



# 'Mega-Regional' Agreements and Economic Integration In The Asia-Pacific

A Means to Untangle the 'Noodle Bowl'?

Elizabeth Sheargold

**ISSUES PAPER SERIES No. 05/14**

MAY 2014



**MELBOURNE  
SCHOOL OF  
GOVERNMENT**



**Author**

**Elizabeth Sheargold<sup>†</sup>**

<b>Executive Summary</b>	<b>3</b>
<b>1. Introduction</b>	<b>4</b>
<b>2. An Overview of PTAs in the Asia Pacific Region</b>	<b>7</b>
I The Ongoing Development of the ‘Noodle Bowl’	7
II ‘Mega-Regional’ Agreements Currently Under Negotiation	9
(a) Trans-Pacific Partnership Agreement (TPP)	10
(b) Regional Comprehensive Economic Partnership (RCEP)	14
<b>3. Can either Mega-Regional Agreement ‘Untangle the Noodle Bowl’?</b>	<b>16</b>
I The Law of Treaties and Overlapping PTAs	17
II The RCEP	18
III The TPP	19
IV A Route to Multilateral Reform?	20
<b>4. Conclusions</b>	<b>22</b>
<b>5. Selected Bibliography</b>	<b>23</b>

*<sup>†</sup> PhD candidate, University of Melbourne.*

## Executive Summary

THIS ISSUES PAPER EXAMINES WHETHER THESE AGREEMENTS ARE LIKELY TO HELP UNTANGLE THE 'NOODLE BOWL' IN THE FORESEEABLE FUTURE.

Since the early 2000s, the Asia-Pacific region has seen a proliferation of bilateral, regional and plurilateral preferential trade agreements. Known as the 'noodle bowl', this web of agreements creates a complex legal architecture for economic integration in the region, which may increase transaction costs for business and cause trade distortion.

In light of these concerns, there has been renewed interest in the possibility of a region-wide free trade area that could consolidate or supersede these existing agreements. Two 'mega-regional' agreements have emerged as potential bases for such an Asia – Pacific free trade area – the Trans-Pacific Partnership Agreement (TPP) and the Regional Comprehensive Economic Partnerships (RCEP).

This issues paper examines whether these agreements are likely to help untangle the 'noodle bowl' in the foreseeable future. It concludes that rather than consolidating existing PTAs, both the RCEP and the TPP are likely to add to the existing clutter of agreements.

## 1. Introduction

Liberalisation of trade and economic integration are best viewed as ongoing processes, rather than finite goals. Since the General Agreement on Tariffs and Trade (GATT) was negotiated in 1947, many of the most obvious barriers to trade — tariffs and quantitative restrictions — have been significantly reduced. In the wake of this, other barriers to trade have been identified and targeted, such as regulatory measures that are implemented ‘behind the border.’<sup>1</sup> In addition, the subject matter of international trade has expanded beyond goods, to also cover services and intellectual property,<sup>2</sup> and increasingly

overlaps with and is linked to foreign investment.<sup>3</sup>

Most countries avowed preference is for further liberalisation and reform of trade rules to occur through multilateral institutions such as the World Trade Organisation (WTO), rather than bilateral, regional or plurilateral preferential trade agreements (PTAs).

In general terms, there are three key reasons that states would prefer to pursue further trade liberalisation through multilateral agreements. First, by involving the international community at large (or at least a significant proportion of that community),<sup>4</sup> the potential economic benefits of multilateral

---

1 See Robert E Hudec, *The GATT Legal System and World Trade Diplomacy* (Butterworth, 2nd Ed., 1990) 232; Olivier Long, *Law and its Limitations in the GATT Multilateral Trade System* (M. Nijhoff, 1985) 25; Andrew Lang, *World Trade Law After Neoliberalism* (Oxford University Press, 2011) 169-170; Robert Howse, ‘From Politics to Technocracy—And Back Again: The Fact of the Multilateral Trade Regime’ (2002) 96 *American Journal of International Law* 94, 101.

2 These two topics were brought within the purview of the *World Trade Organisation* (WTO) by the *General Agreement on Trade in Services* (‘GATS’) and the *Agreement on Trade-Related Aspects of Intellectual Property* (‘TRIPs Agreement’), which together with the GATT, form the three basic pillars of the WTO regime. See *Marrakesh Agreement Establishing the World Trade Organisation*, opened for signature 15 April 1994, 1867 UNTS 3 (entered into force 1 January 1995), Annexes 1A and 1C.

3 See, generally, Tomer Broude, ‘Investment and trade: the ‘Lottie and Lisa’ of international economic law?’; in *Prospects in International Investment Law and Policy* (Roberto Echandi and Pierre Sauve, eds.) (Cambridge University Press, 2013) 139; Mary E. Footer, ‘On the laws of attraction: examining the relationship between foreign investment and international trade’ in *Prospects in International Investment Law and Policy* (Roberto Echandi and Pierre Sauve, eds.) (Cambridge University Press, 2013) 105; Anastasios Gourgourinis, ‘Reviewing the administration of domestic regulation in WTO and investment law: the international minimum standard as ‘one standard to rule them all’?’; in Freya Baetens (ed), *Investment Law within International Law: Integrationist Perspectives* (Cambridge, 2013) 298-329

4 The WTO currently has 159 Member States. See *World Trade Organization, Members and Observers* (Last Updated 2 March 2013) <[http://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](http://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm)>.

agreements are greater than those of agreements between smaller numbers of parties. Second, economics tells us that multilateral (or unilateral) actions are the most beneficial means of trade liberalisation, as they improve efficiency and competitiveness without the risk of trade distortion.<sup>5</sup> PTAs on the other hand stimulate economic growth through both trade creation and trade distortion.<sup>6</sup> Trade creation refers to the process by which less productive activities in one party contract and the more productive expand, leading to greater economic efficiency and competitiveness. Trade distortion in the context of PTAs refers to the situation where trade is diverted from third countries, whose products or services are now less competitive purely because they face a tariff disadvantage relative to suppliers from PTA parties.<sup>7</sup> These distortions may increase trade between the PTA partners, but are actually detrimental to the overall economic efficiency. Finally, some measures that distort trade, such as subsidies provided to domestic producers, are unlikely to be able to be tackled through PTAs and require a

---

5 Jagdish Bhagwati, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade* (Oxford University Press, 2008).

6 Australian APEC Study Centre, *The Australia – U.S. Free Trade Agreement: Issues and Implications* (Report Commissioned by the Department of Foreign Affairs and Trade, Commonwealth of Australia, 2001) 21-22.

