

Free trade agreements in the Asia-Pacific a decade on: evaluating the past, looking to the future

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Abstract

This paper charts the growth and patterns of free trade agreement (FTA) activity in the Asia-Pacific, discussing the extent to which there has been evolution and learning in FTA practice among Asia-Pacific states, with attention to the most notable trends in technical policy content and the different ideational approaches to formulating agreements. This sets the broad context for considerations of the current and likely future paths of FTA convergence, harmonization, and transformation in the Asia-Pacific. It is argued that new options for economically rational and politically feasible bilateral FTA partnerships within the Asia-Pacific region are running out. One response has been to explore more seriously options for forming wider plurilateral and regional agreements within the Asia-Pacific. However, a number of constraints and hindrances will work against such FTA convergence and

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harmonization. The longer term transformation of existing, mostly bilateral FTAs into different or expanded types of agreement has stronger prospects.

1 Introduction

The remarkable expansion of free trade agreement (FTA) activity in the Asia-Pacific over the last decade or so has made considerable impacts upon the region's international political economy (Aggarwal and Urata, 2005; Dent, 2006; Katada and Solis, 2008). FTAs have brought important changes to the macro-structure of international economic relations in the region and become a core strategic aspect of many Asia-Pacific countries' trade policies. Furthermore, the now broad spread of these agreements in their various forms has the potential to significantly affect trade and investment flows within the region, not only by removing economic barriers between nations but also through their shaping of the Asia-Pacific's commercial regulatory environment. The intensification of FTA activity in the Asia-Pacific has significant implications too for other countries, regions, and the multilateral trading system. No other region in the world since the late 1990s has hosted such a growth in FTAs, expanding from just 8 concluded in 1998 to 60 by 2008, the vast majority being bilateral. So, how has Asia-Pacific FTA activity developed over the last decade, and how will it most likely evolve over the next decade and beyond?

The analysis that follows first provides an empirical overview of FTA developments in the region, charting the growth in the number and nature of agreements and explaining the general reasons for this growth. It also examines current patterns of Asia-Pacific FTA activity and considers the different factors behind FTA partner selection. The analysis thereafter discusses the extent to which there has been evolution and learning in FTA practice among Asia-Pacific states, with attention to the most notable trends in technical policy content and the different ideological approaches to formulating agreements. Developments in FTA review, revision, and impact assessment processes are also investigated. The above sets the broad context for the paper's core discussions on the current and likely future paths of FTA convergence, harmonization, and transformation in the Asia-Pacific. The convergence and harmonization of FTA practice concern the various ways that countries seek to achieve

mutual alignment among existing agreements, or their merging or expansion into new larger agreements. This is discussed from the different thematic and conceptual perspectives of emerging FTA models in the Asia-Pacific, regionalized 'best practice' setting, plurilateral expansionism, parallel bilateralism, and grand regionalism. Meanwhile, FTA transformation examines how existing bilateral agreements could evolve and transform into different types of agreement over the longer term.

The main arguments advanced by this paper are as follows. Recent evidence suggests that the new options for economically rational (i.e. those yielding good trade and investment creation gains) and politically feasible bilateral FTA partnerships within the Asia-Pacific region are running out. While Asia-Pacific countries may continue to make FTA deals with relatively 'easy' minor trade partners, the lack of expected and actual economic benefits from such agreements will attract growing domestic political criticism of continuing to pursue this approach. The above factors will push especially active countries into forming FTA partnerships with those outside the region where technocratic capacity and political feasibility permit, as well as more seriously explore options for forming wider plurilateral and regional agreements within the Asia-Pacific. However, the complex diversity of the region, the wide range of competitive tensions between countries, the current global financial crisis, recent changes in US domestic politics, and the potential rivalry between different 'grand regional' FTA projects do not bode well for such FTA convergence and harmonization. What is perhaps more likely and therefore significant is the longer term transformation of existing, mostly bilateral FTAs into different or expanded types of agreement.

2 An empirical overview of FTA developments in the Asia-Pacific

2.1 *Charting and explaining the new FTA trend in the region*

Early developments. FTAs are a relatively new phenomenon in East Asia, in particular, the only FTA project initiated in the region by the mid-1990s being the ASEAN¹ Free Trade Area (AFTA). Pacific

1 Association of Southeast Asian Nations, comprising Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam.

American countries had meanwhile entered into a number of new and mostly bilateral agreements from the early 1990s onwards, largely keeping pace with the rising number of FTAs globally (Fig. 1). During this part of the decade, Europe was the main center of new FTA activity as East European nations signed various agreements with each other and also with the EU as part of their pre-accession process (Fig. 1). In 1990, there were only 16 FTAs and customs unions in operation worldwide, but by 1997 this number had risen to 72. Figure 2 shows that there were three regional FTAs (CER, NAFTA, CACM²) and four bilateral FTAs concluded in the Asia-Pacific by this time: the core of AFTA would not be implemented until 2003.

The situation in the Asia-Pacific changed significantly from the late 1990s onwards. Towards the end of 1998, three new FTA projects were proposed, these being between Japan and South Korea, South Korea and Chile, and South Korea and Thailand. These were the first ever bilateral FTA projects initiated involving East Asian countries. A few months later, a South Korea–New Zealand FTA project was announced in July 1999, and on the sidelines of the September 1999 Auckland Asia-Pacific Economic Co-operation (APEC) summit, four other bilaterals were proposed: Singapore–New Zealand, Singapore–Mexico, Japan–Mexico, and Japan–Singapore. Another project (Japan–Chile) was formally proposed in November that year, and the following month South Korea and Chile started their first round of FTA negotiations. The intensification of FTA activity continued over the years that followed, with most other East Asian countries and economies joining the trend. By 2004, 15 projects had been initiated in East Asia (6 concluded), and in the wider Asia-Pacific region, a total of 68 projects initiated and 31 concluded (Table 1, Fig. 3).

Explaining the new FTA trend. Explanations for the new FTA trend in the Asia-Pacific must take into account how the trend itself evolved over time. In the very initial phase, the two most important factors were *FTA catch-up* and *response to the 1997/98 East Asian financial crisis*. The first of these particularly related to a growing concern among East Asia's most economically internationalized nations (Japan, South Korea,

2 CER (Closer Economic Relations, between Australia and New Zealand), NAFTA (North American Free Trade Agreement), and CACM (Central American Common Market).

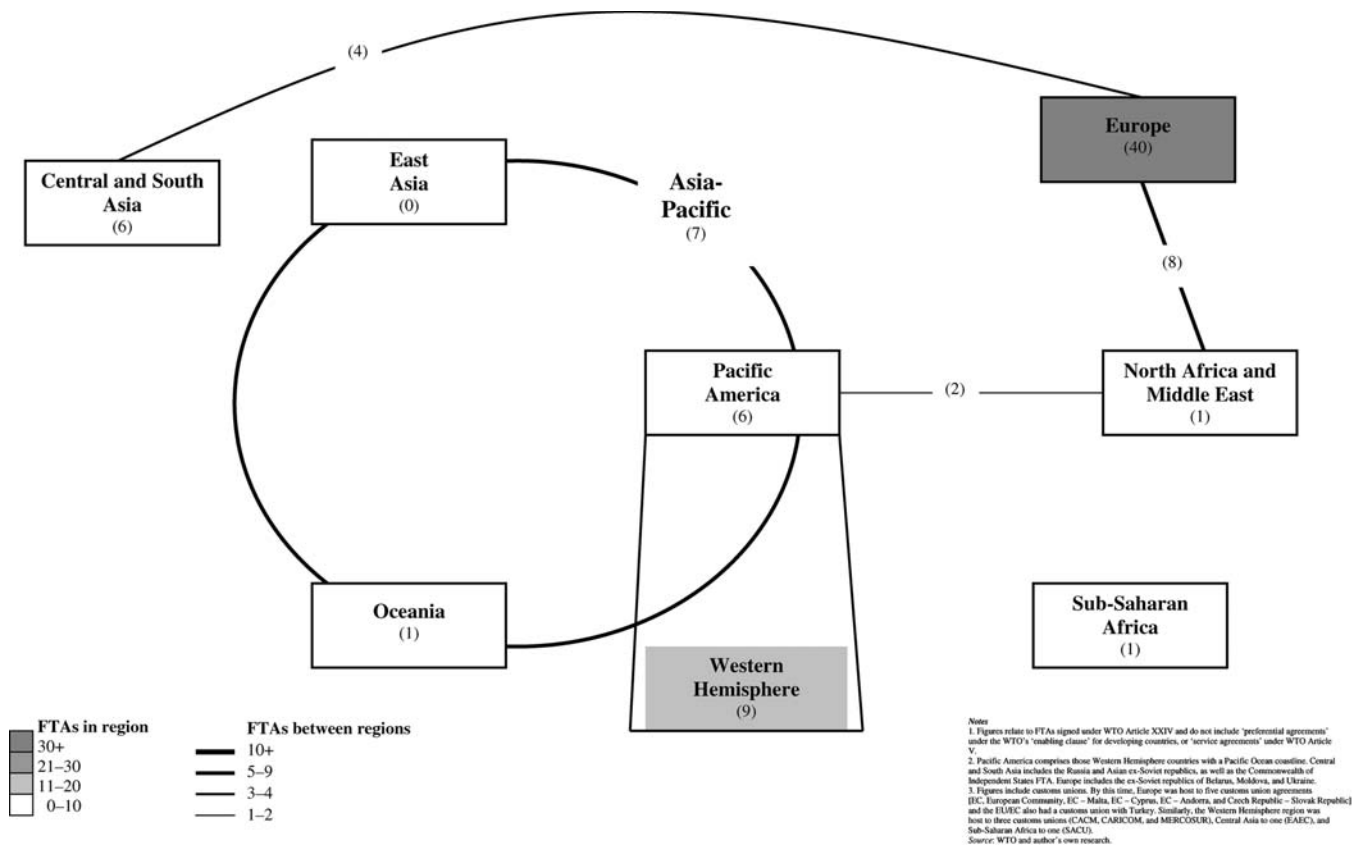


Figure 1 Global map of FTAs by region (by the end of 1997).

