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## ***The Estey***

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# **Journal of International Law and Trade Policy**

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### **Regional Trade Agreements in the Atlantic Region: The Path to Global Trade Governance?**

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#### **Abstract**

This paper explores whether Regional Trade Agreements (RTAs) act as stumbling blocks or stepping stones to the development of the multilateral trading system. It does this by focusing on the governance structures of regional trade agreements in the Atlantic region and commenting on the evolving pattern of trade governance in the region. It conceptualises the evolution of these RTAs and how such agreements contribute to global trade and investment governance. It also comments on areas of convergence and divergence between these Atlantic RTAs and the WTO's benchmarks for the operation of the multilateral system. It concludes that the Atlantic RTAs can and do act as potential stepping stones to the development of the multilateral trading system and comments that the recent signing of the EU-Mercosur trade agreement is a positive example of this. The paper also suggests that the adoption of the America First policy of the United States may well act as a brake on further developments in trade-creating RTAs adopting common or compatible governance structures.

Keywords: Atlantic region, bilateralism, multilateralism, regional trade agreements, trade governance

## Introduction

Regional trade agreements (RTAs) account for more than half of international trade and continue to co-exist alongside the World Trade Organisation's global multilateral agreements. Many countries are partners in modern and progressive RTAs that aim to increase trade and investment and hence boost their economic growth. RTAs, especially the ones negotiated by the United States of America (USA) and the European Union (EU) with their partners, extend beyond the realm of conventional trade liberalisation and include rules on regulatory issues such as intellectual property rights protection, social and environmental norms and legal frameworks.

This paper explores whether RTAs pose a threat or stumbling block to the development of the multilateral trading system or whether they act as a building block and enhance multilateral trade governance under the WTO. Focusing primarily on RTAs in the Atlantic region (which we define as six regions bordering the Atlantic Ocean, including North America, Central America, South America, the Caribbean, Europe and Africa), this paper comments on the evolving pattern of trade governance in the region and conceptualises the evolution of these RTAs in the Atlantic region and how such agreements contribute to global governance. All the countries that belong to these RTAs trade significantly with one another and have significant foreign direct investment flows with either/or the EU and the USA. In addition and *inter alia*, the paper comments on areas of convergence and divergence between Atlantic region RTAs and the WTO's benchmarks for the operation of the multilateral system.

The rationale for focusing on the Atlantic region is that it accounts for over half of world output and a significant amount of world trade and investment. Further, its two main economies, the EU and the USA, together account for half of global output, over a third of world merchandise trade (including intra-EU trade but excluding services trade) and 20 percent of global foreign direct investment (OECD, 2014). It is within this context that this paper examines two research questions: First, what are the areas of convergence and divergence in RTAs negotiated in the Atlantic region? Second, can the Atlantic region's agreements contribute to a new framework on global trade governance by connecting the bilateral with the multilateral framework and thereby enhance global governance and the multilateral system?

The paper is organised as follows: Section 2 discusses the role played by the members of the Atlantic region in evolving international trade governance. Section 3 carries out a literature review and highlights the link between trading agreements and global governance, while elaborating on the conceptual framework of trade governance and its indicators. Section 4 presents a discussion on the methodology employed for the

analysis. Section 5 analyses the commitments undertaken by partners under these RTAs and examines the main areas of divergence from and convergence with the WTO commitments in these agreements. This enables us to comment on whether the Atlantic region is contributing to the rise of a new trade governance framework and if it enhances the multilateral system. Section 6 concludes.

## **The Evolution of the Atlantic Region's Role in Developing Trade Governance: Context and Literature**

The countries that constitute the Atlantic region were at the forefront in establishing the post war multilateral system and regional trade agreements (Quinlan, 2003; Francois, 2013). Historically, they, and in particular the USA and the countries of what eventually became the EU, spearheaded the creation of the General Agreement on Tariffs and Trade (GATT) of 1947, which evolved into the WTO (under 1994 GATT). These institutions provided an institutional forum in which governments could negotiate trade agreements and settle trade disputes through a system of trading rules (see Hoekman & Kostecki (2001) for the historical background on GATT/WTO). The GATT 1947 provided a framework for creating a multilateral approach to trade, and established a system of internationally recognised trade rules. The underlying idea was to create a level playing field for all members through the “substantial reduction of tariffs and other barriers to trade and the elimination of discriminatory treatment in international commerce” (GATT, Art 1).

While establishing a multilateral, rules-based system the GATT founders understood that political as well as economic imperatives might lead to countries establishing closer economic ties via the establishment of preferential trading arrangements such as free trade areas, customs unions, common markets and economic unions. This was recognised and enshrined under Article XXIV of the GATT and subsequently modified to embrace further developments.

