 *Ann. Rev. Pol. Sci.* 145, 147.

²⁴ *Id.*

²⁵ Most scholars addressed either the first two waves of global regionalism or the early stage of third wave of global regionalism. Jagdish Bhagwati, *Termites in the Trading System*:

Regionalism” in reference to the proliferation of FTAs in the 1950s and 1960s.²⁶ During this first wave of global regionalism, political considerations principally drove the process of regionalism. The United States hesitated to pursue trade pacts under Article XXIV of the GATT because it “remained wedded to multilateralism and nondiscrimination in trade liberalization through the Kennedy Round.”²⁷ However, Washington actively supported the founding of the European Economic Community (EEC) in 1957, as it could prevent the war between France and Germany and counterbalance Soviet influences in Central and Eastern Europe.²⁸

Perceived as a model, the EEC triggered developing countries to form trade blocs in regions such as East Africa and Central America.²⁹ In Asia, the founding of ASEAN in 1967 marked the inception of Asian regionalism.³⁰ Akin to Bhagwati’s observation, the formation of ASEAN was politically oriented, as Southeast Asian countries aimed to create a loose security alliance against communist expansion.³¹ He considered most trade initiatives in the First Regionalism “failures,” given that developing countries often centered on industrialization policies of import substitution, which sought to remedy the weakness of their small-scale economies.³² Absent serious trade liberalization, the policy yielded the marginal trade-creation effect.³³

How Preferential Agreements Undermine Free Trade 29–32 (2008); Fredrik Söderbaum & Luk van Langenhove, *Introduction: The EU as a Global Actor and the Role of Interregionalism*, 27(3) *Eur. Integration* 249, 255 (2005); Sungjoon Cho, *Breaking the Barrier between Regionalism and Multilateralism: A New Perspective on Trade Regionalism*, 42(2) *Harv. Int’l L. J.* 419, 427 (2001); Edward D. Mansfield & Helen V. Milner, *The New Wave of Regionalism*, 53(3) *Int’l Organ.* 589, 600–01 (1999).

²⁶ Bhagwati, *supra* note 25, at 29–31.

²⁷ *Id.* at 31; Jagdish Bhagwati, *Regionalism versus Multilateralism*, 15 *World Econ.* 535, 539 (1992).

²⁸ WTO, *World Trade Report 2011* (2011), at 52; Bhagwati, *supra* note 25, at 31; Cho, *supra* note 25, at 427; Söderbaum & Van Langenhove, *supra* note 25, 255.

²⁹ WTO, *supra* note 28, at 52; Bhagwati, *supra* note 25, at 29.

³⁰ Amita Acharya, *Foundations of Collective Action in Asia: Theory and Practice of Regional Cooperation*, ADBI Working Paper Series, No. 344 (2012), at 5–10.

³¹ The founding members of ASEAN include Indonesia, Malaysia, the Philippines, Singapore and Thailand. Rodolfo C. Severino, *Southeast Asia in Search of an ASEAN Community: Insights from the Former ASEAN Secretary-General* 1–11 (2006).

³² Bhagwati, *supra* note 27, at 538–39; Bhagwati, *supra* note 25, at 29.

³³ Bhagwati, *supra* note 27, at 538–39; Cho, *supra* note 25, at 427–28. For discussion on Jacob Viner’s trade creation and trade diversion effects of customs unions, see Aaditya Mattoo et al., *Trade Creation and Trade Diversion in Deep Agreements*, Policy Research Working Paper, No. 8206 (2017), at 2–10.