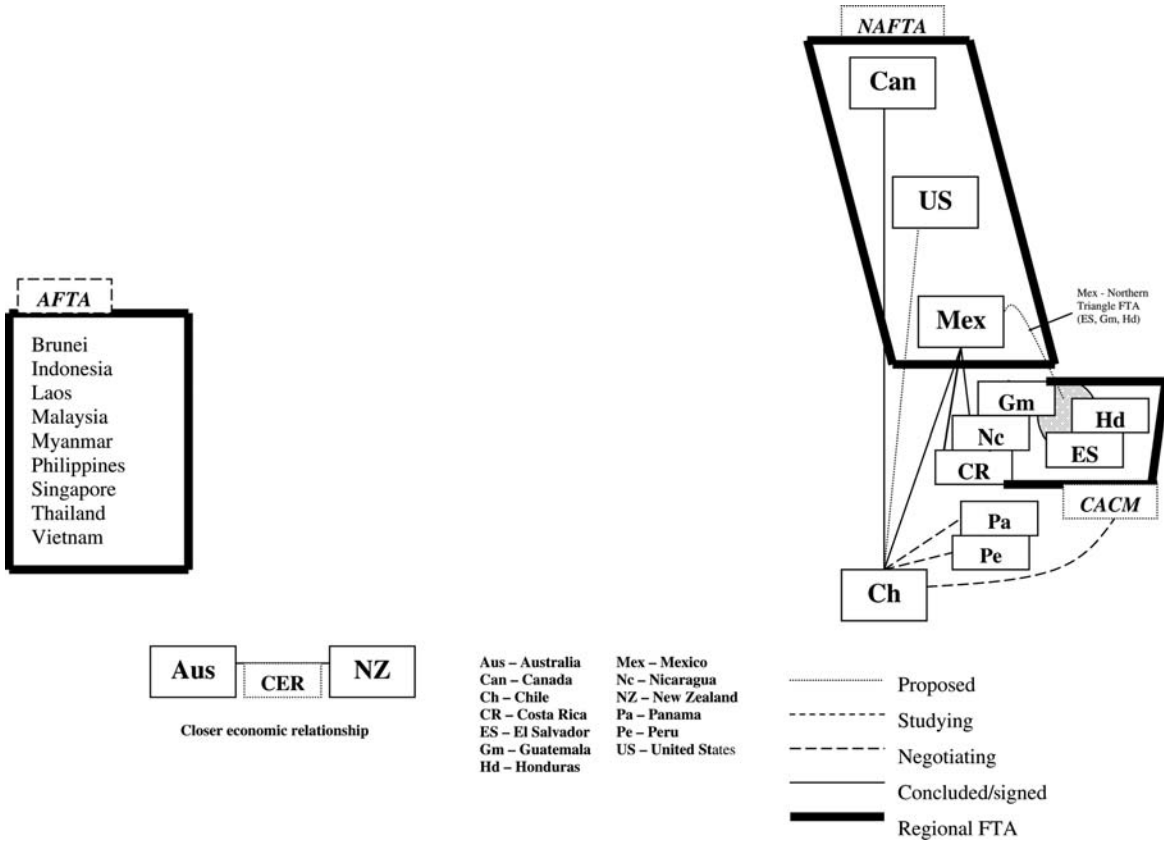


Figure 2 Asia-Pacific FTA projects (before 1998).

Table 1 Asia-Pacific FTA projects time phase development, 1998–2008

No.	FTA	1998			1999			2000			2001			2002			2003			2004			2005			2006			2007			2008			
		1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q	1Q	2Q	4Q				
East Asia Intra-regional																																			
1	ASEAN free trade area																																		
2	Japan - South Korea																																		
3	South Korea - Thailand																																		
4	Japan - Singapore																																		
5	ASEAN - China																																		
6	Hong Kong - China																																		
7	Japan - Thailand																																		
8	Singapore - South Korea																																		
9	Japan - Philippines																																		
10	Japan - Malaysia																																		
11	Macao - China																																		
12	Japan - Indonesia																																		
13	ASEAN - Japan																																		
14	ASEAN - South Korea																																		
15	AFTA (API-based)																																		
16	Japan - Brunei																																		
17	Japan - Vietnam																																		
18	China - Singapore																																		
19	China - South Korea																																		
East Asia and other Asia-Pacific																																			
1	South Korea - Chile																																		
2	South Korea - New Zealand																																		
3	Singapore - New Zealand																																		
4	Singapore - Mexico																																		
5	Japan - Mexico																																		
6	Japan - Chile																																		
7	Singapore - Australia																																		
8	Singapore - United States																																		
9	Thailand - New Zealand																																		
10	Hong Kong - New Zealand																																		
11	South Korea - Mexico																																		
12	Thailand - Australia																																		
13	Singapore - Canada																																		
14	Taiwan - Panama																																		
15	Malaysia - United States																																		
16	Philippines - United States																																		
17	TPS/PA																																		
18	Taiwan - Guatemala																																		
19	Thailand - United States																																		
20	China - Australia																																		
21	Singapore - Panama																																		
22	China - New Zealand																																		
23	China - Chile																																		
24	Malaysia - Australia																																		

Continued

Table 1 Continued

		3.	4.	9.	10.	10.	10.	11.	1.	4.
		no proposal made	proposal phase	Proposed / amendments from	Steady phase (post proposal)	Proposed / negotiating from	Negotiating	Negotiations initiated	Overhead	
25	Taiwan-Nicaragua									
26	South Korea-Canada									
27	Singapore-Peru									
28	ASEAN-Australia-New Zealand									
29	Malaysia-New Zealand									
30	South Korea-United States									
31	Japan-United States									
32	Taiwan-Honduras									
33	Japan-Australia									
34	Malaysia-Chile									
35	South Korea-Australia									
36	CEPEA (EAS-based)									
37	FTAAP (APFC-based)									
38	China-Pacific Partnership									
39	United States-Peru									
40	South Korea-Peru									
41	Thailand-Peru									
42	China-Costa Rica									
Other Asia-Pacific										
1	Australia-New Zealand CER (1983)									
2	Chile-Mexico (1992)									
3	CACM (1993)									
4	Mexico-Venezuela									
5	Mexico-Columbia (1995)									
6	Mexico-Costa Rica (1995)									
7	Chile-Canada (1997)									
8	Mexico-Nicaragua (1997)									
9	Chile-Panama									
10	Chile-Peru FTA									
11	Chile-USA									
12	Chile-Singapore									
13	Mexico-Northern Irish role									
14	Canada-Costa Rica									
15	PICTA									
16	Panama-CACM									
17	Canada-CACM									
18	Canada-Columbia (Andean Com)									
19	Canada-Cuba (Andean Com)									
20	Australia-United States									
21	United States-CACM									
22	United States-Panama									
23	United States-Peru (Andean Com)									
24	United States-Columbia (Andean Com)									
25	Australia-Chile									
New proposed FTA projects p/year										
Key										

Source: Author's research

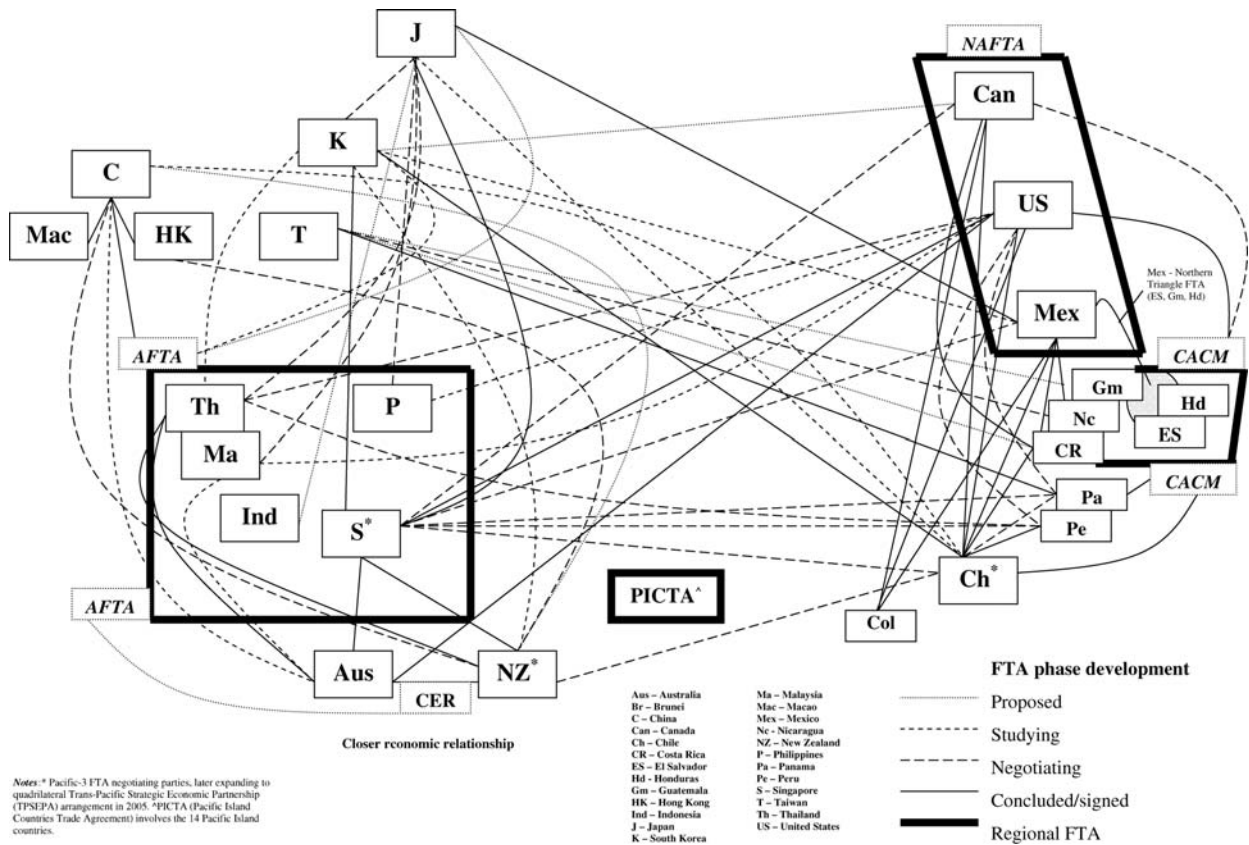


Figure 3 Asia-Pacific FTA projects (by the end of 2004).