7 It has been suggested that the risks of trade diversion are greater in South-South PTAs. See Asian Development Bank, *Regional Cooperation and Integration in a Changing World* (April 2013).

multilateral approach.<sup>8</sup>

In spite of these strong reasons to prefer multilateral action, there has been a proliferation of PTAs in the Asia-Pacific region over the past 15 years.<sup>9</sup> By the end of 2013, there were 113 PTAs that had entered into force and involved at least one party from the Asian region.<sup>10</sup> In addition, there were a further 148 PTAs at various stages of negotiation or pending entry into force: 51 are proposed (but negotiations have not yet been launched), 75 are under negotiation, and 22 are signed but not yet entered into force.<sup>11</sup> A common reason cited for this proliferation of PTAs is ‘disenchantment’ with the WTO and the slow progress of

---

8 For example, a long-term concern of Australia’s is subsidisation of agricultural production by other countries, and it has long been acknowledged that this problem is unlikely to be effectively addressed through bilateral or regional agreements. See Mark Vaillie, ‘Pursuing Opportunity and Prosperity’ (Speech to the Melbourne Institute Economic and Social Outlook Conference, Melbourne, 13 November 2003); Phillipa Dee, ‘The Australia–US Free Trade Agreement: An Assessment’ (*Pacific Economic Papers*, 2005) 38-39.

9 The progression of, and catalysts for, this proliferation are discussed below, in Section B of this paper.

10 Statistics available from the Asian Development Bank, Asian Regional Integration Center (ARIC), *Free Trade Agreements*, <<http://aric.adb.org/fta>> (‘ARIC FTA Database’). The Asian Development Bank’s definition of the Asia and Pacific region excludes the United States and other countries of North or South America, although it does include Oceania (i.e. Australia and New Zealand).

11 ARIC FTA Database, above n 10.

the Doha Development Agenda round of negotiations.<sup>12</sup> Furthermore, the growth of PTAs creates a domino or snowball effect,<sup>13</sup> whereby the conclusion of an agreement between two parties creates fear among other trading partners they will be disadvantaged, motivating those parties to seek to enter into comparable PTAs.<sup>14</sup> To illustrate this point, one of the reasons given by Australia for its recent conclusion of a free trade agreement with the Republic of Korea was to restore its competitive position with the United States, the European Union and the ASEAN countries, who had each previously entered into PTAs with Korea.<sup>15</sup>

---

12 *Asian Development Bank*, above n 7, 19.

13 *On the domino theory and regional trade integration in general*, see Richard Baldwin 'The Causes of Regionalism' (1997) 20(7) *The World Economy* 865–88; Richard Baldwin 'Multilateralising Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade' (2006) 29(11) *The World Economy*. 1451.

14 See Mireya Solis and Saori N. Katada, 'Permeated Regionalism in East Asia: Cross-Regional Trade Agreements in Theory and Practice' in Saori N. Katada and Mireya Solis (eds), *Cross Regional Trade Agreements: Understanding Permeated Regionalism in East Asia* (Springer, 2008) 1, 18–19; *Asian Development Bank*, above n 7, p. 24.

15 Australian Minister for Trade, Andrew Robb MP, quoted in: Michael Janda, 'Investment threshold lifted above \$1b under Korea - Australia FTA', ABC News (online), 17 February 2014, <<http://www.abc.net.au/news/2014-02-17/government-releases-details-of-korea-australia-fta/5264840>>.

The patchwork of PTAs that are in force or under development in the Asia-Pacific forms a complex regional economic architecture, often referred to as the 'noodle bowl.' Unsurprisingly, this has led to a push for consolidation of these agreements or harmonisation of the rules and standards that they impose.<sup>16</sup> This issues paper considers future prospects for economic integration in the Asia-Pacific region, and some options that are currently being negotiated for a region-wide pact, which would consolidate or replace many of the existing agreements.

It begins in Section B with an introduction to development of PTAs in the Asia-Pacific region, and an overview of the two 'mega-regional' agreements that are currently under development: the Trans-Pacific Partnership Agreement (TPP) and the Regional Comprehensive Economic Partnerships (RCEP). In Section C it goes on to consider the extent to which either of these regional agreements may be able to 'untangle' the noodle bowl, or whether they will merely increase the complexity of the regional architecture. It also considers the possibility that these mega-regional agreements could promote or feed into multilateral reform efforts. Section D concludes the paper, and suggests some questions that are ripe for further research.

---

16 For a detailed discussion of the merits of consolidation of these agreements, by comparison to harmonisation of tariff levels and other alternative actions, see: *Asian Development Bank, Asian Economic Integration Monitor* (March 2013) 49–65.

## 2. An Overview of PTAs in the Asia-Pacific Region

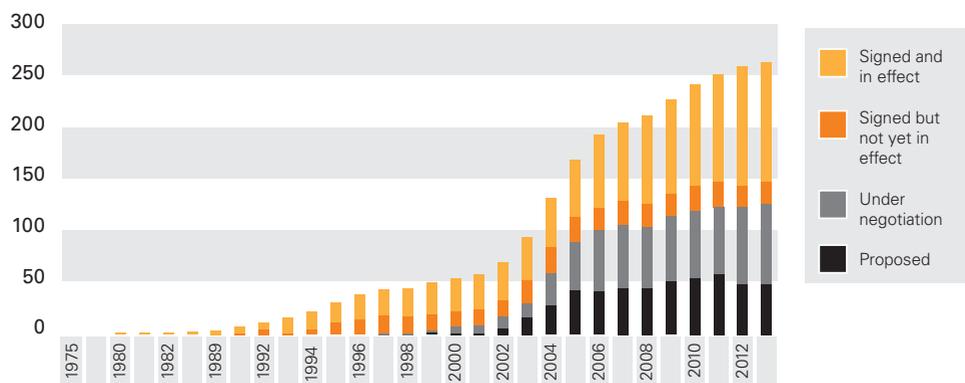
### I. The Ongoing Development of the 'Noodle Bowl'

Prior to 1997 and the East Asian Financial Crisis, there were only limited movements toward bilateral or regional economic integration. At that time, there was only one PTA 'of any substance' in the East Asian region: the Association of South East Asian Nations (ASEAN) Free Trade Agreement (FTA).<sup>17</sup> Australia and New Zealand had entered into their agreement on Closer Economic Relations (ANZCER) in 1983,<sup>18</sup> but this reflected a unique example

of cooperation between two historically connected and like-minded countries, rather than part of a broader trend toward bilateral or regional trade agreements.

In the wake of the Asian Financial Crisis, there was an explosion of PTA activity in the region.<sup>19</sup> As Figure 1 demonstrates, the number of PTAs with a link to the region grew markedly from the early 2000s onwards.

Figure 1: Status of PTAs in the Asia-Pacific Region by Year, 1975-2013<sup>20</sup>



17 John Ravenhill, 'The Turn to Preferential Trade in the Asia-Pacific,' *APEC Economic Newsletter*, Vol. 11, No. 11, November 2007, <[https://crawford.anu.edu.au/pdf/news/APEC11\\_11.pdf](https://crawford.anu.edu.au/pdf/news/APEC11_11.pdf)>.

18 Australia – New Zealand Closer Economic Relations Trade Agreement, signed 28 March 1983 (entered into force 1 January 1983).

19 See Siow Yue Chia, *The Emerging Regional Economic Integration Architecture in East Asia* (*Asian Economic Papers* 12:1, 2013), 4.

