Can We Have Regionalism and Multilateralism?

By Ken Ash and Iza Lejarraga

1. The rise of mega-regionalism and the deepening of integration

Regional trade agreements (RTAs) are not a new phenomenon, but the latest mega-regional initiatives are on an entirely new scale. The three largest “mega” initiatives – the Transatlantic Trade and Investment Partnership (TTIP), the Transpacific Partnership (TPP), and the Regional Cooperation in Asia and the Pacific (RCEP) – represent over three quarters of global GDP and two thirds of world trade. Of course, negotiations have not yet concluded and the final outcomes have yet to be determined. Nevertheless, the initial ambitions are certainly high, pushing the boundaries of what has become known as “deep integration”.

![Figure 1: Mega-regionals share of world trade and output](source: FAOSTAT)

This note does not speculate on the possible outcomes of these mega-initiatives, but is confined to surveying elements of existing RTAs. Current RTAs are already on a path that moves beyond the existing multilateral rules on investment, the movement of capital and persons, competition and state-owned enterprises, e-commerce and anti-corruption. At the same time, regional arrangements are not a comprehensive response to today’s more interconnected markets, precisely because they are not global. The new mega-regionals have at least the potential to address today’s essential trade policy questions across a wider geographical scope that moves closer to a truly global reach.

If this view is correct, regionalism may naturally evolve towards a comprehensive multilateral system. It may also be desirable to conduct a more explicit examination of options that could help transfer selected emerging practices to a more genuinely global rule-book. This note draws on recent work that has been undertaken at the OECD and explores the extent to which selected WTO-plus
measures in existing RTAs might be “multilateralizable”. It should be stressed that the perspective taken is purely a technical one; the reality, of course, is that “multilateralizing regionalism” is an intensely political question.

The underlying considerations are straightforward: the desirability of promoting as much consistency and coherence across mega-negotiations as possible and exploring how best to maximize synergies with the multilateral regime, with a view to reducing transaction costs for businesses, easing the maze of regimes for policy-makers, and maximizing global welfare. It is widely recognized that experimentation and competition across RTAs has yielded progress and innovation in trade policymaking: some lessons and emerging best practices at the regional level could conceivably illuminate options for multilateral progress.

This note offers initial reflections on these issues. The next section identifies elements that appear to be most promising as regards potential synergies across the regional and multilateral approaches before addressing areas for which WTO-plus measures in RTAs focus more specifically on agriculture.

2. Enhancing the multilateralization potential of RTA-plus measures

Apart from the requirement for RTAs to be consistent with multilateral rules, policy-makers are also mindful of the more general issue of coherence across regional arrangements as well as between regional and multilateral systems. Some countries even negotiate RTAs with the explicit intent of setting precedents for the future multilateral system. Other countries view deeper measures in regional partnerships as a way of complementing the multilateral system, at the very least. In either case, there has been a growing interest in the question of “multilateral-friendly” practices that can help promote convergence, be it through bottom-up (RTA-driven) or top-down (WTO-driven) channels. A starting-point for these discussions is to suggest a conceptual framework that could help organize the analysis of attributes that might render WTO-plus measures more systematically favourable to multilateral reinforcement. These elements can be grouped into five broad considerations:

- **Representativeness**: Is a particular WTO-plus measure incorporated in a significant number of RTAs? To what extent is it applied by a broad sample of WTO Members, including developing countries?

- **Homogeneity**: Is there a high degree of similarity among particular WTO-plus measures within and across different agreements? Are these essentially coherent with WTO rules and international standards?

- **Discrimination**: Do given WTO-plus measures create de facto discriminatory effects, between RTA parties and non-parties, and between domestic and foreign providers?

- **Predictability**: Do WTO-plus measures create binding obligations that are enforceable via dispute settlement procedures? Do they generate greater transparency on measures affecting trade?