Singapore, and Thailand) of being left behind in a key development of the post-Cold War global political economy. The emerging global trend of new FTA activity was perceived as parallel or connected to deepening regionalism and globalization. For these East Asian states, it was therefore a case of making up for lost time, this point being acknowledged in their governments' trade policy documents around this time, e.g. Ministry of International Trade and Industry (1999). Other Asia-Pacific states – for example Australia, New Zealand and the United States – also later initiated new FTA policies on the basis of similar objectives. Meanwhile, the 1997/98 crisis had exposed the extent to which economic interdependence had deepened in East Asia, as well as the lack of co-operative mechanisms among the region's states to cope with such turbulent events. Thus, the very earliest FTA projects of the new trend (e.g. Japan–South Korea, South Korea–Thailand, Singapore–Japan) were conceived *inter alia* as a means of establishing closer and more co-operative trade and economic relations among East Asian countries. From the beginning, most East Asian FTA projects have had a strong co-operative dimension to them, as we discuss later.

Another key factor – *reaction to a faltering World Trade Organization (WTO) process* – soon came into play, a particularly catalytic event being the failed Seattle Ministerial negotiations of December 1999. The aborted launch of the New Millennium Round of global trade talks at Seattle caused considerable alarm for those Asia-Pacific countries (Japan, South Korea, Singapore, Australia, New Zealand and the United States) that had especially grounded much of their trade policy and strategy in an advancing multilateral trade system. Persisting difficulties at WTO negotiations after Seattle served only to strengthen motivations for utilizing FTAs as an insurance policy against systemic failure of the global-multilateral process. The trade institution faltering of both APEC and ASEAN in making progress with their own regional trade liberalization agendas during the 2000s further spurred many Asia-Pacific nations toward the relatively easier (and simpler) path offered by bilateral FTAs.

During later phases of the region's new FTA trend, additional factors became relevant. As more countries joined the trend, the costs of remaining outside it (e.g. in terms of trade diversion, market access disadvantage, and miscellaneous uncaptured politico-diplomatic benefits) gradually increased. Even those that had been vocal critics of FTAs, such as Malaysia, were soon compelled to participate, thus creating a

self-reinforcing mechanism for trend growth, which may be referred to as *isolation avoidance*. Closely connected to this has been a *competitive bilateralism* process, whereby countries have competed with others to secure either parity or more advantageous FTA deals with the same third country trade partners. In addition, various *security-related imperatives* have come gradually to the fore in which FTAs are viewed as strategic instruments for forging international alliances with key economic security and politico-military security partners. This became especially important for the United States after the September 2001 terrorist attacks on New York and Washington, DC, FTAs being used to consolidate and extend the US's security alliance network in the Asia-Pacific and other regions, notably the Middle East and North Africa. Singapore's agreement with Panama is motivated primarily by its strategic importance with regard to sealanes of communication links, and the courting of the Gulf Co-operation Council (GCC) states by so many Asia-Pacific countries (Singapore, New Zealand, Japan, China, United States, Australia) has been largely driven by energy security motives.

The current pattern of Asia-Pacific FTA activity (and inactivity). Table 1 and Fig. 4 show how new FTA activities in the Asia-Pacific have continued up to 2008, a decade on from when the new trend took off. By this time, 19 FTA projects had been initiated within East Asia (15 concluded) and 86 in the Asia-Pacific region, of which negotiations concluded in 60. Specific observations that may be made among these figures are as follows.

- There are seven *regional* FTA projects, four of these being currently in operation: AFTA, NAFTA, CACM, and Pacific Islands Countries Trade Agreement (PICTA). A further three *grand regional* FTA projects have been proposed, which embrace larger regional sets of countries – the East Asia Free Trade Area (EAFTA), Comprehensive Economic Partnership for East Asia (CEPEA), and the Free Trade Area of the Asia-Pacific (FTAAP).
- Another eight *quasi-regional* projects exist, these involving mostly singular countries and regional groups as distinct negotiating or signatory parties, e.g. Japan–ASEAN, United States–CACM.

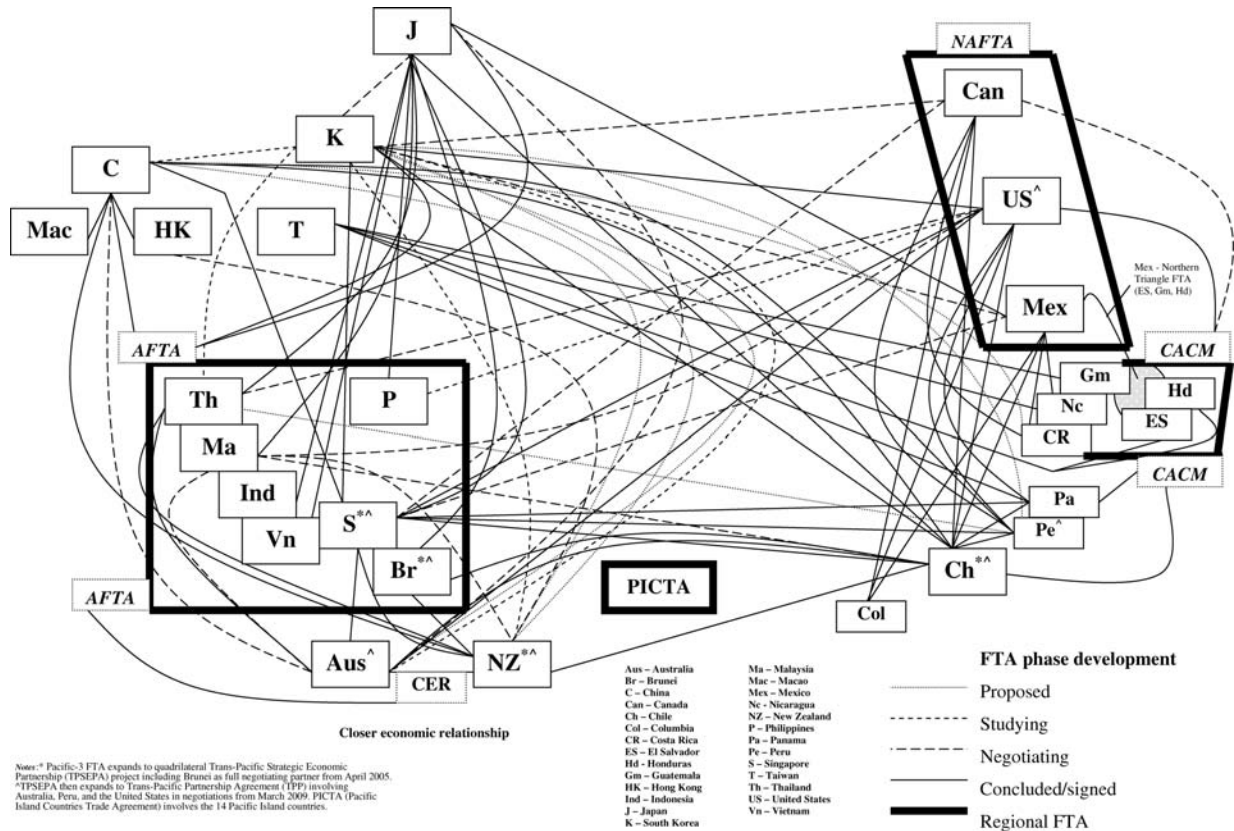


Figure 4 Asia-Pacific FTA projects (by the end of 2008).

- Of the Asia-Pacific total, around half are *cross-regional* agreements involving East Asian states and those from other regional parts (e.g. Oceania, Pacific America) of the Asia-Pacific.
- Three of the total may be considered *plurilateral* in nature, involving four or more countries acting as separate entities rather than as a regional group. The earliest plurilateral FTA project was the Mexico–Northern Triangle (i.e. with Guatemala, Honduras, and El Salvador), signed in 2000. The other two plurilateral projects – the Trans-Pacific Strategic Economic Partnership Agreement (TPSEPA) and Trans-Pacific Partnership Agreement (TPP) – as we examine later are inter-constitutive arrangements, the latter being essentially an extension of the former.
- Around 80% of Asia-Pacific FTAs (68 projects initiated, 47 concluded) are purely *bilateral* in nature. This is consistent with the general global pattern of FTA activity.

A number of FTA projects have also become effectively inactive, either *dormant* or *superseded* by other agreements. South Korea's early proposed bilaterals with Thailand and New Zealand are examples of long-standing projects that never progressed beyond the feasibility study stage, the former being eventually superseded by the Korea–ASEAN quasi-regional agreement, while the latter project has been in effect de-commissioned for many years; the Philippines–US project being another example. Those projects where negotiations have been stalled for some time may also be considered dormant, instances being the Japan–South Korea, Singapore–Mexico, Hong Kong–New Zealand, and Thailand–US bilaterals (Table 1). The above cases thus indicate that not all formally proposed FTA projects come to completion. However, over the decade, it can also be observed that the proportion of concluded FTAs to the total number of projects initiated has gradually risen over time, as Figures 2 and 3 illustrate. This suggests, at least within the Asia-Pacific region, that the options for finding new FTA partners may be diminishing. Two developments are connected to this. First, the most FTA-active Asia-Pacific countries are now increasingly looking for partners outside the region where this is politically feasible, and also where these countries are economically or geo-strategically motivated to do so. Second, the three grand regional FTA projects (EAFTA, CEPEA,

FTAAP) initiated around the mid-2000s are partly motivated by the logic of coalescing various overlapping bilateral agreements into a regional agreement. This is likely to represent the next stage of FTA diplomacy, although, as is later argued, the road to establishing such large-scale regional FTAs can be expected to be a very long and difficult path.