20 Based on data from the ARIC FTA Database, above n 11.

Most PTAs with a link to the Asia-Pacific region include at least one of the so-called 'ASEAN+6' nations: Australia, China, India, Japan, the Republic of Korea, New Zealand and the ten members of ASEAN (Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam).<sup>21</sup>

The majority of these PTAs are bilateral agreements entered with a trading partner from outside the region.<sup>22</sup> Singapore leads the tally for individual country participation in PTAs, with 37, with the three largest economies in East Asia — China, Japan and the Republic of Korea — not far behind, with 27, 26 and 32 respectively.<sup>23</sup> By comparison, Australia is involved in 17 PTAs, which are at various stages of development. Nine of these are proposed agreements, while another seven have entered into force and negotiation of two other agreements has recently concluded (the Korea - Australia FTA, which was signed in April 2014, and the Japan – Australia Economic Partnership Agreement).<sup>24</sup>

While most of the PTAs with a link to the region are bilateral agreements between an Asian nation and a trading partner from another area, there are still a significant number which are intra-regional.

Perhaps the most notable of these intra-regional agreements are those linking ASEAN with the '+6' nations, including the ASEAN – Japan Comprehensive Economic Partnership, the ASEAN – China FTA, ASEAN – Korea FTA, ASEAN – India FTA and the ASEAN – Australia – NZ FTA (AANZFTA).

As may be expected given the number of agreements involved and the diverse interests of the countries in the region, there are significant differences between the scope and depth of these PTAs. Those agreements involving China or ASEAN are often less comprehensive, with a focus on goods, selective coverage of sectors and few aspirations for 'deeper' integration.<sup>25</sup> By contrast, bilateral trade agreements entered into with the United States or the Republic of Korea are some of the most stringent.<sup>26</sup>

---

21 *Asian Development Bank, above n 7, p. 18.*

22 *Ibid.*

23 *Ibid.* 19.

24 See Australian Department of Foreign Affairs and Trade (DFAT), *Australia's Trade Agreements*, <<http://www.dfat.gov.au/fta/>>.

---

25 *Ravenhill, above n 17.*

26 Joost Pauwelyn and Wolfgang Alschner, *'Forget About the WTO: The Network of Relations between PTAs and "Double PTAs"'* (Graduate Institute, Geneva, February 2014), 13.

These agreements typically include significant commitments above and beyond those required by membership in the WTO, in areas such as services and intellectual property.<sup>27</sup>

In addition, since 2002 US PTAs have typically included chapters relating to sensitive domestic policy areas such as environmental protection and labour standards.<sup>28</sup>

## II. 'Mega-Regional' Agreements Currently Under Negotiation

Although the large majority of the PTAs that are currently spread throughout the Asia-Pacific region have sprung to life in the past decade, the push for deeper economic integration in the region goes back to the early 1990s.<sup>29</sup> The conclusion of the ASEAN FTA in 1992 reflects this, albeit with a more geographically narrow focus. In 1994 the Asia Pacific Economic Cooperation forum (APEC) agreed the 'Bogor Goals', which included a commitment 'to achieve free and open trade and investment' in the region.<sup>30</sup> Around this time, Australia, Chile, New Zealand, Singapore and the United States began informal discussions on the sidelines of APEC summits about the possibility of a regional trade agreement among 'like-minded' countries.<sup>31</sup>

---

27 For example, see: *United States – Singapore Free Trade Agreement*, signed 6 May 2003 (entered into force 1 January 2004); *Australia – United State Free Trade Agreement*, signed 18 May 2004 (entered into force 1 January 2005). See, also, Ravenhill, above n 17.

28 The negotiating objectives of the United States Trade Representative (USTR) are set by Congress, as the US Constitution grants the power to enter into treaties to Congress. In the Trade Act of 2002, which granted Trade Promotion Authority to the USTR, the inclusion of environment and labour standards were stipulated as two required negotiating objectives. This was further elaborated in the *Bipartisan Trade Deal of May 2007*. See *Bipartisan Trade Promotion Authority*, 19 USC § 3802 (2006); *Office of the United States Trade Representative (USTR), Bipartisan Agreement on Trade Policy (May 2007)*, available from <[http://www.ustr.gov/sites/default/files/uploads/factsheets/2007/asset\\_upload\\_file127\\_11319.pdf](http://www.ustr.gov/sites/default/files/uploads/factsheets/2007/asset_upload_file127_11319.pdf)>.

---

29 Meredith Kolsky Lewis, 'The TPP and the RCEP (ASEAN+6) as Potential Paths toward Deeper Asian Economic Integration' (2013) 8 *Asian Journal of WTO & International Health Law and Policy* 359, 361.

30 See, APEC, *Assessment of Achievements of the Bogor Goals*, <<http://www.apec.org/About-Us/About-APEC/Achievements-and-Benefits/Bogor-Goals.aspx>>.

31 Deborah K. Elms and C.L. Lim, 'An Overview and Snapshot of the TPP Negotiations', in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012) 21. Australia and the United States ended up dropping out of the process at this stage, while the other countries went on to negotiate an FTA that would later become the precursor to the TPP. See below Section (a).

More recently, APEC has taken on the mission of exploring the long-term prospects for a formalised Free Trade Area of the Asia-Pacific (FTAAP). It announced this intention in 2006, and it has since been reaffirmed.<sup>32</sup> The goal of this process is an agreement that is 'comprehensive, high quality and incorporate[s] and address[es] "next generation" trade and investment issues.'<sup>33</sup> While there has been general buy-in to the goal of an FTAAP, there has yet to be wide-spread agreement about the optimum route for pursuing this goal. If the process starts with a smaller group of nations, those countries will have a powerful opportunity to shape the scope and content of any FTAAP. As noted above, there are important differences between PTAs depending on who their parties are – bilateral agreements with the US tend to cover a wider range of issues and call for greater depth of integration than the agreements of the ASEAN countries or China. For this reason, China has proposed options that would place East Asian nations firmly in the role of drivers of the agreement.<sup>34</sup> In a 2010 Leaders' Declaration, the APEC nations suggested that a FTAAP would best be pursued by building on existing institutions and negotiating frameworks, such as ASEAN+3, ASEAN+6 or the TPP.<sup>35</sup> These latter two agreements have now emerged as the main contenders for

a 'mega-regional' agreement (RCEP is the ASEAN+6 countries). Both of these agreements are still under negotiation, and while some countries are party to both agreements, there represent very different visions for a FTAAP.<sup>36</sup>

### **a. Trans-Pacific Partnership Agreement (TPP)**

The TPP emerged from the Trans-Pacific Strategic Economic Partnership Agreement that was agreed in 2005 by the so-called 'P4' countries: Brunei Darussalam, Chile, New Zealand and Singapore.<sup>37</sup> The P4 Agreement was notable for its geographic diversity, depth of coverage and its open accession provision.<sup>38</sup> It was the first preferential trade agreement to link countries in Asia, the Pacific and Latin America.<sup>39</sup>

---

32 APEC Leaders Declaration, 'Pathways to an FTAAP', Yokohama, Japan, 14 May 2010.

33 *Ibid.*

34 Lewis, above n 29, 361.

35 APEC Leaders Declaration, above n 32.

---

36 Lewis, above n 29, 362-3.

37 *Trans-Pacific Strategic Economic Partnership Agreement Signed 18 July 2005 (provisionally entered into force 1 May 2006; officially entered into force 28 May 2006) (hereinafter 'Trans-Pacific Strategic Economic Partnership Agreement')*.