The second wave of global regionalism developed during the Uruguay Round in the 1980s and 1990s. In the “Second Regionalism,” Bhagwati highlighted the limited success evidenced by the EU and the North American Free Trade Agreement (NAFTA), the precursor to the United States-Mexico-Canada Agreement (USMCA).³⁴ Tellingly, the NAFTA signified the changing stance of the United States on FTAs.³⁵ Based on these empirical cases, Richard Baldwin proffered the “domino theory” as the driving force for regionalism because non-FTA members would be prompted to pursue FTAs to maintain export advantages.³⁶ According to political scientists, this era was also characterized as post-hegemonic regionalism.³⁷ FTAs that evolved in the new multipolar world were due to declining US hegemony relative to powers of the EU, China and other emerging economies.³⁸ As a prominent example, Mercosur was established as a customs unions built on South-South FTAs that promote economic and political integration.³⁹

Asia rose to be an academic focus because of the economic miracles of selected countries. Kaname Akamatsu’s “flying geese” model depicts Japan-led development patterns in post-war Asia.⁴⁰ As exemplifications of such patterns of remarkable growth rates, newly industrialized economies (Hong Kong, South Korea, Singapore and Taiwan) become known as Four Asian Tigers or Little Dragons.⁴¹ Since the 1990s, Deng

³⁴ Bhagwati, *supra* note 25, at 31–35.

³⁵ *Id.* at 32–34.

³⁶ Richard Baldwin, *A Domino Theory of Regionalism*, NBER Working Paper Series, No. 4465 (1993), at 2–5.

³⁷ Jorge F. Garzón, *Multipolarity and the Future of Economic Regionalism*, 9 (1) Int’l Theory 101, 104–15 (2016); Mario Telò, *Introduction: Globalization, New Regionalism and the Role of the European Union*, in *European Union and New Regionalism: Competing Regionalism and Global Governance in a Post-Hegemonic Era* 1, 5–10 (Mario Telò ed. 2014).

³⁸ Garzón, *supra* note 37; Mario Telò, *supra* note 37, at 5–10; Hettne, *supra* note 13, at 23–24; Björn Hettne, *The New Regionalism: Implications for Development and Peace*, in Björn Hettne & András Inotai, *The New Regionalism: Implications for Global Development and International Security*, UNU/WIDER World Institute for Development Economics Research 1, 1–2 (1994).

³⁹ WTO, *supra* note 28, at 52–53.

⁴⁰ Kiyoshi Kojima, *The “Flying Geese” Model of Asian Economic Development: Origin, Theoretical Extensions, and Regional Policy Implications*, 11 J. Asian Econ. 375, 377 (2000); T. J. Pempel, *Transpacific Torri: Japan and the Emerging Asian Regionalism*, in *Network Power: Japan and Asia* 47, 52–53 (Peter J. Katzenstein & Takashi Shiraishi eds. 1997).

⁴¹ *Id.*; Debayan Pakrashi & Paul Frijters, *Takeoffs, Landing, and Economic Growth*, ADBI Working Paper Series, Nov. 641 (2017), at 6–7.

Xiaoping's economic reforms and Open Door Policy revolutionized China as a "leading dragon."⁴² Modeled after Asian Tigers, the Tiger Cub Economies in Southeast Asia also became noteworthy for their export-oriented development.⁴³ During this period, Asian enterprises galvanized regionalization, whereas most governments still prioritized WTO-premised multilateralism over FTA-centered regionalism.

ASEAN and APEC represented significant developments in Asia. As the domino theory suggested, the EU, NAFTA and Mercosur motivated ASEAN to expedite internal integration by creating the ASEAN Free Trade Area.⁴⁴ Unlike the EU that transformed the Westphalian system, ASEAN's integration has been depicted as "sovereignty-reinforcing regionalism," which has enhanced rather than weakened state capacity and building.⁴⁵ APEC also indicates a different normative approach. Based on soft-law, APEC has operated on nonbinding rules and decisions. Its Bogor Declaration aimed to realize "free and open trade and investment in the Asia-Pacific" for developed and developing economies by 2010 and 2020, respectively.⁴⁶ These Bogor Goals represent the "open regionalism" principle, which encourages twenty-one members to accord liberalization benefits to other nations and arguably contracts inherently discriminatory regionalism.⁴⁷ Notwithstanding distinct structures of ASEAN and APEC, the two institutions have functioned as twin engines for Asian regionalism.