2.2 Trade partner selection issues

Approaches taken by Asia-Pacific countries to FTA partner selection have varied. Some national governments, like the United States, have set out detailed selection criteria (e.g. volume of trade, compatibility with US foreign policy objectives), although these may not be rigorously applied in reality. Previously discussed motivations behind Asia-Pacific states initiating new FTA policies generally are in some way linked to FTA partner selection, for instance seeking better access to large export markets, trade diversion avoidance, security, and geo-strategic factors. In addition to these, the following key issues are discussed.

The club of ardent free trader nations. A club of ardent free trader nations exists within the Asia-Pacific, and the network of FTAs formed among them has augmented their coalitional advocacy of advancing trade and investment (i.e. commercial) liberalization in the region generally. The core club members are Singapore, New Zealand, Australia, Canada, United States, Chile, and Panama (secondary members are Mexico, Peru, and South Korea³), and what binds these nations is a shared market-liberal approach to trade policy, a competent technocracy willing to take on policy innovation, and a general deference to US hegemony in the Asia-Pacific's international affairs. The FTAs formed among these club members are arguably driven more by geopolitical and economic ideological motives than by the capture of trade creation gains through their signed agreements. With the exception of the United States, the other club members are relatively small trading powers and relatively insignificant trade partners to each other, as revealed in Table 2.

3 Many of these club members are also close security partners of the United States, thus involving links with the United States's aforementioned security-related motives for FTA partner selection.

Table 2 FTA partners' shares of Asia-Pacific country total trade

	Bilateral trade, 2007 (US\$, million)	Percentage of country's total trade		Bilateral trade, 2007 (US\$, million)	Percentage of country's total trade
Japan			Singapore		
Asia-Pacific FTA partners			Asia-Pacific FTA partners		
ASEAN	173,888	13.0	ASEAN (AFTA)	240,863	28.5
Australia ^a	45,360	3.4	Australia	21,596	2.6
Chile	9,714	0.7	Canada ^a	4,608	0.5
Mexico	13,374	1.0	Chile	232	0.0
South Korea ^a	81,452	6.1	China	91,563	10.8
Asia-Pacific total	323,788	24.2	Japan	54,086	6.4
Other FTA partners			Mexico ^a	2,345	0.3
GCC ^a	119,997	9.0	New Zealand	3,049	0.4
India ^a	10,305	0.8	Panama	812	0.1
Switzerland	8,229	0.6	Peru	37	0.0
All FTA partner total	462,319	34.6	South Korea	35,214	4.2
South Korea			United States	68,149	8.0
Asia-Pacific FTA partners			Asia-Pacific total	522,554	61.8
ASEAN	54,819	7.5	Other FTA partners		
Australia ^a	16,348	2.2	European Free Trade Association (EFTA)	3,455	0.4
			GCC	28,538	3.4

Continued

Table 2 *Continued*

	Bilateral trade, 2007 (US\$, million)	Percentage of country's total trade		Bilateral trade, 2007 (US\$, million)	Percentage of country's total trade
Canada ^a	8,089	1.1	India ^a	23,860	2.8
Chile	7,432	1.0	Jordan	376	0.1
China ^a	160,174	22.0	Pakistan ^a	1,349	0.2
Japan ^a	81,452	11.2	Ukraine ^a	402	0.1
Mexico	8,168	1.1	All FTA partner total	580,534	68.8
New Zealand ^a	1,841	0.3			
Peru ^a	1,369	0.2	China		
Singapore	35,214	4.8	Asia-Pacific FTA partners		
United States	82,207	11.3	ASEAN	152,026	7.0
Asia-Pacific total	457,113	62.7	Australia ^a	44,528	2.0
Other FTA partners			Chile	14,655	0.7
European Free Trade Association (EFTA)	4,439	0.6	Costa Rica ^a	2,875	0.1
European Union (EU) ^a	85,810	11.8	Hong Kong SAR	197,113	9.1
India ^a	10,332	1.4	Macao SAR	2,925	0.1
All FTA partner total	557,694	76.5	New Zealand	3,698	0.2
			Peru	5,975	0.3
United States			South Korea ^a	160,174	7.4
Asia-Pacific FTA partners			Asia-Pacific total	583,969	26.9
Australia	27,827	0.9	Other FTA partners		

CACM	41,137	1.3	GCC ^a	57,994	2.7
Chile	17,314	0.6	Pakistan ^a	6,890	0.3
Columbia	17,992	0.6	All FTA partner total	648,853	29.9
South Korea	82,207	2.6			
Malaysia ^a	44,309	1.4	Australia		
NAFTA	912,751	29.3	Asia-Pacific FTA partners		
Panama	4,105	0.1	ASEAN ^a	39,117	13.1
Peru	9,392	0.3	Chile	460	1.5
Philippines ^a	17,120	0.5	China ^a	44,528	14.9
Singapore	68,149	2.2	Japan ^a	45,360	15.2
Thailand ^a	31,210	1.0	New Zealand	13,199	4.4
Asia-Pacific total	1,273,513	40.8	South Korea	16,348	5.5
Other FTA partners			United States	27,827	9.3
Bahrain	1,216	0.4	Asia-Pacific total	186,839	63.9
Israel	33,813	1.1	Other FTA partners		
Jordan	2,185	0.7	GCC ^a	8470	2.8
Morocco	1,953	0.6	India ^a	8,999	3.0
Oman	2,100	0.7	All FTA partner total	223,136	76.0
All FTA partner total	1,343,890	44.6			

Source: IMF Direction of Trade Statistics.

^aFTA negotiations pending or in progress.

The logic of micro-FTA partners? Table 2 indicates how the above point applies to many FTA partnerships generally in the region. For example, half of Singapore's total number of 18 FTA partner countries collectively account for just 1.6% of the city-state's total trade. Meanwhile, if ASEAN is taken a singular group under the Japan–ASEAN Comprehensive Economic Partnership (JACEP) arrangement, five of Japan's eight FTA partners together represent only 6.5% of all Japan's trade. A similar pattern is observable for the other FTA-active countries listed in Table 2. The previously discussed 'FTA club' motives offer one explanation behind micro-FTA partnership selection. Another is that smaller countries offer a path of least politico-economic resistance to concluding deals due to the limited scope for competitive tensions arising in negotiations. Smaller countries do of course seek agreements with large market partners (e.g. United States, Japan, and China) for market access motives, but signing relatively easier deals with other small market nations helps develop or consolidate their position on the FTA map. The Singapore–Peru FTA is a classic case: Peru is Singapore's 17th largest trading partner... in Latin America (!) and Singapore is Peru's 10th most important trade partner in East Asia, bilateral trade between the two countries being a mere US\$37 million in 2007. Thus, the expected annual trade and investment liberalization 'gains' can be most probably measured in thousands rather than in millions of US dollars (no data has been publicly provided by either government), and possibly less than the actual administrative cost of negotiating and implementing the agreement itself. The large number of FTA deals involving minor trade partners therefore cannot be logically explained by econometric analysis (Lee *et al.*, 2008), rather by politico-diplomatic motives associated with 'collecting' FTA partners. According to many Asia-Pacific governments, their micro-FTA partnerships are intended to have demonstration or 'beachhead' effects. For example, for Singapore, its agreement with Peru is a supposed initial catalyst for the city-state to sign agreements with other Latin American countries. While this may be the intention, there is scant evidence for the efficacy of this approach.

Why no FTAs between very large economy countries? Many Asia-Pacific countries, despite having an active FTA policy, have not been able to initiate projects with their most important trade partners. Some FTA partnerships are simply not feasible because they are too large and

problematic. For example, the prospects of a bilateral agreement arising between Japan, China, or the United States are unlikely because of the following main factors. First, large economies tend to be each other's most important trade partners, and therefore the level of economic, social, and political impacts that arise in large economy trade relationships are great. The high and extensive level of trade interaction between them can create a relatively large number of political economic issues and problems, especially if one large economy country enjoys a significant trade surplus with another. Hence, the US–China trade relationship has proved problematic because of the above reasons, as was the US–Japan trade relationship before it, while a wide range of disputes have beleaguered the Japan–China trade relationship over, for instance, the rise of Chinese agricultural exports to the Japanese market. Domestic interest groups associated with sensitive industry sectors (e.g. agriculture, textiles, steel production) that already complain about the injurious economic and social effects of foreign imports from big competitive producer countries can thus be expected to put up even greater political resistance to any proposed FTA-induced liberalization.

Second, any bilateral FTA between large economy countries can expect pressure from third countries to avert such action, primarily because of the potentially very significant negative impacts (e.g. trade diversion, further deepening of preferentialism) it could have on them and the multilateral trade system. These factors are even more relevant to the proposed grand regional FTA projects – EAFTA, CEPEA, and FTAAP – where the external counter-pressures and domestic political resistance would prove greater. Thus, if Japan is unable to initiate a bilateral FTA project with China, this does not bode well for EAFTA or CEPEA's prospects. Moreover, persisting political tensions in the Sino-Japanese relationship make it more difficult to conceive China and Japan being signatories to the same FTA, whatever kind of agreement this was.

3 Evolution and learning in FTA practice?

3.1 Trends in FTA content and approach

FTAs differ greatly from each other in terms of their technical policy content, ideational conception, and other factors [Rajan, 2005; Lee and

Park, 2007; Asian Development Bank (ADB), 2008; Lloyd, 2008]. In short, they are distinctly heterogeneous. As we discuss later, this point is very relevant when attempting to merge bilateral FTAs into a unified plurilateral or regional arrangement. The formation of FTAs can be understood in the following broad ways:

- *Ideational conception of FTAs.* This is usually determined by the political economy of dominant trade partners. Thus, US market liberalism may be contrasted with Japanese developmentalism. This determines the fundamental principles, purpose, and objectives of the agreement and ultimately shapes the following.
- *Broad chapter-level structure.* Relating to the thematic areas of technical policy content (e.g. on market access, investment, etc.) covered by the agreement.
- *Article-level structure and content.* FTAs usually consist of chapters with an article-based sub-structure that outlines the specific measures, provisions, and rules of the agreement.