The Atlantic region has been the main driving force behind eight rounds of multilateral trade negotiations, including the successful conclusion of the Uruguay Round and the creation of the WTO. The USA together with the EU was instrumental in launching the Doha Round (Perdikis & Perdikis, 2018). Trade data for the EU and USA show that a quarter of the USA's GDP is tied to international trade, up from 10 percent in 1970, the largest such increase of any developed economy over this period. A third of USA growth since 1990 has been generated by trade. USA trade is increasingly global in scope – 37 percent with Canada and Mexico, 23 percent with Europe, 27 percent with Asia (WTO, 2012).

In terms of global trade, the EU is ranked as a major exporter and second largest importer in the world, which makes the EU an attractive partner for preferential trading agreements (Dur & Zimmermann, 2007, 772). The 'Market Power Europe' concept (Damro, 2012) highlights the growing importance of the EU in the global trade arena and was an important driving force behind the now defunct USA-EU Transatlantic Trade and Investment Partnership (Dur & Zimmermann, 2007, 771).

Elgstrom's (2007, 958) work also resonates with Damro's views that the USA and the EU took a lead in setting the global trade agenda. In this manner, the Atlantic region trade arrangements with the EU and the USA as key partners continue to play a dominant role in shaping the present and future of trading agreements as these are being decided, crafted and institutionalised within this geographical zone. It would not be far from the mark to comment that as a whole, the transatlantic community's unique contribution to the global system, led by the USA and the EU, has been to act as a bridge across the Atlantic and across languages, cultures and economic interests. Whether that will continue in the future is open to debate, although both the USA and the EU have common interests with regard to some reforms to the operation of the WTO's dispute settlement procedures and in their relationship with China regarding intellectual property. The America First policy of the Trump administration may well lead to a lack of willingness to co-operate with partners in this regard in formulating a common policy approach. The suspension of the USA-EU Trade and Investment Partnership does not bode well for the enhancement of good trade relations between these two trading partners. Likewise, the renegotiation of NAFTA is worrying, even though in practical terms little has changed, as it suggests that agreements made cannot be relied upon to bring stability to economic relations.

Economists have traditionally used 'trade diversion' and 'trade creation' effects to analyse the economic impact of trading agreements (Viner, 1950). While there is unanimous agreement that trading agreements promote bilateral trade among members, the recent debate has concentrated on the effects of trading agreements on nonmembers (Daia, Yotov & Zylkin, 2014; Anderson & Yotov, 2011; Baier & Bergstrand, 2007; Helpman et al., 2008; Magee, 2008; Panagariya, 2002; Brown, Deardorff & Stern, 1994; Kehoe & Kehoe, 1994). In general, the economic rationale for integration includes the ease of negotiations amongst fewer partners, the ability to preclude liberalisation in certain sectors (Ravenhill, 2003), and the possibility to mitigate the fear of 'losing out to neighbours' through trade diversion as well as contagion effects generated by spill-overs (Baldwin, 1993; Baldwin & Jaimovich, 2012). Thus, economists have been concerned with the costs of incomplete liberalisation and overlapping rules of origin. In turn, this has fuelled a debate on the relative merits of these compared to the WTO

multilateral regime: some argue that FTAs are ‘stumbling blocks’ to multilateral liberalisation (Bhagwati, 1994, 2008), while others claim they are ‘stepping stones’ (Wei & Frankel, 2005; Dent, 2003). Transcending this, political economists have focused on domestic politics as drivers of bilateral trading agreements (Mansfield & Milner, 2012), using trading agreements as a mechanism to secure domestic economic reform and as a way of gaining international recognition and acceptance (Aggarwal & Lee, 2011; Aggarwal & Urata, 2006). The proliferation of trading agreements can also be explained as a result of policy imitation based on fear of exclusion from regional initiatives rather than of economic losses (Solis et al., 2009), and these have even been viewed as a reflection of geo-competition amongst actors (García, 2012).

Political explanations include the spread of democracy generating new alliances (Mansfield et al., 2002; Wu, 2004), a lack of momentum at the multilateral level and the quest for geopolitical stability (Mansfield & Pevehouse, 2000; Martin et al., 2008, 2010; Vicard, 2008). Mansfield and Milner (1999) propose that regionalism comes in waves, and Baldwin (1997) argues that the ‘new’ or ‘recent’ wave arises from domino forces created by the 1980s Eurocentric round of preferential liberalisation. This ‘new’ regionalism is however ‘deeper’ than traditional trade agreements (Burfisher et al., 2003; Ethier, 1998; Baldwin, 2011), with partners willing to negotiate investment, procurement, competition policy and intellectual property rights issues. Although traditional models of trade suggest that trading agreements between countries which share differences in comparative advantages make economic sense, Mansfield et al. (2008) argue that political support may be complicated due to the unequal distribution of factor rewards, implying “good politics drives out good economics” (Mansfield et al., 2008, 69), as agreements between countries with similar factor endowments may be politically easier to conclude. This was not however the case with the Transatlantic Trade and Investment Partnership (TTIP), where the politics intervened to squeeze out the economics!