- **Gains**: Do WTO-plus measures yield high economic returns, and what is the marginal gain from multilateralization? Are political economy factors constraining the realization of these gains?
A grid reflecting the broad profile of various WTO-plus policy areas along these axes is contained in Table 1. It should not be construed as a predictor of multilateralization, but rather as an analytical tool that can organize discussions on the potential amenability of WTO-plus efforts for multilateralization. Policy areas that score well may be, in technical terms, candidates for multilateralization. Trade facilitation, for example, is an area where WTO-plus measures clearly display multilateral-friendly characteristics. Agriculture presents a mixed picture: rules of origin, despite their complexity and restrictiveness, generally only have a high impact on less processed agricultural goods. Sanitary and phytosanitary (SPS) measures also appear to be multilateral-friendly; many SPS-plus measures found in RTAs are already enshrined in the voluntary guidelines of the WTO SPS Committee on how to implement the WTO SPS Agreement.

Overall, there are several areas of convergence to note. Most WTO-plus measures have seen a marked upward trend in the uptake of deeper commitments by a more representative profile of WTO Members. There is a clear propagation of WTO-plus measures in North–South and South–South RTAs, suggesting that there may be growing receptivity and preparedness on the part of developing countries – at least middle-income economies – to endorse a deeper level of commitments. There is also a considerable degree of similarity across WTO-plus measures, which has been becoming stronger over time. Some of the benefits conferred regionally in terms of enhancing transparency, pro-competitive practices, and environment protection – as well as stronger anti-corruption and copyright enforcement – generate benefits for all operators in those markets, including exporters and importers from third-party countries.

In some areas (services, export restrictions), there appear to be instances of WTO-minus commitments. Another aspect that could warrant attention in future negotiations relates to the alternative architectures and scheduling practices that have been developed, notably in investment, competition and services. Addressing these differences should not constitute an insurmountable barrier; on the contrary, it calls for creative efforts and flexible approaches in order to be able to translate regionalism into multilateralism. Finally, it is noteworthy that, with the exceptions of environment and labour, there has also been a marked tendency to make RTA WTO-plus obligations stronger, migrating from provisions couched in best-endeavour language to firmer commitments creating obligations that are liable to dispute settlement. While this is a positive development in terms of signalling the degree of importance that countries attach to these obligations, and their preparedness to implement them, there are open questions as to whether regional mechanisms are strong enough to ensure compliance.
### Table 1: Multilateralisation potential of WTO-plus measures in RTAs

<table>
<thead>
<tr>
<th>Factors facilitating multilateralisation</th>
<th>Agriculture</th>
<th>SPS</th>
<th>TBTs</th>
<th>Export Restrictions</th>
<th>Trade Facilitations</th>
<th>Services</th>
<th>Labour Mobility</th>
<th>E-commerce</th>
<th>Investment</th>
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Note: ● High, ○ good and ◇ limited potential for multilateralization. "NA" denotes not applicable, and "–" not assessed in OECD studies.

Source: OECD 2014a.
3. The search for “building blocks” for global agricultural trade reform

Based on the above framework, this section reviews certain WTO-plus areas established in regional cooperation on agriculture that could potentially be relatively more multilateralizable, at least in technical terms. Despite the political sensitivity of the agricultural sector, a number of RTAs have made important strides in liberalizing measures beyond the levels of the WTO Agreement on Agriculture (AoA). Figure 2 shows the share of RTAs containing WTO-plus (deeper commitments than those existing in the WTO) and WTO-beyond (qualitatively new commitments that do not exist in the WTO) in areas relevant to agriculture. When it comes to market access, the vast majority of RTAs have liberalized tariffs beyond the undertakings of the AoA. About a third of RTAs incorporate obligations that go beyond those included in the AoA; these are mostly related to provisions for technical assistance and are largely couched as best-endeavour provisions. A considerable number of RTAs have also crafted a WTO-plus framework for SPS measures and for technical barriers to trade (TBTs), although in some cases these do not constitute enforceable obligations. Finally, over half of RTAs strengthen disciplines for export restrictions and subsidies, although these provisions are not exclusively geared towards agricultural products.