B Third Regionalism with Unique Characteristics

I refer to the third wave of global regionalism as the "Third Regionalism" that has developed in tandem with the WTO Doha Round since the 2000s. The "new" aspects of new Asian regionalism are intertwined with fundamental economic and geopolitical changes in the Third Regionalism, which lays the normative foundation for the NREO. Since

⁴² Justin Yifu Lin, *From Flying Geese to Leading Dragons New Opportunities and Strategies for Structural Transformation in Developing Countries*, Policy Research Working Paper, No. 5702 (2011), at 4–5.

⁴³ These economies include Indonesia, Malaysia, the Philippines, Thailand and Vietnam. Pakrashi & Frijters, *supra* note 41, at 4–5.

⁴⁴ Severino, *supra* note 31, at 222–23; WTO, *supra* note 28, at 96–97.

⁴⁵ Söderbaum & Van Langenhove, *supra* note 25, 256; Tom Ginsburg, *Authoritarian International Law*, 114(2) Am. J. Int'l L. 221, 243–44 (2020); Tom Ginsburg, *Eastphalia Asian Regionalism*, 44 UC Davis L. Rev. 859, 870–71 (2010–11).

⁴⁶ 1994 Leaders' Declaration (1994) (Bogor Declaration).

⁴⁷ John Ravenhill, *APEC and the Construction of Pacific Rim Regionalism* 140–42 (2001); Ippei Yamazawa, *APEC: New Agenda in Its Third Decade* 11–14 (2012).

2008, the WTO impasse resulting from unreconciled issues on agricultural market access and subsidies has invigorated states to turn from multilateralism to bilateralism and plurilateralism.⁴⁸ Trade agreements have thus proliferated.⁴⁹

Growing populist nationalism has vastly weakened the hegemonic stability premised on dominant US power and the embedded liberalism that guided the post-war international order.⁵⁰ Under Xi Jinping's leadership, China's mercantilist-Leninist policy pursuing an assertive position on global rulemaking through platforms such as the Belt and Road Initiative has posed unprecedented challenges.⁵¹ In Washington, the "China Reckoning" that recognized the failures of past US policy became a rare bipartisan consensus.⁵² Multifaceted US-China tensions that Trump intensified will continue, as the Biden administration deems a more "authoritarian China" to be the "most serious competitor."⁵³

On the EU side, protectionism similarly escalated amid the European debt crisis and the Brexit saga. Brussels' decreasing share of global trade "for two decades" and its limited security forces outside the EU's neighborhood have endangered its normative power.⁵⁴ The COVID-19 crisis has devastated nations across the Atlantic. Compared with the successful handling of the pandemic by Asia-Pacific countries such as Singapore,

⁴⁸ For the WTO's agricultural issues, see Randy Schnepf, *WTO Doha Round: Implications for U.S. Agriculture*, Congressional Research Services (CRS) Report (2014), at 1–11.

⁴⁹ From 2008 to 2021, the number of FTAs in force increased from 181 to 341. WTO, *supra* note 6.

⁵⁰ Anthea Roberts et al., *Toward a Geoeconomic Order in International Trade and Investment*, 22 J. Int'l Econ. L. 655, 656–61 (2019); John Gerard Ruggie, *International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order*, 36 (2) Int'l Organ. 379, 392–98 (1982); Michael C. Webb & Stephen D. Krasner, *Hegemonic Stability Theory: An Empirical Assessment*, 15(2) Rev. Int'l Stud. 183, 183–86 (1989).

⁵¹ Office of the Secretary of State, *The Elements of the China Challenge* (2020), at 4–36; Charles W. Boustany Jr. & Aaron L. Freidberg, *Answering China's Economic Challenge: Preserving Power, Enhancing Prosperity*, NBR Report, No. 76 (2019), at 25–27.