38 Meredith Kolsky Lewis, 'Expanding the P-4 Agreement into a Broader Trans-Pacific Partnership: Implications and Opportunities' (2009) 4 *Asian Journal of WTO & International Health Law and Policy* 401, 403-407.

39 New Zealand Ministry of Foreign Affairs and Trade (MFAT), *Trans-Pacific Strategic Economic Partnership (P4) Agreement* (Last updated 29 August 2013) <<http://www.mfat.govt.nz/Trade-and-Economic-Relations/2-Trade-Relationships-and-Agreements/Trans-Pacific/2-P4.php>>.

The P4 Agreement did not contain any of the exclusions for politically sensitive sectors, such as agriculture, which are common in PTAs.<sup>40</sup> As a result, the Agreement committed P4 countries to reduce their tariffs to zero on all imports from other P4 countries.<sup>41</sup>

A key feature of the P4 Agreement was its accession provision, which was viewed as a 'back-door means' of concluding a high standard regional trade agreement.<sup>42</sup>

---

40 Lewis, above n 38, 405.

41 *Ibid.* Most tariffs became zero immediately upon entry into force of the Agreement, with any remaining tariffs having to be removed by 2017. See *Trans-Pacific Strategic Economic Partnership Agreement*, Art. 3.5 and Annex I. An exception to this general principle of complete tariff elimination was allowed for certain products imported into Brunei (such as alcohol, tobacco and firearms), on the basis of concerns about morality, human health and security. See MFAT, above n 39. For an alternative viewpoint, which argues that the P4 Agreement is not in fact 'high standard' in terms of market access, relative to bilateral FTAs applicable between the parties, see: Henry Gao, 'From the P4 to the TPP: transplantation or transformation?' in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012) 64; Ann Capling, *Multilateralising PTAs in the Asia-Pacific Region: A Comparison of the ASEAN-Australia-NZ PTA and the P4 Agreement* (Paper presented at the UNESCAP and ARTNeT Conference, Singapore, 2-3 November 2009), available from <<http://artnet.unescap.org/mtg/pppt%20session%202-3.pdf>>.

42 Elms and Lim, above n 31, 22.

Beginning with a smaller group of countries that showed a similar willingness to liberalise trade was seen as a more viable root than seeking to initiate talks with a larger—but more disparate—group. The P4 Agreement could then be used as a template or basis from which to work toward a comprehensive free trade area for the Asia-Pacific region. This long-term, political goal was particularly important in light of the limited economic gains offered by the P4 Agreement.<sup>43</sup> The two P4 parties with the most substantial trading relationship, Singapore and New Zealand, already had a PTA in place between them.<sup>44</sup>

While no countries have actually acceded to the P4 Agreement, the original grouping has expanded in three waves to form the current TPP negotiating group. Australia, Peru, the United States (US) and Vietnam joined the P4 countries when the first round of talks for the TPP was held in early 2010,<sup>45</sup> while Malaysia joined later that year.<sup>46</sup>

---

43 *Ibid.* 23.

44 *Agreement between New Zealand and Singapore on a Closer Economic Partnership*, signed 18 May 2000 (entered into force 18 May 2001).

45 See, USTR, Press Release, 'USTR begins TPP talks in Australia' 15 March 2010, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2010/march/ustr-begins-tpp-talks-australia>>.

46 DFAT, Press Release, 'Update on the third round of Trans-Pacific Partnership (TPP) negotiations - Malaysia joins', October 2010, available at <<https://www.dfat.gov.au/fta/tpp/101019-tpp-stakeholder-update-3.html>>.

The US had initially expressed its interest in joining the P4 Agreement in September 2008,<sup>47</sup> although these negotiations were later delayed as the Obama Administration transitioned into office and determined its trade policy agenda.<sup>48</sup> In November 2009 the US announced that it would continue to pursue negotiations toward a TPP,<sup>49</sup> which commenced just a few months later in March 2010.<sup>50</sup> US involvement in the TPP was 'predicated on the expansion of the agreement to include more economies across the Asia-Pacific region.'<sup>51</sup>

The second expansion occurred in 2012, when Canada and Mexico joined the negotiations, meaning that all three parties to the North American Free Trade Agreement (NAFTA) are now involved in the TPP.

Finally, in April 2013 Japan became the twelfth country to formally join the talks,<sup>52</sup> and in doing so considerably increased the size of the proposed agreement (in terms of the population, GDP and trade volume covered). As the trade ministers of the (then) eleven TPP parties noted, the accession of Japan to the talks 'underscore[d] the economic significance of TPP and its promise as a pathway toward a Free Trade Area of the Asia Pacific.'<sup>53</sup>

There are signs that the TPP may expand even further, with Korea having formally expressed its interest in joining.<sup>54</sup> Other parties that are reportedly considering joining include Taiwan, Thailand and the

---

47 USTR, 'United States to Negotiate Participation in Trans-Pacific Strategic Economic Partnership', September 2008.

48 Elms and Lim, above n 41, 27.

49 USTR, Press Release, 'Kirk Comments on Trans-Pacific Partnership', 15 December 2009, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2009/november/ustr-news-kirk-comments-trans-pacific-partnership>>.

50 See sources above n 45.

51 USTR, Press Release, 'USTR Ron Kirk Comments on Trans-Pacific Partnership Talks', 18 June 2010, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2010/june/ustr-ron-kirk-comments-trans-pacific-partnership-talk>>.

---

52 See: USTR, Press Release, 'Joint Statement of TPP Ministers: Trans-Pacific Partnership Ministers Chart Path Forward on Key Issues and Confirm Next Steps on Japan's Entry', 20 April 2013, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2013/april/joint-statement-tpp-ministers>>; DFAT, Press Release, 'Australia welcomes Japan to Trans-Pacific Partnership Negotiations', 21 April 2013, available at <[http://trademinister.gov.au/releases/2013/ce\\_mr\\_130421.html](http://trademinister.gov.au/releases/2013/ce_mr_130421.html)>.

53 USTR, Press Release, 'Joint Statement of TPP Ministers: Trans-Pacific Partnership Ministers Chart Path Forward on Key Issues and Confirm Next Steps on Japan's Entry', 20 April 2013, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2013/april/joint-statement-tpp-ministers>>.

54 USTR, Statement by U.S. Trade Representative Michael Froman on Korea's Announcement Regarding the Trans-Pacific Partnership, November 2013, available at <<http://www.ustr.gov/about-us/press-office/press-releases/2013/November/Froman-statement-TPP-Korea>>.

Philippines.<sup>55</sup> It seems unlikely, however, that any more nations will join the TPP at this stage.<sup>56</sup> Instead, the 12 existing parties are likely to finalise the agreement, and other countries may then be able to join through an accession process. As of April 2014, negotiation of the TPP had almost stalled as a result of difficulties in bilateral market access negotiations between the US and Japan.<sup>57</sup> Only allowing Korea or other states to join through accession would deny these prospective members the opportunity to shape the text of the agreement; instead, they would be expected to sign on to what had already been agreed by the other parties. It would, however, avoid the risk of further delays from complicating the ongoing negotiations.