An important debate within the literature concerns the compatibility of trading agreements with the WTO’s multilateral regime. This has pitted opponents of such agreements, who see them as ‘stumbling blocks’ (Thurow, 1992; Bhagwati, 1994, 2008), against supporters, who see them as ‘stepping stones’ towards global liberalisation (Krugman, 1993; Lamy, 2002; Wei & Frankel, 1996). The latter position has been explained through ‘domino effects’, where outsiders become insiders to trading agreements to offset trade-diversion effects, thus changing the domestic constellation of pressures for and against liberalisation (Baldwin, 1993). This rationale is also present in some states’ deliberate down-grading of the multilateral approach to liberalisation, for example, the USA’s (and EU’s) turn to bilateralism in the 2000s to

encourage ‘competitive liberalisation’ amongst partners (Schott, 2006), which helped to weaken the developing world’s opposition to liberalisation as articulated at the WTO. More recently the questioning of the WTO’s remit to manage the multilateral system by the USA and its adoption of the America First policy have raised further concerns for that system. However, the ‘stepping stone’ analysis, focusing on trade effects, mainly in goods and some services, has obviated the inclusion of new regulatory issues in trading agreements. It is no coincidence that, where those governance structures are absent, the negotiating partners incorporate them into trading agreements. This has often necessitated incorporating ‘appropriate’ governance structures within a country to facilitate the flow of goods and ideas which is often associated with a more liberal trade stance (see Mansfield et al., 2000, 2002; Mansfield et al., 2008).<sup>1</sup> Using these theoretical underpinnings on regional integration, this paper examines whether governance structures within Atlantic region RTAs can link bilateral and multilateral trade frameworks and in doing so contribute to a new framework on global trade governance. And simultaneously enhance the WTO system.

## **The Global Trade Governance and Related Literature**

Sharma (2010) defines ‘trade governance’ as “consisting of institutions and organisational structures that determine the formulation and enforcement of rules and the associated negotiations over policies.” Recent academic debate focuses on the effectiveness of governance and regional trade (Cooley & Spryut, 2009; Sharma, 2010). Studies report that the regional governance mode, if designed in accordance with membership characteristics and priorities, is likely to facilitate the exploitation of key advantages of trade governance systems. Sharma (2013) concludes that regional trade governance leads to innovation of rules and other governance mechanisms, and negotiations generally involve a wider set of issues that are important to negotiating partners, which allows for more effective discussion and enforcement of the resulting agreements.

Global governance in general terms is defined as “an order that lacks a centralized authority with the capacity to enforce decisions on a global scale” (Rosenau, 1992b, 7). Within the context of the general global governance debate espoused in political economy, Christie et al. (2013) draw attention to three dimensions of governance. The first dimension relates to rules and resources, and how institutions function. The second dimension deals with key principles such as participation and inclusion. The third encompasses several governance themes that impact on transparency, accountability, democratization, human rights, rule of law and administration of justice.

The literature also highlights the underlying characteristics of global governance as follows: First, it requires some form of patterned regularity or order at the global level, suggesting that patterned regularity is a necessary, but not a sufficient, condition for global governance. Second, global governance must be purposive and/or oriented toward the achievement of some goal or goals (Bull, 1977). Third, governance is a system of rules, which can be formal and embodied in an institution or informal and can reside within a set of institutional actors. It is a system of authoritative rule or rules (with varying degrees of institutionalization) that functions and operates at the global level. In order for a system of authoritative rules to operate at a global level, it is not required that they be universally practised or universally recognized as legitimate. It merely requires that they be widely shared and practised on a global scale (on multiple continents) by relevant and important economic actors (Alker et al., 2011). Thus, global governance entails decisions that shape and define expectations (controlling, directing or regulating) at the global level. There can be different degrees of institutionalization associated with different forms of governance, and there is debate about whether formal or informal institutions are necessary for governance. In this manner, global governance is perceived as an inter-subjectively recognized, purposive order at the global level that defines, constrains and shapes actor expectations in an issues domain.

To examine whether the Atlantic region's RTAs support convergence or divergence in the trading framework, and to provide policy advocates with access to robust information, we suggest using the set of governance indicators proposed and associated with the trading framework of the WTO. These are homogeneity, adaptability, accountability, transparency and monitoring. Given that the WTO is a framework of rules that apply at the multilateral level and set the 'gold standard' for trading agreement rules, we then assess these indicators against a set of criteria which include a reflection on the following: Are the indicators actionable – that is, can the primary institution involved 'do things better' to ensure effective trade governance? Are they credible? Are the commitments undertaken relevant, i.e., do they capture a critical dimension of the quality of governance and ensure parity with WTO agreements? Do the commitments foster accountability – do the available institutions support an increased commitment to accountability and transparency? Are the trade liberalisation commitments reliable – can the commitments be trusted to ensure transparency?