We examine later how the ideational conception of FTAs is closely linked to the FTA model issue. Chapter-level structures vary enormously in Asia-Pacific agreements generally, but there has been a growing emphasis on commercial regulation chapters and measures (Atkinson, 1998; Hoekman *et al.*, 2007; Sauve, 2007; Chase, 2008). We may define commercial regulation as the rules and standards that determine the regulatory framework in which the trade- and investment-related activities of firms take place, the core areas of which comprise competition policy, government procurement, intellectual property rights (IPR), investment rights, and rules of origin (RoO). These have been principally championed by the region's more developed economies owing to their primary corporate interests, which have increasingly shifted from manufacturing to service sector trade and investment. As international negotiations on service sector activities are primarily focused on foreign firm penetrability of the host country's domestic market in terms of business operations as well as product sales, talks are generally preoccupied with commercial regulation rather than tariffs and other conventional trade barriers. This is broadly different for developing countries, whose FTA negotiating interests are more concerned with foreign market access for their manufacturing and agricultural products. Some Asia-Pacific developing countries have been willing to incorporate commercial regulation

into their agreements but typically with an emphasis on development and regulatory capacity-building rather than rights enforcement.

The article-level structure and content of FTAs is largely determined by what is politico-economically feasible or aspired to in the negotiation process. Negotiating governments all face a particular set of constraints when dealing with their respective domestic constituency groups (e.g. business, farmers, labor, and various civil society organizations) and domestic legislatures. With this in mind, FTAs are essentially the bespoke outcomes of politico-economic interactions between negotiating parties. The diverse nature of the Asia-Pacific region thus explains the high level of heterogeneity in the FTAs signed to date.

Furthermore, evidence from the region suggests that even the most FTA-active countries in the Asia-Pacific have not significantly changed their approach to formulating the agreements they negotiate. In other words, there is little proof of ‘policy-learning’ or ‘policy evolution’ regarding FTA formation. Some countries – Singapore, Australia, New Zealand, and a number of Latin American nations – are the general exceptions to the rule, yet their adaptations have been usually limited to a narrow range of technical policy areas and modalities, such as the switch from a positive to a negative list approach on sectoral liberalization, and the move to ‘change of tariff classification’ methods of applying RoO provisions. While Latin American countries with far longer experience than other Asia-Pacific states have transformed their international trade agreements over the last two or so decades, this has been largely confined within the Latin America region and involved a progression from sub-FTA arrangements to full FTAs (Salazar-Xirinachs, 2001).

Most Asia-Pacific FTA policy-makers concede that working within the parameters of what is politico-economically feasible with each particular FTA partner is a more important determining factor in FTA formation than any self-determined policy-learning process.⁴ For many Asia-Pacific states, their FTA policies are still formative, viewing FTAs as a new international game that they have just entered and are therefore still at the beginning of the learning process. Other important determining factors in FTA formation include how dominant trade powers can compel their weaker partners to adopt aspects of the former’s preferred

4 Research interviews conducted across the Asia-Pacific over the 2002–2008 period.

FTA model (Dent, 2006; Scollay, 2007). This relates to the later debate on FTA convergence and harmonization. Some governments may take a ‘parity preferentialism’ approach where, at the start of the negotiations, they simply cherry-pick parts of agreements already signed by the other party and request the same preferences be afforded to them also. South Korea reportedly took this approach towards Singapore in which the former especially wanted the same preferences as conferred to the United States in USSFTA.⁵ In turn, the EU demanded the same from South Korea regarding South Korean concessions given to the United States in KUSFTA negotiations, e.g. on auto sector issues.

3.2 FTA review, revision, and impact assessment

The somewhat limited evolution and learning on FTA policy-making in the Asia-Pacific are evident not just from agreement to subsequent agreement but also with regard to the review and revision processes of individual agreements. FTAs are generally designed in principle to be dynamic arrangements with varying levels of commitment made by all signatory parties to review the agreement’s progress on implementing its provisions, assessing its commercial and other impacts, and making possible adjustments to its structure and content over time. The regularity of this review process normally ranges from one to five years. Most Asia-Pacific FTAs are relatively young agreements, or have long periods in between reviews, e.g. Thailand–New Zealand. Table 3 outlines agreements signed early on in the region’s new FTA trend that have had sufficient time for substantive review, the outcomes of which tend to fall into the following categories:

1. *Review may have been undertaken but outcomes not made publicly available on government websites.* This applies to many Asia-Pacific FTAs, a prime reason being that these outcomes were very minor and hence not worth announcing, e.g. Singapore’s FTAs with South Korea and Australia; South Korea–Chile FTA.
2. *Review simply acknowledges the FTA’s achievements on stimulating inter-party trade and investment flows, as well as discussions on certain topics.* This also applies to many agreements, especially when no significant problematic issues have arisen in implementing the

5 Research interview with FTA negotiator, Singapore, July 2008.

Table 3 Review processes and outcomes of Asia-Pacific FTAs

Free trade agreement (year entered into force)	Review outcomes process announced and/or outcomes made publicly available	Overall review period regularity	Date(s) completed	Review outcomes	
				Trade in goods	Commercial regulation and services trade
Australia–New Zealand (1983)	Yes	Not specified	Various	Various adaptations and changes since 1980s	Various adaptations and changes since entering into force
NAFTA (1994)	Yes	1 year	Various	Various adaptations and changes since 1980s	Various adaptations and changes since entering into force
Singapore–New Zealand (2001) ^a	No	Not specified	Not made public		
Japan–Singapore (2002)	Yes	5 years	2007	Reduction of value-added rules from 60 to 40% for most products	<p>Reciprocated commitments in cross-border asset management</p> <p>Cross-border offer and sales of collective investment products to institutional investors permitted, as well as through the local securities firms</p> <p>Banking: Singapore to offer one full bank license, and lift the numerical restrictions on wholesale banking licenses for Japanese banks</p> <p>Insurance: Japan to remove restrictions on Singapore-based brokers to access Japan-based clients for marine, aviation and transit (MAT) insurance and re-insurance, on a cross border basis</p>

Continued

Table 3 *Continued*

Free trade agreement (year entered into force)	Review outcomes process announced and/or outcomes made publicly available	Overall review period regularity	Date(s) completed	Review outcomes	
				Trade in goods	Commercial regulation and services trade
Singapore–Australia (2003)	Yes, but review outcomes not made public	2 years	2004		
Singapore–South Korea (2004)	No	1 year	Not made public		
South Korea–Chile (2004)	No	1 year	Not made public		
United States–Singapore (2004)	Yes, but only 2006, 2007 made partially public on government websites	1 year	Regular annual	2006 Review: agreed to launch discussions to consider acceleration of the elimination of tariffs on some products under the FTA (outcomes not made known on either government's FTA websites)	2006 Review: improving the transparency of rule-making in Singapore's telecommunications and media sectors 2007 Review: 'constructive discussions' on various commercial regulatory issues (but no provision changes)
United States–Chile (2004)	Yes	1 year	Regular annual	2007 Review: acceleration of tariff elimination on a narrow range of products (US\$35 million in value). Modification of rules of origin provisions	2005 Review: Chilean concerns over Maryland State's government procurement policies 2007 Review: United States expresses concerns over Chile's implementation of the agreement's IPR provisions; Washington requests changes to the government procurement chapter owing to changes in US domestic legislation

United States–Australia (2005)	Yes, but only 2006, 2007, and 2008 made partially public on government websites	1 year	Regular annual		2008 Review: United States again expresses concerns over Chile's implementation of the agreement's IPR provisions; Chile requests further bilateral co-operation to assist its private and public sector in understanding the US government procurement system 2006 Review: United States urges Australia to continue to work to ensure further progress on agriculture, telecommunications, and IPR issues. In addition, the United States presses Australia on transparency relating to its pharmaceuticals pricing policy 2008 Review: further development of the agreement's provisions on professional services
Japan–Mexico (2005)	Yes	Not specified	2007	Some adjustments to duty and quota rates on a small number of agricultural sector products	
Thailand–New Zealand (2005)	Not yet due	5 years	NA		
Thailand–Australia (2005)	Not yet due	5 years	NA		
China–Chile (2005)	No	1 year	Not made public		

Sources: Author's research of government websites and media reports.

^aSubsumed into TPSEPA and TPP arrangements.

agreement. For instance, in the 2007 annual review of the US–Singapore FTA, both sides ‘expressed satisfaction’ on how well the agreement was apparently operating.⁶

3. *Review notes problem areas of implementation or interpretation of the agreement.* The US–Chile FTA is particularly noteworthy here, Table 3 indicating contentious issues arising in government procurement and IPR. Contentions over commercial regulation matters are also evident in the United States’s agreements with Singapore (notwithstanding the aforementioned ‘expressed satisfaction’) and Australia.
4. *Review leads to revisions of and/or additions to the agreement text.* Changes here may generally derive from a potential mix of two main factors, the first being the mutual interest of signatory parties in FTA policy innovation, the second arising out of addressing type (3) issues noted above. The level of revision and change can obviously correlate closely to the agreement’s age. The region’s longest standing agreement, between Australia and New Zealand, has undergone a substantial transformation process since it was signed in 1983, but has had around 20 years longer to evolve than most others in the region. The same applies to NAFTA and other agreements signed among Pacific American states (not listed in Table 3), such as the Mexico–Chile FTA signed in 1992. More recently, the Japan–Singapore FTA review process involved adjustment to its RoO regime and financial services liberalization provisions. Table 3 shows how relatively minor adjustments have been made to other agreements through their review processes.

Overall, the review processes of the Asia-Pacific’s more established FTAs have not yet led to wide-ranging adjustments to the great majority of these agreements. Some trade partners may prove reluctant to make significant concessions in review negotiations, as reportedly was the case regarding Japan’s position in the Japan–Singapore FTA’s 2007 review.⁷

6 See: http://www.ustr.gov/Document_Library/Press_Releases/2007/May/United_States_Singapore_Welcome_Increased_Trade_Investment_from_Free_Trade_Agreement.html (accessed February 2009).

7 This related to a wide range of issues but especially concerning agriculture and investment provisions. Research interviews with government, business, and ambassadorial representatives, Singapore, July 2008.