While most of the current parties did not join the TPP negotiations until 2010 or later, the complete negotiating history of the agreement has been considerably longer than this. Negotiation toward the P4 Agreement began in 2002, making the total lead-up to the TPP twelve years (and counting).<sup>58</sup> The slow pace of TPP talks reflects the breadth and complexity of the disciplines that are being negotiated.

On top of difficulties in bilateral market access negotiations, which are a typical part of PTA negotiations, the TPP will reportedly address several 'cross-cutting' trade issues that have not been included in previous PTAs. These issues include regulatory coherence (improving domestic regulatory regimes to make trade more efficient), competitiveness and business facilitation, encouraging small – to –medium sized enterprises to trade internationally, and development issues.<sup>59</sup> This is part of the TPP's goal to be a 'state-of-the-art' agreement 'that establishes high standards and new disciplines.'<sup>60</sup>

---

55 See Richard C. Bush and Joshua P. Meltzer, *Taiwan and the Trans-Pacific Partnership: Preparing the Way*, (Brookings Institution, January 2014), 2.

56 Lewis, above n 29, 369.

57 Chun Han Wong and Mitsuru Obe, 'Asia-Pacific Trade Talks Resume with Aim to Resolve U.S.-Japan Impasse', *Wall Street Journal* (online) 19 May 2014.

---

58 On the negotiations for the P4 Agreement, see: Lewis, above n 38, at 403-404; Elms and Lim, above n 41, at 21-25.

59 See *Trans-Pacific Partnership, Trade Ministers' Report to Leaders*, October 8, 2013, available from <<http://www.ustr.gov/sites/default/files/tpp%20trade%20ministers%20report%20to%20leaders%2010082013.pdf>>.

60 *Ibid*.

## **b. Regional Comprehensive Economic Partnership (RCEP)**

The RCEP is being negotiated between sixteen countries: the ten members of the ASEAN, along with Australia, China, Japan, India, New Zealand and the Republic of Korea (in other words, 'ASEAN+6').<sup>61</sup> These latter six countries all currently have FTAs with the ASEAN trading bloc.<sup>62</sup> Unlike the TPP, which began with a small group of parties and gradually expanded, the RCEP negotiating group seems relatively fixed, and would be unlikely to be extended beyond ASEAN's FTA partners.<sup>63</sup>

Also in contrast to the TPP, the RCEP is firmly centred in Asia and does not include any nations from North or South America. While many countries are involved in both agreements, the absence of the US in the RCEP negotiations, and the inclusion of China and India (who are not involved in the TPP), are significant differences in terms of the focus and dynamics of each agreement. Although it is limited to Asia, the economic scope of the RCEP is still significant. As of 2013, the parties represent a total market of 3.4 billion people and a combined GDP of \$21.4 trillion or about 30% of world GDP.<sup>64</sup>

---

61 DFAT, *Regional Comprehensive Economic Partnership Negotiations* <<https://www.dfat.gov.au/fta/rcep/>>.

62 Association of South East Asian Nations (ASEAN), *Free Trade Agreements with Dialogue Partners* <<http://www.asean.org/communities/asean-economic-community/category/free-trade-agreements-with-dialogue-partners>>.

63 The 'Guiding Principles' for RCEP negotiation only refer to the possibility of ASEAN FTA partners being involved in the agreement. See 'Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership', available at <<http://www.asean.org/images/2012/documents/Guiding%20Principles%20and%20Objectives%20for%20Negotiating%20the%20Regional%20Comprehensive%20Economic%20Partnership.pdf>>

---

64 Asian Development Bank, *Asian Development Outlook 2013: Asia's Energy Challenge* (2013), 14.

RCEP negotiations are at an earlier stage than the TPP, having only commenced in November 2012.<sup>65</sup> After their first negotiating round, held in August 2013, the parties released a joint statement expressing their intention to 'achieve a modern, comprehensive, high-quality and mutually beneficial economic partnership agreement.'<sup>66</sup> The agreement will cover trade in goods, trade in services, investment, economic and technical cooperation, intellectual property, competition and dispute settlement, among other issues.<sup>67</sup> In their joint 'Guiding Principles and Objectives' for the RCEP negotiations, the parties have expressly stated their wish to achieve 'broader and deeper engagement with significant improvements over the existing ASEAN+1 FTAs.'<sup>68</sup>

In spite of this wish, the make-up of the negotiating group makes it unlikely that the RCEP will be as comprehensive as the TPP, particularly in relation to non-market access issues such as environmental protection and labour rights.<sup>69</sup> While the RCEP is likely to include a chapter on intellectual property, it would be surprising if the requirements it imposed were at the same high standard as those that the US is likely to push for in the TPP. Similarly, there is no indication that the RCEP will deal with the new 'cross-cutting' trade issues that the TPP seeks to address, such as regulatory coherence. The Guiding Principles for the RCEP negotiations also emphasise the various stages of development of the negotiating parties, and the need for special and differential treatment and flexible implementation schedules for least-developed countries.<sup>70</sup>

---

65 *Ibid.*

66 *Joint Media Statement, The First RCEP Ministerial Meeting, (Bandar Seri Begawan, Brunei Darussalam, 19 August 2013) available at <<https://www.dfat.gov.au/fta/rcep/downloads/130819-joint-statement.pdf>>.*

67 *DFAT, above n 61.*

68 *Guiding Principles, above n 63, [2].*

---

69 *Meredith Kolsky Lewis, 'The TPP and the RCEP (ASEAN+6) as Potential Paths toward Deeper Asian Economic Integration,' (2013) 8 Asian Journal of WTO & International Health Law and Policy 359-378, 368.*

70 *Guiding Principles, above n 63, [4].*

### 3. Can either Mega-Regional Agreement ‘Untangle the Noodle Bowl’?

There is a wide literature considering the issues posed by the global ‘spaghetti bowl’,<sup>71</sup> or the Asia-Pacific regional ‘noodle bowl’, of PTAs.<sup>72</sup> Although simplistic, these terms are widely used as they capture two key features of the current web of PTAs: that it lacks any hierarchical order or structuring, and is difficult to untangle. Differences between the various PTAs, and complex rules of origin, create unnecessary transaction costs for business and governments.<sup>73</sup> Moreover, diverging standards may lead to trade distortion and a reduction in overall economic efficiency.<sup>74</sup>

As Pascal Lamy, a former Director General of the WTO has argued, ‘[p]roliferation [of PTAs] is breeding concern – concern about incoherence, confusion, unnecessary business costs, instability, and unpredictability in trade relations.’<sup>75</sup>

This complexity has led to calls for an ‘untangling’ of the noodle bowl, through the consolidation of agreements or harmonisation of rules.<sup>76</sup> In the following section, this paper will consider whether either the TPP or the RCEP could be an appropriate vehicle for such a consolidation. Before moving onto a consideration of these two particular agreements, it is important to recall a point made earlier: that many of the PTAs that have a link to the Asia – Pacific region are bilateral agreements with a trading partner from outside the region.