The first indicator, homogeneity, focuses on the extent to which the policies and mandates of trading agreements are similar across the Atlantic region. The second indicator is adaptability, which is defined for the purpose of this study as an attribute that enables RTA partner countries to meet the ratification/implementation requirements of the agreement at the stakeholder level, whether this is at the regional, national or



subnational levels. The third, accountability, is the set of procedures by which relevant stakeholders are held comprehensively accountable at all levels, as part of the objectives of the agreement. The fourth indicator is transparency, which refers to information being readily available and accessible to all stakeholders. This indicator is central to institutionalizing good governance and higher accountability, as secrecy and lack of accountability breed corruption, whereas greater transparency can help ensure the appropriate checks and balances. The final indicator is monitoring, which encourages external scrutiny, enhances transparency in trade policy developments and provides partners with an up-to-date picture of trends in the implementation of trade policies by other trading countries. Further, monitoring and transparency are different in that the former will generate findings indicating that the indicator set needs to be acted on in ways that lead to measurable results, which may require (external) advocacy or support. Transparency, however, encourages public access to information, and the supply of information to stakeholders encourages a demand for governance. It is also important to emphasise that, although each indicator offers an important insight into governance in its own right, each sits within the governance cycle framework and are all closely interlinked.

Figure 1 presents the relationship between trade governance indicators. It suggests that an overarching institutional framework is required for successful trade liberalisation by countries, such that commitments undertaken within preferential trade liberalisation frameworks are compatible with the WTO's underlying principles of enhancing market access whilst ensuring transparency, accountability and effective monitoring of commitments undertaken. In addition, trade governance indicators help in identifying whether trade liberalisation commitments are adaptable and in line with the WTO agreements.

To enable us to ground governance as a concept, a clear and objective manner of scoring of indicators is required (one that can also better support decision making at both the policy and planning levels). This paper assigns WTO+ or WTO- for the level of commitment undertaken by RTA partners. The classification adopted draws on Horn et al. (2010), which compares EU and USA FTAs. WTO+ suggests that commitments undertaken by partner countries are far and beyond the WTO level of commitments. WTO- suggests that commitments are not equal to those undertaken at the WTO level, but there is a catch-up trend exhibited by trading agreements to match the WTO rules (see Methodology section).