The review processes of certain bilateral agreements may become subsumed into expanding plurilateral arrangements into which they have become integrated, as appears to have already occurred with the Singapore–New Zealand FTA in relation to the TPSEPA and TPP. Something similar could transpire between JACEP and Japan's bilateral agreements with ASEAN states.

FTAs are principally devised to encourage greater international trade between firms, so ascertaining their response to an agreement is of some critical importance. The best available quantifiable method for measuring this is the tariff preference 'utilization rate', this being the percentage of invoiced trade between FTA partners where firms have applied through the appropriate customs procedures to secure the agreement's tariff preferences in the destination market. To do this, firms must prove they have complied with the agreement's RoO regime, which determines the geographic identity of products, and thus their eligibility for FTA treatment. In a region such as East Asia, where international production network activity accounts for a large share of its trade, strict and complex product-specific RoO can cause a particular problem. Where the import duty savings are marginal (e.g. in sectors such as electronics, where the average tariff rates are already very low), firms have tended to forgo applying for FTA preferences altogether because paying the tariff rate would be either less than reconfiguring their international production or sourcing arrangements to meet RoO requirements, and/or less than the administration cost of RoO compliance. It is therefore somewhat ironic that while FTAs are primarily devised to serve the business community that these agreements actually work against the grain of how much of international business activity in East Asia particularly is organized, i.e. regional production networks.

Recent ADB studies indicate that the average FTA utilization rate by firms across East Asia region is around a mere 10% (ADB, 2008). In more specific examples, rates recorded over January–May 2008 for Thailand's agreements with China (ACFTA) and Japan (JTEPA) were 12 and 24%, respectively.⁸ The utilization rate for AFTA has been estimated at between just 3 and 10% (James, 2006; Baldwin, 2007). Most Asia-Pacific countries make data on utilization rates publicly available but Singapore does not, most likely because it does not wish to reveal

8 Research interview with a Thailand Ministry of Commerce official, Bangkok, July 2008.

any low rate averages for its FTAs. Firms in developed countries seem to have the capacity to better utilize FTA tariff preferences, and there appears to be a correlation between FTA utilization rates and the development capacity of FTA partners concerned. For example, the Canadian government has reported rates of over 75% for NAFTA preference utilization, while the rate for Australian firms utilizing Australia–US FTA preferences was 40% in 2006. Overall, however, the general restrictive nature of RoO in Asia-Pacific agreements has proved their single most important criticism of FTAs. From a different perspective, one problem with ascertaining the impact of FTAs on trade and investment flows among signatory parties is how to disaggregate the FTA's liberalization and regulatory effects from other determining factors, such as exchange rates, market conditions, and additional macroeconomic variables. This problem is acknowledged by Asia-Pacific governments, and can make it difficult to convincingly sell the benefits of FTAs to public stakeholders.

4 Future FTA convergence, harmonization, and transformation?

4.1 Context

As Table 1 indicates, the pace of newly proposed FTA projects in the Asia-Pacific has slowed in recent years. Whereas the median norm of new proposed agreements was around 10 per year during 2001–06, only five new projects were proposed within the region in total over the two-year 2007–08 period. As noted earlier, some countries may continue to ‘collect’ FTA partnerships, signing deals with relatively minor trade partners, hence leading to further dense bilateralism. However, the recent slowing of proposed bilateral agreements within the Asia-Pacific suggests that the perceived marginal economic (and also political) benefits of signing new bilateral deals are diminishing. Asia-Pacific states are either looking to sign FTAs with those outside the region where their technocratic capacities permit, or attempting to create plurilateral and regional agreements.

This section examines what are the most likely future paths of FTA activity development within the Asia-Pacific region under the themes of FTA convergence, harmonization, and transformation. Two recent key changes to the international political economy context of Asia-Pacific

FTA activity should be noted. The first is the likely impact of the current global financial crisis, its longevity being difficult to predict at the time of writing. On the one hand, the crisis may strengthen the protectionist counter-reactions of uncompetitive industry interest groups to any proposed further opening up of domestic markets during a period of economic instability. On the other, protagonists from the club of ardent free trader nations in particular can be expected to advocate that further trade and investment liberalization through new FTA projects is essential to provide new and much needed stimulus to economic activity generally in the region and beyond. Assessing the balance between these two main anticipated effects will remain, though, mostly speculative until a fuller unfolding of the crisis occurs and its deeper impacts are known.

The second recent key change concerns important domestic political changes within the United States. The future direction of US trade policy under the new Obama Administration remains largely unclear. The new US Trade Representative (USTR), Ron Kirk, took office in March 2009, and President Obama's policy-makers are currently preoccupied with tackling the severe challenges posed by the global financial crisis. The Obama Administration's trade policy will most probably, however, take a quite different direction to that taken by the increasingly active FTA policy of the previous Bush Administration, this having been a key driver of FTA activity in the Asia-Pacific. As new USTR Ron Kirk commented in preparation for taking office, 'I do not come to this job ... with deal fever. We're not going to do deals just for doing so'.⁹ In addition to this more circumspect view on starting new FTA projects, we may also expect a stronger adherence to 'fair trade' outcomes (e.g. stronger labor and environmental clauses)¹⁰ as well as a consolidation and extensive review of existing agreements, both in force and awaiting ratification.

Another key factor affecting the international political economy context of Asia-Pacific FTA activity concerns ongoing problems with concluding the WTO Doha Development Round of global trade talks, which have been in negotiation since 2001. Deadlines for concluding

9 *Washington Post*, 9 March 2009. He also stated that the United States–South Korea FTA, negotiated by July 2007 but still awaiting ratification, was 'simply unfair' and that, 'we are prepared to step away from that' if it was not reworked.

10 This trend could be predicted after the Democrats took control of the US Congress in mid-2007.

Doha Round talks have been and gone, and while there remains uncertainty regarding the strength of the WTO-led multilateral trade system, Asia-Pacific countries will continue to perceive FTAs as an insurance policy against the risk of systemic weakness or failure, just as they did at the outset of the new FTA trend in the region.

4.2 FTA convergence and harmonization

In general terms, convergence and harmonization of FTA activity relate to achieving mutual alignment among existing agreements, or to their merging or expansion into new larger agreements. This can involve overlapping or parallel processes of FTA development as we discuss under the following thematic and conceptual headings.

FTA 'models' in the Asia-Pacific. While FTAs are notably heterogeneous, they may also conform to some degree to particular models of FTA formation as determined by dominant trade partners. Hence, some level of convergence in FTA practice can be observed in the Asia-Pacific, especially as the region's most dominant trade powers – China, Japan, and the United States – have become more FTA-active. The United States's own FTA model is the most defined and arguably has been the most influential to date. Owing to both its overt 'market-liberal' political economy tradition and the growing service-sector orientation of American corporate interests, the United States strives to achieve multiple level 'behind the border' market access in its FTA partners' markets (Feinberg, 2003; Krauss, 2003; Schott, 2004). This entails extensive and often very sophisticated chapters on commercial regulation that often closely mirror the regulatory provisions found in US domestic legislation. Moreover, the chapter-level structure and content found in US agreements on IPR and investment are strikingly consistent, and FTAs have been especially used by the United States to export its own national commercial regulatory norms and practices overseas. This is especially evident in its agreements with other ardent free trader nations. The United States's FTA approach is almost exclusively concerned with market access: they are in essence business deals, with virtually no explicit emphasis on advancing economic or development co-operation with FTA partners. The other Anglo-Pacific countries of Australia, New Zealand, and Canada, sharing a similar market-liberal tradition, have

been significantly influenced by the US model in their own approaches to FTA formation.

This is in some contrast with the Japanese and Chinese FTA models, which tend to embed 'free trade' in different kinds of 'partnership agreement' and hence generally incorporate a range of economic or development co-operation provisions (Urata, 2003; Aggarwal and Koo, 2005; Ministry of Economy, Trade and Industry, 2005; Ministry of Foreign Affairs, 2006). In broad terms, this may be explained by the developmentalist political economic tradition in East Asia, although the actual substance behind co-operation provisions can be lacking. Furthermore, significant differences of approach exist between Japan and China on FTA formation. Like the United States, Japan has sophisticated and highly transnationalized corporate interests, and thus also brings various commercial regulatory demands to the FTA negotiating table. However, the Japanese model is more adaptive in this respect, demonstrating greater accommodation of the development capacity constraints facing many of their FTA partners (Dent, 2010). Taking IPR as an example, Japan puts more emphasis on general principles of regulatory practice and much less on highly defined rules, and hence less specific regulatory alignment to Japan's national IPR regime. This is reflected in the actual extent of US and Japan IPR chapters, the former's being on average 10,000 words in length and the latter's only around 1,500–2,000 words on average. In addition, Japan places notably more emphasis on intellectual property co-operation than the United States. China, meanwhile, like most other developing countries in the region, is inclined towards simpler modes of FTA practice that, as briefly explored earlier, are more geared towards trade development capacity needs, and hence emphasize *regulatory co-operation* rather than *regulatory rights* generally. The ASEAN model also has strong similarities with China's 'developing country' FTA model.

While the US model has, then, been more influential in determining the technical policy content, and especially the commercial regulatory aspects, of many FTAs around the region, the Japanese and Chinese models have been arguably just as influential in terms of conceptual approach on FTA formation. This particularly applied to East Asian states, the majority of which have shown a preference for 'economic partnership' agreements rather than US-oriented 'market access' deals owing to their generally shared developmentalist tradition and their various

development capacity needs (Krauss, 2003; Noble, 2008). Thus, we can expect any emerging East Asia-centered regional agreement to converge on a hybrid Japan–China model rather than the US model. In the meantime, the United States will most likely persist in its endeavors to convince all Asia-Pacific states to converge around its own model of FTA practice. The future direction of US trade policy under the new Obama Administration would have to alter quite significantly from its previous course for this not to transpire owing to the weight of its political economy tradition and extant corporate interests.