![Figure 2: The share of the deepening commitments of RTAs](image)

Tariff-cutting exercises have been the centre-piece of WTO-plus efforts in agriculture, achieving significant progress in eliminating agricultural tariffs beyond existing multilateral concessions. Moreover, it has also been in the WTO-plus areas that developing countries have taken the initiative to make the most arduous efforts: in effect, South–South RTAs have been moving faster and further on tariff cuts than North–South RTAs (Figure 3). While resulting preference margins in agriculture can create disincentives to multilateralize, some evidence also suggests that, as countries adopt RTAs, they may tend to reduce product-specific MFN tariffs (Estevaderodal et al. 2008).

A common concern about preferential tariff liberalization relates to trade diversion effects, particularly in agriculture where the margins are higher than for general goods. The theoretical and empirical literature on RTAs tends to suggest that trade creation is the rule and trade diversion the exception (Ornealas and Freund 2010). A recent OECD study covering 78 RTAs found that intraregional exports
increased on average by 18% for products benefiting from the typical preferential margin between 5 and 10% and by 48% for products where the margin exceeded 10% (OECD 2012b). However, trade-diverting effects for particular agricultural products and countries should not be discounted. The magnitude of these effects in each RTA will depend on multiple factors, including the initial level of the tariff peak, the size of the preference margin, the volume of exports, and the extent of competition between excluded and RTA countries in a given agricultural product market. Of course, this assumes a relatively high utilization of preferential tariffs, which is often not the case.

Figure 3: The share of duty-free tariff lines on agricultural products in RTAs

Another area that has yielded perhaps the most widespread WTO-plus measures creating binding obligations relates to export measures. In due course, this may be an area where multilateral efforts can be taken up. Many RTAs have developed WTO-beyond commitments on export taxes, which are not comprehensively disciplined under the existing rules of the WTO. These instruments are often applied to raw materials and other agricultural products (notably basic grains, oil seeds, etc.). It is perhaps worth noting that the regional approach to discipline flexibilities has been to impose a set of conditions on the use of exceptions, so that when export measures are implemented they do not adversely affect other Members or alter world prices. Finally, a large number of RTAs contain provisions prohibiting the use of agricultural export subsidies in regional trade. Although information on how different countries apply export measures is not systematically available, disciplines on export restrictions or subsidies can arguably be difficult to strictly apply on a preferential basis. Contrary to imports, where there are well-defined and monitored rules of origin, equivalent measures to monitor the final destination of exports are relatively less developed; in practice, these regional commitments can de facto be rendered MFN through market arbitrage. Hence, such preferential treatment may not, in purely technical terms, create strong economic disincentives to multilateralization at some future point in time.

In the case of standards, in particular SPS and TBTs measures, most WTO-plus measures relate to improvements in transparency. RTAs can be credited for introducing new obligations that strengthen the ex-ante and ex-post transparency requirements related to the design and application of standards and establishing improved web-based information systems and consultation processes that include interested foreign parties. Recent evidence shows that better information on standards, both ex-ante
and *ex-post*, attenuates the trade-distorting effects of nontariff measures. In effect, it can even have equivalent or higher trade creation gains than some tariff liberalization in agriculture (OECD 2013). Moreover, agricultural trade flows are shown to have a higher degree of sensitivity to transparency than non-agricultural goods (Lejarraga et al. 2013). This can be explained by the fact that delays or rejections due to the failure to provide timely, accurate and clear information on agricultural perishable goods entail particularly high costs for exporters as well as risks for human and animal health. Since transparency displays the characteristics of public goods – non-excludable and non-exhaustible – it would appear likely that, at least in purely technical terms, the multilateral extension of these commitments would come at no additional economic cost for countries that have already implemented them unilaterally or regionally.

**Conclusion**

This article has briefly discussed certain elements that may, in due course, contribute to a more systematic consideration of how regional and multilateral market opening might more actively cross-fertilize and improve the overall functioning of the world trading system. In the case of agriculture, it has identified several areas where, from a technical and purely analytical perspective, there would appear to be fewer impediments to “multilateralizing regionalism”. Of course, the real issue is not technical in nature; whether, when, and how to multilateralize WTO-plus and WTO-beyond provisions in RTAs is primarily a political question for governments to address.
References


———. 2012b. The Impact of Regional Trade Agreements on Trade in Agriculture.

———. 2012c. The Impact of Regional Trade Agreements on Chilean Fruit Trade.