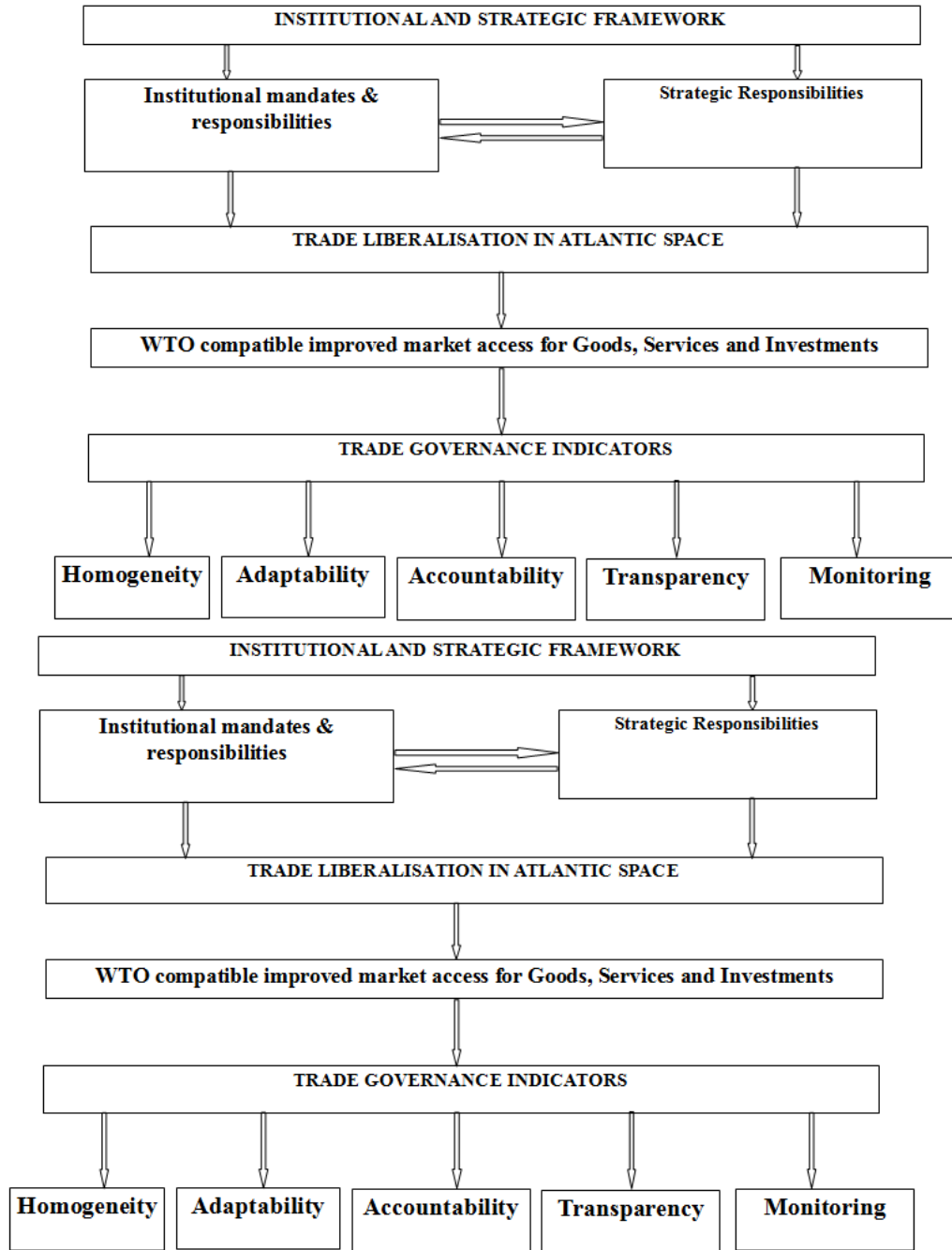


Figure 1 Trade governance framework.

## **Methodology**

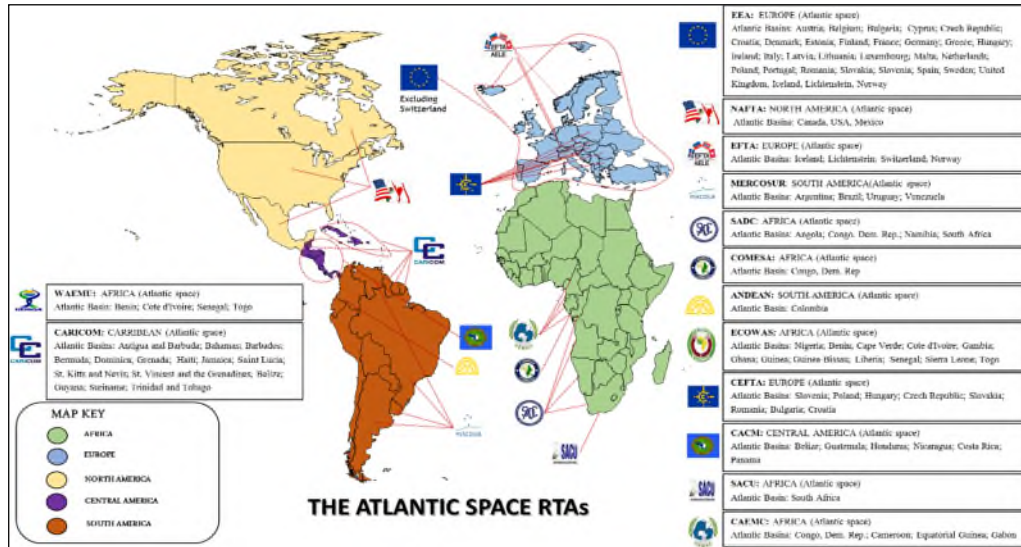
The research methodology of this paper is guided by the interpretive research design used by Horn et al. (2010), Volz (2011), Bryman (2012), Christie et al. (2013), Fakuyama (2013), Dur et al. (2014) and Strange (2014). We examine the governance structures of the 14 RTAs found in the Atlantic region. These are the European Economic Area (EEA), the North America Free Trade Agreement (NAFTA), the European Free Trade Agreement (EFTA), the Central European Free Trade Agreement (CEFTA), the South American Common Market (MERCOSUR), the Andean Community of Nations (ANDEAN), the Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the Economic Community of West African States (ECOWAS), the Caribbean Community (CARICOM), the Central African Economic and Monetary Union (CAEMC), the Central American Common Market (CACM), the West African Economic and Monetary Union (WAEMU) and the Southern African Community Union (SACU).

Given that the paper aims at examining the trading governance framework in the Atlantic region, the next step involved identifying the legal provisions undertaken by the countries, in particular their nature and scope. Areas of analysis cover goods, services, investment, intellectual property and dispute settlement under the WTO framework vis-à-vis commitments undertaken in the RTAs. The WTO agreements analysed are Agriculture, Import Licensing, SPS/TBT, Rules of Origin, Trade Defence, Cross-border Supply, Consumption Abroad, Commercial Presence, Presence of Natural Persons, Intellectual Property, TRIMS, Trade Facilitation/Aid for Trade, and Dispute Settlement Understanding. Based on the degree of conformity between WTO and RTA commitments, we assign a tick (√) if the legal provisions of an RTA are similar to the WTO or a cross (×) if the agreement is not similar to WTO commitments.

Data for our analysis was collected from various sources – the WTO RTA database, the WTO International Trade and Market Access (ITMA) database and the official texts of WTO multilateral governing agreements sourced from the WTO legal texts database. Legal texts of the RTAs have been obtained from the United Nations University – Institute for Comparative Regional Integration Studies – Regional Integration Knowledge System database (UNU-CRIS-RIKS) and the World Bank Global Preferential Trade Agreements database (GPTAD).