Regionalized ‘best practice’ setting through APEC. Of all the Asia-Pacific’s regional organizations, the region’s new bilateral FTA trend has posed a particular challenge to APEC because it has subverted the supposed ‘open regionalism’ principles on which the organization was based by advancing bilateral trade preferentialism, and also diverted diplomatic efforts away from APEC’s own trade liberalization and facilitation programs. In an effort to somehow rein in the region’s FTA activity into its organizational ambit, APEC’s analytical arm, the Pacific Economic Co-operation Conference (PECC), was commissioned to formulate a code of FTA ‘best practice’ with the hope of establishing some form of harmonization among the heterogeneous pattern of agreements being signed, and also implicitly by this time progression towards an Asia-Pacific regional FTA. PECC’s recommendations, forwarded to the 2004 APEC Ministerial Meeting and duly endorsed (APEC, 2004), were based on generalized principles of FTA design and conduct, including that agreements should have comprehensive sectoral coverage, simple RoO, accession clauses, provisions on economic co-operation, and be consistent with APEC principles and goals. However, many FTAs signed both before and after the introduction of these recommended guidelines do not comply with the above. Collective APEC action was ideally required a few years earlier to give the organization a chance to steer on the emerging pattern of FTA activity towards less diverse and competing outcomes, and the best practice setting approach has proved ineffective. Competing national interests have prevailed over APEC’s weak institutional capacity to forge a regional consensus on bilateral FTA conduct, and will continue to do so. Of all the endeavors to achieve FTA harmonization and convergence in the Asia-Pacific, this has proved the least successful.

Plurilateral expansionism. This relates to how a bilateral or small-group FTA arrangement gradually expands to encompass a broader plurilateral membership.¹¹ At the outset of the region's new FTA trend, a pentilateral Pacific-5 agreement was proposed in 1999 with a prospective membership of the United States, Australia, Chile, New Zealand, and Singapore. The plan, though, never fully took off, the only residual outcome being the completion of a bilateral FTA between Singapore and New Zealand. These two countries remained keen advocates of weaving a wider plurilateral cross-regional arrangement, and in 2002, Chile agreed to enter into negotiations with Singapore and New Zealand for a Pacific-3 FTA, which later expanded to a Pacific-4 arrangement after Brunei joined the group in 2005. A final deal, officially referred to as the TPSEPA, came into force in 2006. Being omitted from the initial agreement, negotiations on financial services and investment commenced in March 2008, with the United States joining as a fifth negotiating party on these aspects. After the successful progress of these talks, the whole TPSEPA arrangement was expanded again in November 2008 to negotiations on a TPP that in addition to the original Pacific-4 nations included the United States, Australia, and Peru, thus making a Pacific-7 grouping.¹²

The United States already had bilateral agreements with Singapore, Australia, and Chile, and the expectation was that any negotiated TPP would be closely aligned with the United States's FTA model. The TPP membership also closely correlates with that of the club of ardent free trader nations, and moreover their stated collective intent is to use this expanded plurilateral arrangement as a foundation for developing a future grand regional FTAAP agreement, as we discuss later. Furthermore, TPP member states acknowledged the beneficial harmonizing effects of an expanded agreement. In November 2008, Australian Trade Minister Simon Crean remarked that, 'We also need to start "knitting together" bilateral trading arrangements if we are to make progress towards our goal of ensuring FTAs are truly consistent with the

11 This disqualifies the aforementioned Mexico–Northern Triangle FTA, which did not progressively expand from a smaller agreement.

12 Vietnam also became an observer to TPP talks, and Chile made diplomatic efforts to persuade South Korea to join the planned TPP negotiations.

multilateral system. We need to start harmonizing the rules in these various FTAs – for the benefit of our business communities'.¹³

However, in early March 2009 – and coinciding with the announcement of the new Obama Administration's newly appointed USTR, Ron Kirk – Washington announced that it was postponing its involvement in TPP negotiations, the first round of which was scheduled for later that month. The United States had committed to the project during the last months of the Bush Administration, and the Obama Administration's attitude towards the TPP could prove a good gauge of its unfolding FTA policy generally. The future of the TPP arrangement and the path of plurilateral expanded FTAs centered on the United States hence remains unclear. It is, of course, possible that TPP negotiations could proceed without the United States but this would significantly diminish its geostrategic significance and the impact on the Asia-Pacific regional political economy.

The TPSEPA/TPP project remains the only case of plurilateral expansionism in the region, with no signs of other such arrangements currently emerging. As a general rule, the prospects of plurilateral expansion also depend on the root agreement having an accession clause, this being its provision to allow third parties to become later signatories. The Singapore–New Zealand FTA had such a clause, as have a number of others (e.g. Japan–Singapore, United States–Singapore, Thailand–Australia) but a large number do not, including Japan–Mexico, Korea–Chile, United States–Chile, and China–ASEAN. Unless accession clauses are added to these agreements as part of their review processes, they are not able to provide a basis for the plurilateral expansionism route to FTA convergence and harmonization.

Parallel bilateralism. This has been the preferred approach of Japan, especially in its FTA strategy towards the ASEAN group, whereby a normally large economy country engages in an initial process of negotiating separate and parallel bilateral deals with a regional group of countries and then progresses to negotiate a quasi-regional arrangement with that group. The United States was also at one point contemplating a similar approach under its proposed Enterprise for ASEAN Initiative scheme.

13 DFAT Ministerial Statement, 26 November 2008: http://www.trademinister.gov.au/speeches/2008/081126_tpp.html.

However, the stalled progress of its bilateral negotiations with Malaysia, the Philippines, Thailand, and Indonesia effectively foreclosed this option. Table 1 and Fig. 4 show that Japan had signed bilateral agreements with seven ASEAN states by the end of 2008. Negotiations on the quasi-regional JACEP arrangement began in March 2005, ran concurrently with negotiations on up to three Japan–ASEAN bilaterals at one stage, and were concluded in early 2008. The rationale for Japan’s multi-structured negotiating approach – which contrasted with China and South Korea’s singular group-level method with ASEAN – was that it allowed for Tokyo to broker both more sophisticated deals on commercial regulation issues where more advanced ASEAN states proved compliant, and more nuanced sector-specific provisions (e.g. on tariff liberalization schedules and RoO) in accordance with Japanese industrial interests. This allowed for what Scollay (2007) refers to as a ‘variable geometry’ approach to linked or converged FTAs. The latter related to both ASEAN country-specific competitive threats (e.g. on agriculture, textiles) and Japanese multinational enterprise investments in Southeast Asia, for example low RoO thresholds to facilitate international production network activity between Japan and the region.

The parallel bilateralism approach furthermore enabled Japan to optimize its bargaining leverage with ASEAN member states owing to relative power advantages and a general lack of co-ordinated action between Southeast Asian countries during bilateral negotiations with Japan (Manger, 2005). The final JACEP deal allowed parties the choice of compliance to provisions in either JACEP or the relevant bilateral agreement. Thus, firms could choose to apply RoO measures of their preference, although most would opt for JACEP’s, as these contained less restrictive product-specific rules and moreover allowed for cumulative processing among JACEP parties (Corning, 2008). The tariff liberalization schedules agreed in bilaterals were in effect annexed to JACEP, and the quasi-regional agreement’s commercial regulatory provisions were of a lowest common denominator nature.

Parallel bilateralism works to a different bilateral-to-regional development dynamic to plurilateral expansionism but the FTA harmonization results are similar. However, the scope for further parallel bilateralism in the Asia-Pacific is now somewhat limited, or unrealistic. China has eschewed this approach, preferring a straightforward regional-level

method. Meanwhile, past United States's attempts to forge a Free Trade of the Americas (FTAA) regional agreement through building bilateral FTA coalitions of support in Latin America ran against strategic counter-moves made primarily by Brazil. Taiwan has recently attempted parallel bilateralism on a much smaller scale with the CACM countries but this strategy has been undermined by Costa Rica's switch of diplomatic allegiance to China in 2007.

Grand regionalism. Most of the prior discussed methods of FTA convergence and harmonization have been conceived as a means to the same general ends, this being to eventually merge various bilateral and other subordinate agreements together into a unified larger regional agreement or agreements. This may be thus understood as an ultimate progression towards FTA 'grand regionalism', and a number of grand regional FTA projects have been proposed within the Asia-Pacific. Two East Asia-centered regional FTA projects have been proposed, the first of these has been championed by Japan – the CEPEA – and the second by China and Malaysia, the EAFTA. The two projects gestated out of ASEAN Plus Three (APT) and East Asia Summit (EAS) diplomacy during the early and mid-2000s and are currently at the feasibility study stage of development. The CEPEA is based on EAS membership, hence including India, New Zealand, and Australia (the EAS-3), while the EAFTA just involves APT member states.¹⁴ Japan's motivation for incorporating what have hitherto been conventionally thought of as South Asian and Oceanic countries into this East Asian project has been widely interpreted as a strategy to outflank China's growing influence in East Asia's regional affairs, especially by the inclusion of India (Shigematsu, 2006; Beeson and Yoshimatsu, 2007; Rozman, 2007; Dent, 2008). Tokyo managed to build sufficient coalitional support for CEPEA by stressing both the wider economic benefits of a larger regional FTA, with ADB econometric modeling to back this up (Kawai and Wignaraja, 2008), and how it could augment the efforts of its counterpart grand regional FTA projects, the EAFTA and FTAAP.

In essence, Japan has argued a similar case to that contended under its parallel bilateralism approach towards the ASEAN, namely that firms and policy-makers would simply be able to choose which provisions of

14 ASEAN countries plus China, Japan, and South Korea.

which grand regional FTA they prefer to adhere to.¹⁵ This argument is, though, premised on being able to establish technical policy compatibility on tariff liberalization arrangements and commercial regulatory measures, which cannot be assured until negotiations are completed. Furthermore, China and Malaysia's case for EAFTA is founded on the perhaps more convincing argument that the APT group is more economically, socio-culturally, and to some extent, politically coherent than its EAS counterpart. While the EAS-3 countries have developed closer economic ties with APT countries over recent years – including through the signing of bilateral FTAs – they remain largely on the periphery of East Asia's core regional economy. In addition, EAS-3 approaches to economic governance (e.g. Australia and New Zealand's market-liberal capitalism) are in some contrast to East Asia's developmental statist traditions which still persist although in transformed ways. This is relevant to the ideational differences between Anglo-Pacific countries and East Asian countries, as debated previously in relation to the FTA models issue, the latter having a predilection for incorporating economic co-operative measures in their agreements, whereas the former generally do not.