---

71 See, e.g., *Bhagwati*, above n 5; *Baldwin*, above n 13.

72 See, e.g., *M. Kawai and G. Wignaraja*, ‘Dealing with the Noodle Bowl of Asia’s Free Trade Agreements’ *Asian Pathways* (24 April 2006) <<http://www.asiapathways-adbi.org/2012/04/dealing-with-the-noodle-bowl-of-asias-free-trade-agreements/>>; *Asian Development Bank*, above n 16, 46-65.

73 *Baldwin*, above n 71, 1505-1512.

74 See *Innwon Park and Soonchan Park*, ‘Consolidation and Harmonization of Regional Trade Agreements (RTAs): A Path Toward Global Free Trade’ (International Conference on Globalisation, Growth and Development in Asia, Leverhulme Centre for Research on Globalisation and Economic Policy (GEP) at the University of Nottingham, the University of Nottingham Malaysia Campus, Kuala Lumpur, Malaysia, 14-15 January 2009) <<http://www.nottingham.ac.uk/gep/documents/conferences/2009/janconfmalaysia2009/innwonpark.pdf>>

---

75 *Pascal Lamy*, ‘Foreword’, in *R. Baldwin and P. Low* (eds), *Multilateralizing Regionalism: Challenges for the Global Trading System* (Cambridge University Press, 2009).

76 See, e.g., *Stephen Grenville*, ‘Free Trade: Untangling the Noodles?’ *Lowy Interpreter*, 23 July 2012, <<http://www.lowyinterpreter.com.au/post/2012/07/23/Free-trade-Untangling-the-noodles.aspx?COLLCC=4182303539&>>; *Asian Development Bank*, above n 16, 49-65.

Thus, even if either the TPP or the RCEP was able to provide a basis for a FTAAP that superseded or consolidated previous PTAs among its member states, this would not resolve the ‘noodle bowl’ problem in its entirety.<sup>77</sup>

## **I. The Law of Treaties and Overlapping PTAs**

A critically important point to understand when considering the consolidation of PTAs is that subsequent treaties — even if they are between the same parties and cover the same subject matter — do not automatically displace or revoke earlier treaties. Thus, it is possible to have a situation where the same countries are party to two or more PTAs that govern their trade. For example, Australia and New Zealand entered into ANZCER in 1983, and are both also party to the AANZFTA. The AANZFTA included disciplines that had not been included in the earlier ANZCER agreement, such as investment. Yet another agreement was added into the mix in 2011, when Australia and New Zealand agreed to a Protocol on Investment to the ANZCER. All three of these agreements are now in force between these two countries, and include overlapping obligations.

---

<sup>77</sup> Jayant Menon, ‘How to Multilateralise Asian Regionalism’ *East Asia Forum* 6 January 2013, <<http://www.eastasiaforum.org/2013/01/06/how-to-multilateralise-asian-regionalism/>>.

Typically, where parties have entered into multiple PTAs, the later agreement/s will usually specify how any conflict between the norms of the agreements should be resolved.<sup>78</sup> For example, the AANZFTA states in Article 18.2 that:

Each Party reaffirms its rights and obligations under the WTO Agreement and other agreements to which the Parties are party.

Nothing in this Agreement shall be construed to derogate from any right or obligation of a Party under the WTO agreement and other agreements to which the Parties are party.

In accordance with the Vienna Convention on the Law of Treaties, this article would ensure that if the AANZFTA conflicted with the ANZCER, the latter agreement would prevail.<sup>79</sup> In the absence of such a provision, the default position under international law is that an earlier treaty only has effect to the extent that its provisions are not ‘incompatible’ with those of a later agreement (i.e. the later agreement is given precedence).<sup>80</sup>

---

<sup>78</sup> For a more detailed discussion of alternative approaches to this issue, see: Pauwelyn and Alschner, above n 26, 31-36.

<sup>79</sup> Vienna Convention on the Law of Treaties, opened for signature May 1969, 1155 UNTS 331 (entered into force 27 January 1980), Art. 30(2) (‘VCLT’).

<sup>80</sup> VCLT, Art. 30(3). However, if the earlier agreement contained particularly specialised rules then it would be arguable that it may prevail on the basis of the principle of *lex specialis*. See Pauwelyn and Alschner, above n 26, 36.

To avoid the situation of overlapping treaty obligations, the parties to a PTA may choose to suspend or terminate their earlier agreements. Terminating earlier agreements provides the greatest clarity for both governments and traders, by truly consolidating the obligations of the parties. While there are some important examples of this occurring, particularly in the context of regional integration efforts,<sup>81</sup> it is not the norm in international trade law. Except in cases where the later agreement is more comprehensive or provides for 'deeper' economic integration between the parties, it may make sense for the countries to wish to keep multiple agreements in effect.<sup>82</sup> Returning to the example of Australia and New Zealand, while AANZFTA included some sectors that had not previously been addressed between the parties (such as investment), ANZCER had a greater depth of integration in the areas that were subject to both agreements (such as trade in goods). In these circumstances, it made sense for the parties to wish to retain the earlier agreement.

---

*81 For example, the Mexico-Central America FTA terminated earlier bilateral agreements between Mexico and El Salvador, Guatemala, Honduras and Nicaragua, respectively. See Free Trade Agreement between Mexico and Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, signed 22 November 2011 (entered into force 1 September 2012), Art. 21.7. Similarly, the creation of the Central European Free Trade Area (CEFTA) in 2006 terminated 32 earlier bilateral FTAs. See: Central European Free Trade Agreement, signed 19 December 2006 (entered into force 26 July 2007), Art. 4.5.*

*82 Pauwelyn and Alschner, above n 26, 29.*

## II. The RCEP

The RCEP may initially appear to be a prime candidate to act as a means to consolidate at least some of the intra-regional PTAs. Membership of the negotiating group is defined by whether or not a country has an existing FTA with ASEAN – thus, each of these earlier agreements among the negotiating parties could, conceivably, be replaced by the RCEP.<sup>83</sup>

However, the Guiding Principles for the negotiation of the RCEP make this outcome appear doubtful. The Principles state that:

The ASEAN+1 FTAs and the bilateral/plurilateral FTAs between and among participating countries will continue to exist and no provision in the RCEP agreement will detract from the terms and conditions in these bilateral/plurilateral FTAs between and among the participating countries.<sup>84</sup>

If the parties maintain this stance, then the RCEP is likely to add one more strand to the 'noodle bowl,' rather than consolidating any existing agreements.