## Mapping Trade Flows in the Atlantic Region

Based on the WTO (ITMA) data base, figure 2 presents RTAs in the Atlantic region with the highest level of trade: EEA, NAFTA, EFTA, CEFTA, MERCOSUR, ANDEAN, SADC, COMESA, ECOWAS, CARICOM, CAEMC, CACM, WAEMU and SACU.



**Figure 2** Map of Atlantic RTAs.

Source: Authors' compilation from WTO international trade statistics (2012) and WTO's RTA database (2013)

There are 159 signatories to trading agreements in the Atlantic region, but some countries are signatories to more than one such trading agreement. For instance, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Slovenia, Slovakia and Romania are signatories to both EEA and CEFTA. Similarly, Iceland, Liechtenstein and Norway are signatories to both EEA and EFTA. Belize is a signatory to CACM and CARICOM. Senegal, Togo, Benin and Cote d'Ivoire are signatories to both ECOWAS and WAEMU. Congo Democratic Republic is signatory to three trading agreements – SADC, COMESA and CAEMC. South Africa is also a signatory to two agreements – SADC and SACU.

## Commitments in the Atlantic RTAs

This section assesses whether the Atlantic region agreements could potentially foster the normative aim of multilateral convergence in trade liberalisation by contributing to a common external governance model. The analysis also sheds light on the ongoing debates regarding Atlantic countries' ability to effect change on other actors. The discussion is couched within the 'normative power' debate, which calls for a greater

focus on ascertaining the degree of effectiveness in terms of behavioural changes in other actors (Forsberg, 2011) but focuses in particular on the EU's 'normative' behaviour and the USA's aspirations. In doing so, the paper also aims to capture the extension of rules and practices beyond the geographical borders that the 'external governance' literature addresses (Gänzle, 2009; Lavenex, 2008; Lavenex & Schimmelfenning, 2009; Wunderlich, 2012), for example in situations where the determinants facilitating adoption of rules are present and where third parties adopt its norms and regulations. Within this realm Barbe et al. (2009) highlight, with regards to the EU, that it may not always extend its rules but it "may act more as a taker/transmitter of rules that have been elaborated in other international fora." It is this aspect that makes the 'external governance' literature relevant to this article. Combining the 'normative' rationales for extending the preferred multilateral approach to trade liberalisation with the conditions for rule externalisation described in the 'external governance' literature, we analyse how and whether the Atlantic region countries further the WTO multilateral agenda on trade liberalisation through this new generation of trade agreements.

Table 1 provides a snapshot of the Atlantic regions' agreements. The analysis suggests that there are only three agreements that conform fully with WTO agreements. These are the EEA, EFTA and COMESA. CEFTA and CARICOM follow closely in terms of their conformity, while WAEMU, CAEMC and SACU score low and do not demonstrate closeness to WTO agreements. A striking feature is that only four RTAs include commitments on goods and services. These are NAFTA, EFTA, MERCOSUR and CARICOM. Other agreements have undertaken limited liberalisation commitments and restrict themselves to commitments on liberalising goods trade only. Further, the level of integration also varies within the RTAs in the Atlantic region – NAFTA, EFTA, SADC and CEFTA are FTAs, while the remaining agreements are customs unions. Thus, over 60 percent of Atlantic region agreements show a higher level of integration at the level of customs unions.

Detailed examination of the Atlantic RTAs shows that, in line with WTO agreements, they make specific reference to nondiscrimination and apply standard WTO language. For instance, the EEA has detailed coverage commitments, and Article 2 clearly states members' commitment to "(a) the free movement of goods; (b) the free movement of persons; (c) the free movement of services; (d) the free movement of capital; (e) the setting up of a system ensuring that competition is not distorted and that the rules thereon are equally respected ...." EFTA and NAFTA are similar and reiterate liberalisation commitments with partner countries in the Atlantic region.

Table 1 Overview on Trade Liberalisation Commitments and WTO Compatibility

	EEA	NAFTA	EFTA	MERCOSUR	SADC	COMESA	ANDEAN	ECOWAS	CEFTA	CACM	CAEMC	CARICOM	WAEMU	SACU
<b>GOODS</b>														
Agriculture	√	√	√	√	√	√	√	√	√	√	X	√	X	X
Import licensing	√	√	√	√	√	√	X	X	√	√	X	√	√	√
SPS, TBT	√	√	√	√	√	√	√	√	√	√	X	√	X	X
Subsidies/CVD	√	√	√	√	√	X	X	X	√	√	X	√	X	X
Rules of origin	√	√	√	√	√	√	X	√	√	√	X	√	√	X
Trade defence	√	√	√	√	√	√	√	√	√	X	X	√	X	X
Intellectual property	√	√	√	X	√	X	X	X	√	X	X	X	X	X
<b>SERVICES</b>														
Cross-border supply	√	√	√	√	X	√	X	√	√	X	√	√	√	X
Consumption abroad	√	√	√	√	X	√	X	√	√	X	√	√	X	X
Commercial presence	√	√	√	√	X	√	X	√	√	X	√	√	√	X
Presence of natural persons	√	√	√	√	X	√	X	√	√	X	√	√	√	X
<b>INVESTMENT</b>														
TRIMS	√	√	X	X	√	X	X	X	√	X	X	X	X	X
Trade facilitation/Aid for trade	√	X	X	X	√	√	X	√	X	X	X	√	X	X
<b>DISPUTE SETTLEMENT</b>														
Dispute settlement mechanism	√	√	√	√	√	√	√	X	X	√	X	√	√	X