Another probable reason as to why Japan wanted to include the two developed countries, Australia and New Zealand, in the CEPEA is to broaden the base of support for incorporating stronger commercial regulatory measures (e.g. IPR, competition policy) into any future regional agreement (Dent, 2010). China and many ASEAN countries will resist too much priority being conferred to this area, and these could be real problem issues in any future CEPEA negotiations, as will agriculture in any grand regional FTA project with Northeast Asian country membership. Such differences over technical policy content and approach and the competition between each grand regional project for priority development may pose serious constraints on the progress made by either project.

A third proposed grand regional FTA, the FTAAP, is an APEC membership-based project first proposed by the APEC Business Advisory Council group in 2004, and then championed by the United States from 2006 onwards under the Bush Administration (Dent, 2007). The proposed FTAAP has been most strongly supported by the club of

15 Research interviews with Japanese trade policy-makers, Tokyo, February 2009.

ardent free trader nations primarily as an attempt to inject new momentum into APEC's flagging commercial liberalization endeavors, as well as to realize the long-term objective of harmonizing all existing forms of FTA activity into a unified Asia-Pacific agreement. This puts the FTAAP in more or less direct competition with East Asia-centered grand regional projects, notwithstanding Japan's suggestions that the CEPEA would be a building block for a larger Asia-Pacific agreement.¹⁶ For this reason, most East Asian states have attached a low priority to the FTAAP, which also faces the fundamentally critical challenge of establishing an FTA among a large and highly diverse set of member economies. Important lessons can be drawn from the early proposed Free Trade Area of the Americas (FTAA), another grand regional project led earlier by the United States in which progress has faltered due to the problems of reconciling many diverse national interests, as well as the from how the breakdown in FTAA negotiations owed much to frictions arising between the United States and Brazil as each championed their own particular FTA model, i.e. NAFTA and Mercosur, respectively. The FTAAP's prospects are further diminished by the new Obama Administration's more circumspect views on FTAs generally. Like the EAFTA and CEPEA, the FTAAP is currently at the feasibility stage of development with no signs yet of proposed dates to commence formal negotiations. As discussed earlier, the progress of all three projects will be hindered by an expected notable degree of external counter-pressure from third countries, and more importantly significant domestic political resistance from uncompetitive industry groups and civil society organizations. It is therefore quite possible that negotiations on any grand regional FTA project in the Asia-Pacific will not be initiated for many years to come for the above-stated reasons.

4.3 FTA transformation

This concerns how the nature of existing agreements will evolve in the future, and is closely connected to the previous debate on FTA review and revision processes. Given the earlier discussed problems of achieving most forms of FTA convergence and harmonization in the foreseeable future, it would appear that most existing bilateral FTAs are here to stay.

¹⁶ *Vietnam News*, 14 November 2006.

Yet what we can also expect is their transformation into deeper and broader agreements over the longer term. This may not necessarily involve simply the progression to deeper economic integration arrangements – such as customs unions, common markets, or the incorporation of a wider range of commercial regulatory provisions – but their possible expansion to broad (economic) co-operation agreements that embrace some of the key challenge issues facing humankind in the early twenty-first century, including energy security, environment, international migration and demographic change, and poverty alleviation. It is already evident that East Asian-type FTAs especially have started to embrace such ‘FTA-plus’ issues.

Three main points need to be made here. First, the earlier debated empirical evidence on FTA review and revision processes suggests that the substantive transformation of many existing agreements may not occur for a considerably long time. As with the negotiation of FTAs, their subsequent transformation is dependent on what is politico-economically feasible in the interactions between signatory parties. Hence, strong diplomatic-political commitment is invariably required to underpin the success of these review and revision processes.

Second, some countries may wish to keep ‘FTA-plus’ issues separate from those of ‘free trade’ or international commercial agreements generally, the United States recently under the Bush Administration subscribing to this approach. This position may however change over the course of the Obama Administration, with at least the more explicit incorporation of social, environmental, and other ‘fair trade’ issues now more firmly back on the country’s trade agreement agenda. Moreover, issue-linkage in a globalizing world system makes it more difficult to neatly disaggregate commercial-related issues from the FTA-plus issues, and holistic international economic co-operation or partnership agreements can enable this issue-linkage to be better managed among partner countries. This is not to say that these transformed holistic agreements will or should necessarily supersede or subsume separate bilateral agreements on energy, environment, migration, and so on but rather complement them by addressing the relevant commercial aspects of these issues. Japan’s recent inclusion of energy supply clauses in its bilateral FTAs with Indonesia and Brunei are cases in point (Masaki, 2006).

The third main point is that regional organizations, frameworks, and agreements are better fora for addressing FTA-plus issues given their

wider transnational, regional, and global dimensions outside bilateral partnerships. For instance, ASEAN, APT, EAS, and APEC have all developed programmatic schemes on energy and environmental security issues. Again, future-transformed bilateral FTAs must complement and reinforce efforts at the regional level by addressing issues that are particular to bilateral partners, e.g. Japan and Indonesia on timber trade, sustainable forestry practices, and tackling forest fire 'haze' pollution. The likely pattern of (bilateral) FTA transformation will therefore be primarily determined by: (i) the comprehensiveness of FTA review and revision processes and mechanisms and the strength of diplomatic-political commitment underpinning them; (ii) the degree of inclination towards holistic commercial-related international agreements; (iii) how regional level agendas and agreements on FTA-plus issues themselves evolve over time.

5 Conclusion

The growth of FTA activity in the Asia-Pacific over the last decade has been remarkable, and has had considerable impacts upon the region's international political economy. This paper has evaluated the trends, patterns, and issues arising from this activity, and has discussed what paths of future FTA development are likely to occur in the Asia-Pacific over the next decade and beyond. The analysis began by presenting an empirical overview of FTA activity in the region, charting the growth in the number and nature of agreements, and explaining the general reasons for this growth. It then examined the current pattern of Asia-Pacific FTA activity and considered different issues relating to FTA partner selection. The extent to which there has been evolution and learning in FTA practice among Asia-Pacific states was also discussed, with attention to the most notable trends in technical policy content and the different ideational approaches to formulating agreements. In addition, developments in FTA review, revision, and impact assessment processes were assessed before turning to the paper's core discussions on the current and likely future paths of FTA convergence, harmonization, and transformation in the Asia-Pacific.

Despite the integrating effects of new FTAs in the region, this has occurred on a largely bilateral and asymmetric basis, both in terms of the pattern of FTA partnerships formed and their heterogeneity. There is little evidence to date that the dense FTA bilateralism in the Asia-Pacific

has made contributions to a more comprehensive regionalized integration and regional community-building processes that can be distinguished from other separate contributing processes at the micro or macro level. Moreover, as we have seen, the different experimental methods of FTA convergence and harmonization in the Asia-Pacific have either encountered difficulties in realizing their objectives (regionalized 'best practice' setting through APEC), or their scope for application or manifestation has been somewhat limited (parallel bilateralism and plurilateral expansionism), or they have competed against each other (FTA model formation). While these methods all share some degree of ulterior motive for the eventual creation of grand regional FTAs (namely the CEPEA, EAFTA, FTAAP, and FTAA), progress on this aspect of FTA convergence and harmonization will prove extremely difficult to achieve for a number of important reasons, namely:

- *Sheer complex diversity of the Asia-Pacific region*: concerning the general challenges of reconciling multifarious development-related interests and politico-economic ideational differences among large sets of countries. On the basis of this reasoning, the smallest of the grand regional FTA projects, the EAFTA, stands the best chance of success.
- *Wide range of sensitive competitive tensions between countries*: anticipated disputes over agriculture are alone enough to significantly hinder the progress of any grand regional FTA project, especially those involving Northeast Asian countries.
- *Differences of ideational approaches to FTA formation*: linked to the first point. It is particularly difficult to envisage any FTA involving China and the United States for this reason.
- *Expected conflicts over the degree of inclusion of commercial regulation provisions*: such as IPR, competition policy, investment and government procurement, the conflict broadly arising between those developed countries in the region strongly supporting their inclusion and developing countries resisting such demands.
- *Protectionist counter-reactions to the current global financial crisis*: this remains speculative as the crisis has yet to run its full course at the time of writing, but countries could prove reluctant to significantly open up their domestic markets to foreign competition during a period of substantial economic volatility.

- *United States's more circumspect approach to FTA policy*: the new Obama Administration has already indicated that it will be revising existing agreements rather than initiating new FTA projects, as its recent postponed involvement in the TPP has indicated. While the exact directions that US trade policy will take under President Obama remain unclear, it is unlikely to advocate an early start for FTAAP negotiations.
- *Potential rivalry between the grand regional FTA projects*: as apparent between the Japan-backed CEPEA, the China-backed EAFTA, and the general opposition of many East Asian states towards the wider Asia-Pacific-based FTAAP.

With grand regional FTA projects finding it difficult to progress and the increasingly limited scope for forming new FTA partnerships inside the region, attention is likely to revert back to the existing (mostly bilateral) Asia-Pacific agreements that have proliferated over the last decade and how they may over the long run be transformed into various kinds of 'FTA-plus' agreements. It was argued that the future expected development of FTA transformation will depend on three main factors. First, the comprehensiveness of review and revision processes and mechanisms embodied within these agreements and the strength of diplomatic-political commitment underpinning them. Second, the degree of inclination towards holistic commercial-related international agreements that embrace some of the key challenge issues facing humankind in the early twenty-first century, including energy security, environment, international migration and demographic change, and poverty alleviation. Third, how regional-level agendas and agreements on FTA-plus issues themselves evolve over time, and the extent to which existing FTAs transform in a way that positively reinforces the work of regional organizations and frameworks in the Asia-Pacific region on these issues. The generally limited changes made to existing agreements over the last decade through their review and revision processes, however, suggest that substantive FTA transformation may not occur for a considerably long time.

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