Even if the RCEP did supersede or terminate all earlier agreements between its parties, a large number of PTAs will still exist in the region. As noted above, all current parties to the RCEP are from the Asia-Pacific, while the majority of PTAs with a link to the region also include an external negotiating partner. In a best case

---

*83 Asian Development Bank, above n 16, 56.*

*84 Guiding Principles, above n 63, [5].*

scenario, the RCEP would only address approximately one third of all bilateral FTAs in the region.<sup>85</sup> If the RCEP includes an accession clause that would allow external trading partners to become members of the agreement, then it may prove more effective as a tool for consolidating PTAs in the region.<sup>86</sup> The inclusion of emerging economies such as China and India in the RCEP may make it attractive to countries outside the region, particularly for developing nations that would appreciate flexible implementation schedules and exclusion of issues such as environmental protection and labour standards.<sup>87</sup> However, if the RCEP parties continue their current approach and maintain that any new agreement will not detract from the rights and obligations imposed by existing agreements, then the accession of new parties in the future may simply create further complication of the regional architecture.

### III. The TPP

Unlike the RCEP, which sprung from ASEAN's FTAs with Australia, China, India, Japan, Korea and New Zealand, the TPP does not build on a neatly defined group of earlier treaties. Although it evolved from the P4 Agreement, the negotiating agenda for the TPP is being driven by economically powerful members, particularly the US, who were not part of that earlier

agreement. There is a dense web of trade agreements currently in effect between the 12 TPP negotiating parties,<sup>88</sup> but this web is far from complete.<sup>89</sup> If it is finalised the TPP will form significant new PTA relationships between some partners (such as between Japan and the US), and will simply add another layer to already complex relations between others. For example, New Zealand and Singapore are currently party to three trade agreements with one another: the Agreement between New Zealand and Singapore on a Closer Economic Partnership (ANZSCEP), the P4 Agreement and the AANZFTA. These agreements each include slightly different rules, such as whether the coverage of services disciplines is determined through a positive or negative list approach, which exist in parallel.<sup>90</sup> Due to the disparate nature of the agreements that are currently in force between TPP countries, it is unlikely that the parties will be able to negotiate a general rule that would terminate or suspend earlier agreements. Each of those earlier treaties represents a carefully negotiated compromise between the parties, and the suggestion that these deals could be 'reopened' in TPP negotiations may be politically unpalatable for many countries.<sup>91</sup> For this reason, the most likely outcome would appear to be that the TPP will not consolidate existing PTAs, and will instead add to the existing network of agreements.

---

*85 Asian Development Bank, above n 7, [30].*

*86 The Guiding Principles suggest that such an accession clause may be included in the agreement. Guiding Principles, above n 63, [6].*

*87 Lewis, above n 29, 369.*

---

*88 Elms and Lim, above n , 32.*

*89 Asian Development Bank, above n. 7, p. 29.*

*90 Elms and Lim, above n 31, 32.*

*91 Ibid 36.*

Even though the TPP is unlikely to replace or subsume any of the existing agreements, and therefore will not reduce the number of active PTAs in the region, it may still play an important role in the harmonisation of standards. As noted earlier, the TPP is likely to impose high standards in a range of areas beyond tariff reductions, such as intellectual property and labour rights, and intends to promote regulatory coherence among its members. These actions intend to lift the ‘minimum floor’ of standards among parties to the agreement, and help to facilitate trade by reducing transaction costs for businesses. Thus, while the TPP may not simplify the legal architecture governing trade relations between all parties, it may still minimise or offset some of the harms of the ‘noodle bowl’ effect.

#### **IV. A Route to Multilateral Reform?**

Perhaps the ultimate means by which the TPP or RCEP could contribute to the streamlining trade commitments in the Asia-Pacific region is by spurring multilateral action. Although a detailed consideration of how multilateral trade dynamics are influenced by regional or bilateral agreements is beyond the scope of this paper,<sup>92</sup> some basic points are worth making.

Multilateral reform can be driven in one of two ways – either a ‘top-down’ approach through negotiations at the WTO, or ‘bottom-up’ consolidation of various regional or bilateral initiatives.<sup>93</sup> A ‘bottom-up’ approach to multilateral reform is likely to proceed geographically, with regional blocs such as the TPP or RCEP eventually linking with comparable agreements in other areas, such as Europe. Such a phenomenon seems to be only a distant possibility at this stage, although whether or not it occurs is likely to depend upon the compatibility of different regional agreements. In this respect, the TPP may be more likely to succeed than the RCEP, as its comprehensive coverage is more like that pursued by recent European

---

*92 For a more detailed discussion of these issues, see Richard E. Baldwin and Patrick Low (eds), *Multilateralizing Regionalism: Challenges for the Global Trading System* (Cambridge University Press, 2009).*

*93 Patrick Low, ‘The TPP in a Multilateral World’ in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012), 314.*

PTAs. In particular, the TPP is likely to be closer in form than the RCEP to the other 'mega-regional' agreement current under development, the proposed Transatlantic Trade and Investment Promotion Agreement (TTIP) between the EU and the US.<sup>94</sup>

While a 'top-down' approach to multilateral reform would be driven by negotiations at the WTO level, regional agreements such as the TPP and RCEP may contribute to this process by helping to gain a 'critical mass' of support for particular obligations. This method of reform is unlikely to see the network of PTAs replaced or consolidated by a single agreement, but may lead to multilateral agreements being formed in new thematic areas, such as regulatory coherence or e-commerce, which could harmonise standards. Again, the TPP may be more likely to contribute to multilateralisation of norms through this 'top-down' approach than the RCEP, as it covers a broader range of trade issues and is likely to have more in common with other '21st Century' PTAs. On the other hand, the high standards imposed by the TPP in areas such as intellectual property or environmental protection may limit its appeal to many developing or emerging economies, and this would suggest that its standards are unlikely to provide a basis for multilateral agreement.

---

<sup>94</sup> *TTIP negotiations began in February 2013. See, European Commission, Transatlantic Trade and Investment Partnership < <http://ec.europa.eu/trade/policy/in-focus/ttip/>>.*

## 4. Conclusions

This issues paper has considered whether either of the two 'mega-regional' Asia – Pacific agreements that are currently being negotiated — the TPP and the RCEP — could be a means for consolidating or streamlining the dense network of PTAs that currently exists. While neither agreement has been finalised, at this stage it appears that both of these treaties will add to the 'noodle bowl' effect, rather than diminish it. Although the RCEP could be a prime candidate for consolidating the several PTAs that currently exist between the ASEAN+6 nations, what little information is available about the negotiations indicates that the parties expressly intend to preserve their existing agreements. The web of agreements between the twelve TPP countries is both diverse and incomplete, and it is unlikely to be politically feasible for the parties to agree to terminate or subsume all previous agreements through the TPP. In other words, the TPP and the RCEP appear to be symptoms of the 'noodle bowl' phenomenon, rather than a potential solution to it.

If these conclusions prove to be correct, which cannot be determined until the agreements are concluded, this does not mean that the complexity and incoherence caused by differing standards between agreements must necessarily continue. Each of these agreements has the potential to ease transaction costs for business and minimise the risk of trade distortion by promoting harmonisation of standards (even if those standards are still contained in and given force by a number of separate agreements).

The inclusion in the TPP of new trade issues such as regulatory coherence and business facilitation make it particularly promising in this respect, and the impact of the agreement in these areas may be particularly worthy of attention.