SADC also confirms its intention “to further liberalise intra-regional trade in goods and services on the basis of fair, mutually equitable and beneficial trade arrangements, complemented by Protocols in other areas” (Article 2). CEFTA states its commitment to “expand trade in goods and services and foster investment by means of fair, clear, stable and predictable rules” (Article 1). The striking level of similarity in RTA commitments with the WTO suggests homogeneity between some regional and multilateral commitments given that the policies and mandates of trading agreements across the Atlantic region are similar to those of the WTO.

There are, however, exceptions, and MERCOSUR, COMESA, ANDEAN, ECOWAS, CACM, CARICOM, CAEMC and WAEMU are not homogenous. While these RTAs strive for homogeneity with WTO agreements they are mainly aspirational in nature. These agreements are clearly indicative of the partner countries’ aspiration and commitment to progressively work towards being able to upgrade to WTO commitments. An examination of the agreements suggests that there is evidence of a trend in achieving homogeneity between the Atlantic RTAs and WTO agreements given that the RTAs strive to export WTO-style commitments. The convergence of commitments undertaken on services shows the growing tendency of RTAs to liberalise in line with the WTO (as is the case under EEA, EFTA and MERCOSUR). Further, the analysis also shows that the African agreements (i.e., COMESA, ECOWAS and CAEMC) and CARICOM require members to undertake commitments to ensure fair competition and that liberalisation commitments aspire to go beyond nondiscrimination on the basis of geographical origin of service suppliers. Further, the Atlantic RTAs also list derogations/exceptions to services with regards to commitments and domestic policy issues in appendices. Services exempt are clearly stated in the annexes. Thus, there is a trend among the Atlantic RTAs to adopt WTO arrangements.

Commitments are though undertaken by partners through the RTAs on government procurement, intellectual property rights and trade facilitation with partner countries. An interesting feature of these ‘deep integration’ commitments is the common trend among countries to undertake liberalisation commitments which are commensurate with the partners’ level of development and integration into the world economy. Thus, developed countries that are parties to RTAs have taken higher levels of commitments and developing countries have recognised the importance of undertaking such commitments over a period of time. The argument for a phased approach towards liberalisation under RTAs is relevant given the added benefits of reduced transaction costs for developing countries negotiating future accession to the plurilateral

Government Procurement Agreement. In the short term, RTA commitments reflect the willingness of partner countries to liberalise trade within the Atlantic region.

An important innovation of the Atlantic agreements is the introduction of comprehensive and nondiscriminatory review, with dispute settlement procedures as separate chapters. This highlights the common trend towards ensuring accountability. Further, there is an exhaustive treatment of arbitration as well as agreements including provisions on temporary remedies. In addition, the agreements have provisions on transparency with detailed guidance, and commitments undertaken focus on publishing information on national websites and notifying all partners. Further, these agreements provide for cooperation through formalised institutional arrangements which ensure the monitoring of commitments. For instance, the Latin American agreements require countries to establish a committee to meet once a year or at any time upon written request from members, with each partner country chairing meetings in turn. CARIFORUM is slightly different and provides for exchanges of experience, the establishment of appropriate systems to ensure compliance and the creation of an online facility at a regional level. Another important finding is that the level of commitments undertaken in the Atlantic RTAs varies by the countries' level of development. The analysis shows that countries in the African region have aspirational agreements, which reiterate their commitment to work progressively to successive liberalisation in goods and services.

To sum up, the RTAs chosen for detailed analysis within the Atlantic region strongly vary with respect to their design and coverage – that is, the extent to which commitments undertaken liberalise trade – but there are similarities in that they institute a common move towards meeting governance indicators in the integration arrangements amongst signatories. Thus, commitments undertaken through RTAs demonstrate a trend for partner countries to be aligned with WTO agreements. These agreements further include procedural and substantive provisions on market access, transparency and monitoring. In those cases where the legal framework varies from liberalisation commitments under the trading agreement, partner countries have agreed to make changes to their existing framework within a particular time period. This is indeed suggestive of an emerging pattern of increasing adaptability among Atlantic agreements to WTO agreements.