⁵² Kurt M. Campbell & Ely Ratner, *The China Reckoning: How Beijing Defied American Expectation*, 97(2) Foreign Aff. 60, 60–68 (2018).

⁵³ White House, *Interim National Security Strategic Guidance* (2021), at 19–20; White House, *Remarks by President Biden on America's Place in the World*, Feb. 4, 2021, www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/04/remarks-by-president-biden-on-americas-place-in-the-world/ (last visited Feb. 8, 2021).

⁵⁴ WTO, *Trade Policy Review: Report by the Secretariat: European Union*, WT/TPR/S/395 (2019), at 25. For the normative power concept, see Ian Manners, *Normative Power Europe: A Contradiction in Terms?* 40(2) J. Common Market Stud. 235, 236–52 (2002).

Taiwan and New Zealand, sluggish US and EU responses have exacerbated doubts about Western governance models.⁵⁵

In response to the WTO deadlock and hegemonic instability, countries have expedited trade pacts in the Third Regionalism. I identify four unique characteristics of FTAs that distinguish them from their counterparts in the first two waves of global regionalism. First, South-South FTAs that outpaced North-North FTAs in the 1990s now represent two-thirds of global trade pacts.⁵⁶ North-South FTAs and North-North FTAs, which had dominated the FTA landscape in the post-war era, account for 25 percent and 10 percent of current FTAs, respectively.⁵⁷ These trends symbolize developing countries' policy change from FTA conservatism to activism and their preferences over South-South FTAs.

Second, the Third Regionalism witnesses the emergence of mega-FTAs. As the CPTPP, the RCEP and the African Continental Free Trade Area (AfCFTA) evidence, these mega-pacts involve a significant number of countries with enormous collective economies of scale.⁵⁸ Based on their GDP, the RCEP, the USMCA, the post-Brexit EU and the CPTPP are the world's top four trading blocs.⁵⁹ As an ASEAN-led process, the RCEP alone accounts for 30 percent of global GDP.⁶⁰ Moreover, the AfCFTA, Mercosur and the Pacific Alliance are typical

⁵⁵ Lowy Institute, *Covid Performance Index: Deconstructing Pandemic Responses*, <https://interactives.lowyinstitute.org/features/covid-performance/> (last visited Feb. 23, 2021); Jinshan Hong, *The Covid Resilience Ranking: The Best and Worst Places to Be in Covid: U.S. Stages a Recovery*, Feb. 25, 2021, Bloomberg, www.bloomberg.com/graphics/covid-resilience-ranking/ (last visited Mar. 1, 2021).

⁵⁶ WTO, *supra* note 28, at 55–56.

⁵⁷ *Id.* Asia-Pacific FTAs follow similar trends, United Nations Economic and Social Commission for Asia and the Pacific, *Asia-Pacific Trade and Investment Report: Recent Trends and Development 2016* (2016), at 90.

⁵⁸ The African Continental Free Trade Area (AfCFTA) is the largest FTA by the number of participants. As Eritrea that has not signed the agreement, the AfCFTA includes fifty-four parties. Brock R. Williams & Nicolas Cook, *The African Continental Free Trade Area (AfCFTA)*, CRS: In Focus (2020), at 1.

⁵⁹ Their shares of global gross domestic product are 30 percent, 27.8 percent, 17.8 percent and 13.5 percent, respectively. Joint Leaders' Statement on the Regional Comprehensive Economic Partnership (RCEP) (Joint Leaders' Statement on the RCEP) (2020); ASEAN, *supra* note 7, at 127; Government of Canada, *About the Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, July 16, 2019, www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/backgrounder-document_information.aspx?lang=eng (last visited Dec. 31, 2020); World Bank, *GDP (current US \$)*, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD> (Jan. 1, 2021).

⁶⁰ Joint Leaders' Statement on the RCEP, *supra* note 59; ASEAN Framework for Regional Comprehensive Economic Partnership (2011).