If the RCEP and the TPP are both concluded, then their implementation will give rise to important questions for future research relating to the legal architecture of the Asia – Pacific region. In particular, the relationship between the two agreements will provide important indications for whether regional consolidation or harmonisation of trade obligations is likely to be achieved in the foreseeable future. If there is considerable overlap between the parties to the agreements, and if major economies such as the US and China express an interest in participating in both agreements, then this may signal an important move toward region-wide integration.

## 5. Selected Bibliography

Asian Development Bank, *Asian Economic Integration Monitor* (March 2013).

Asian Development Bank, *Regional Cooperation and Integration in a Changing World* (April 2013).

Australian APEC Study Centre, *The Australia – U.S. Free Trade Agreement: Issues and Implications* (Report Commissioned by the Department of Foreign Affairs and Trade, Commonwealth of Australia, 2001).

Baldwin, Richard, 'The Causes of Regionalism' (1997) 20(7) *The World Economy* 865–88.

Baldwin, Richard, 'Multilateralising Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade' (2006) 29(11) *The World Economy* 1451.

Baldwin, Richard, and Low, Patrick, (eds), *Multilateralizing Regionalism: Challenges for the Global Trading System* (Cambridge University Press, 2009).

Bhagwati, Jagdish, *Termites in the Trading System: How Preferential Agreements Undermine Free Trade* (Oxford University Press, 2008).

Broude, Tomer, 'Investment and trade: the 'Lottia and Lisa' of international economic law?', in *Prospects in International Investment Law and Policy* (Roberto Echandi and Pierre Sauve, eds.) (Cambridge University Press, 2013).

Capling, Ann, 'Multilateralising PTAs in the Asia-Pacific Region: A Comparison of the ASEAN-Australia-NZ PTA and the P4 Agreement' (Paper presented at the UNESCAP and ARTNeT Conference, Singapore, 2-3 November 2009), available from <<http://artnet.unescap.org/mtg/ppt%20session%202-3.pdf>>.

Chia, Siow Yue, *The Emerging Regional Economic Integration Architecture in East Asia* (*Asian Economic Papers* 12:1, 2013).

Dee, Phillipa, 'The Australia–US Free Trade Agreement: An Assessment' (*Pacific Economic Papers*, 2005).

Elms, Deborah K. and Lim, C.L., 'An Overview and Snapshot of the TPP Negotiations', in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012).

Footer, Mary E., 'On the laws of attraction: examining the relationship between foreign investment and international trade' in *Prospects in International Investment Law and Policy* (Roberto Echandi and Pierre Sauve, eds.) (Cambridge University Press, 2013).

Gao, Henry, 'From the P4 to the TPP: transplantation or transformation?' in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012).

Howse, Robert, 'From Politics to Technocracy—And Back Again: The Fact of the Multilateral Trade Regime' (2002) 96 *American Journal of International Law* 94.

Hudec, Robert E., *The GATT Legal System and World Trade Diplomacy* (Butterworth, 2nd Ed., 1990).

Kawai, M., and Wignaraja, G. 'Dealing with the Noodle Bowl of Asia's Free Trade Agreements' *Asian Pathways* (24 April 2006) <<http://www.asiapathways-adbi.org/2012/04/dealing-with-the-noodle-bowl-of-asias-free-trade-agreements/>>;

Lang, Andrew, *World Trade Law After Neoliberalism* (Oxford University Press, 2011).

Lewis, Meredith Kolsky, 'Expanding the P-4 Agreement into a Broader Trans-Pacific Partnership: Implications and Opportunities' (2009) 4 *Asian Journal of WTO & International Health Law and Policy* 401.

Lewis, Meredith Kolsky, 'The TPP and the RCEP (ASEAN+6) as Potential Paths toward Deeper Asian Economic Integration' (2013) 8 *Asian Journal of WTO & International Health Law and Policy* 359.

Long, Olivier, *Law and its Limitations in the GATT Multilateral Trade System* (M. Nijhoff, 1985).

Low, Patrick, 'The TPP in a Multilateral World' in C.L. Lim, Deborah K. Elms and Patrick Low (eds), *The Trans-Pacific Partnership: A Quest for a Twenty-first-Century Trade Agreement* (Cambridge University Press, 2012).

Menon, Jayant, 'How to Multilateralise Asian Regionalism' *East Asia Forum* 6 January 2013, <<http://www.eastasiaforum.org/2013/01/06/how-to-multilateralise-asian-regionalism/>>.

Park, Innwon, and Park, Soonchan, 'Consolidation and Harmonization of Regional Trade Agreements (RTAs): A Path Toward Global Free Trade' (International Conference on Globalisation, Growth and Development in Asia, Leverhulme Centre for Research on Globalisation and Economic Policy (GEP) at the University of Nottingham, the University of Nottingham Malaysia Campus, Kuala Lumpur, Malaysia, 14-15 January 2009).

Pauwelyn, Joost, and Alschner, Wolfgang, 'Forget About the WTO: The Network of Relations between PTAs and "Double PTAs"' (Graduate Institute, Geneva, February 2014).

Ravenhill, John, 'The Turn to Preferential Trade in the Asia-Pacific,' *APEC Economic Newsletter*, Vol. 11, No. 11, November 2007.

Solis, Mireya, and Katada, Saori N., 'Permeated Regionalism in East Asia: Cross-Regional Trade Agreements in Theory and Practice' in Saori N. Katada and Mireya Solis (eds), *Cross Regional Trade Agreements: Understanding Permeated Regionalism in East Asia* (Springer, 2008).





## Melbourne School of Government

The Melbourne School of Government (MSoG) research agenda addresses these kinds of governance and policy dilemmas and MSoG provides training for people who must deal with these in their work.

Research@MSoG aims to provide excellent scholarship which has an impact on governance and public policy. This research underpins our ability to improve the capacity of policy makers to make sound decisions, design and deliver effective policies and programs, and build robust institutions in Australia, the region and beyond.

MSoG's research agenda is informed by global and regional developments, in particular those associated with the 'Asian Century', and how country specific and regional public policy will need to adapt and change.

Within this overarching focus, there are four research themes:

- Governance and Performance (designing better governing institutions and improving policy-making and policy performance)
- Knowledge and Expertise in public policy (using different types of evidence and new approaches, and managing competing perspectives)
- Security and Political Engagement (responding to the effects of war, natural disasters, and dispossession, and improving political engagement)
- Governing Markets (improving the instruments that structure relationships between governments, governing institutions, and private actors).



**MELBOURNE  
SCHOOL OF  
GOVERNMENT**

## **Melbourne School of Government**

### **Research collaboration**

Leanne McDonald  
Research Development Manager  
Phone: +613 9035 7677  
Email: [l.mcdonald@unimelb.edu.au](mailto:l.mcdonald@unimelb.edu.au)

### **Executive education and partnership opportunities**

Hilary Blackman  
External Relations Manager  
Phone: +613 9035 5428  
Email: [hilary.blackman@unimelb.edu.au](mailto:hilary.blackman@unimelb.edu.au)



@Government\_UoM

**[government.unimelb.edu.au](http://government.unimelb.edu.au)**