Given the proximity between RTA and WTO commitments, we can say that the Atlantic region's agreements could present a potential opportunity for eventual multilateral convergence. This proximity also suggests that a common template liberalisation matrix, as is the case in the Atlantic region, will support reducing divergence of commitments between partner countries over time and within the



multilateral system. In the case of the EU, its current trade policy is geared towards insisting on WTO-style binding obligations, highlighting an increased emphasis on meeting multilateral norms of trade governance. In some ways, the emerging framework in the Atlantic region can be a learning process for partner countries, and it is likely that this will create a feeling of ‘ownership of rules’. Clearly, in the short term, Atlantic RTAs reflect the willingness of partner countries to liberalise trade as evidenced through the nature and shape of liberalisation commitments. In the longer term, the overall approach of Atlantic partners towards liberalisation through RTAs suggests an implicit and ‘soft commitment’ approach which aims to bridge traditionally distant policy agendas between countries and have a common trade commitments framework. This suggests that Atlantic RTAs can act as potential ‘building blocks’ and ‘stepping stones’ for future trade governance in the region. Such a common framework could eventually foster consensus among countries in the Atlantic region on international regulation issues currently dealt with under the WTO and in this way lead to increased convergence and integration with multilateral rules. This can also be interpreted as a normative aspiration of the Atlantic agreements to export governance and multilateral regulation through a model of regional liberalisation. In doing so the Atlantic agreements could foster multilateral convergence through a common external governance model.

## **Conclusion**

The rationale for RTAs in the Atlantic region is that structured partnerships facilitate mutual understanding and rapprochement, boost multilateral efforts and allow partners to address shared concerns on global challenges. Within this context, these agreements can be perceived as ‘stepping stones’ to broader trade liberalisation, ones that enable partners to recognise that an efficient and competitive trading regime can act as a ‘building block’ for and towards multilateral trade liberalisation. The similarity between the WTO and Atlantic RTA commitments hints that trading partners aim to use ‘new generation’ trading agreements as a tool for the possible incremental extension of the multilateral system. In doing so, the Atlantic RTAs can play a key role in establishing a framework for global trade governance.

These Atlantic RTAs are likely to allow the region to play a leading role in establishing a global governance framework given that the agreements are likely to reduce resistance to the multilateral liberalisation of trade in goods and services and bring bilateral commitments in line with the letter and spirit of the WTO. These are also likely to further imperatives for the externalization of trade liberalisation derived from their creation. While on the one hand, Atlantic region countries, in particular the USA

and EU, recognize that the Doha talks are essentially dead, on the other hand, the move towards RTAs can be seen as demonstrating their commitment to “channel efforts into mapping a clearer long-term design for global governance” (Young and Solbe, 2010). In this manner, our analysis shows that the effectiveness of RTAs as transmitters of multilateral rules goes beyond the immediate geographical neighbourhood. Bilateral/regional agreements can also make a valuable contribution by enhancing the zone of agreement between the Atlantic countries, in particular those in Africa and Latin America, in multilateral negotiations. This could potentially foster multilateral cooperation on trade liberalisation issues at the WTO. This has been the case in the EU, which recognises that trading agreements gradually extend its preferred long-term governance design and guarantee market access for its firms.

The recent demise of the Transatlantic Trade and Investment Partnership (TTIP) negotiations between the USA and the EU suggests there are some dark clouds on the horizon for the Atlantic region. The proposed agreement aimed to expand bilateral trade and investment by creating an economic stimulus from structural reform and give a boost to growth and jobs. This agreement was relevant for the Atlantic region given that the USA and the EU aimed to contribute towards the development of global rules that could strengthen the multilateral trading system. An ambitious agreement like the TTIP could conceivably have become the ultimate ‘gold standard’ for deep and comprehensive global trade and investment integration. In this respect an ambitious agreement could have acted as a significant ‘building block’ for future multilateral initiatives.

An overlap between RTAs and WTO agreements can be interpreted as regional agreements acting as a means to engage countries at the inter-regional level with the aim of supporting the Atlantic region’s role as a global actor in shaping a functioning multilateral order. A growing cohesion on liberalisation commitments amongst Atlantic region countries could lead to a possible incremental extension of the multilateral system in the longer term. Thus, the Atlantic region could possibly play a key role in establishing a framework for global trade governance, given that some of the current RTAs demonstrate an increasing degree of convergence with WTO agreements and in cases where convergence is lacking there is an unmistakable trend to longer-term convergence. It is, therefore, likely that the region will lay the ground rules for future convergence in trade governance. Thus, starting with the Atlantic, it might be logical to assume that RTAs can be effective future transmitters of multilateral rules. Further, regional trade liberalisation in the Atlantic region can be employed as an alternate vector for engagement on trade governance, and this evolving area could provide momentum towards the shaping of a functioning multilateral order on a bilateral/regional basis. In

this manner, regional cooperation can be viewed as a viable formula to strengthen the WTO's multilateralism approach that so far has been lacking. The announcement of the signing of a trade agreement between the EU and Mercosur as the final version of this paper was being submitted for publication in this journal may well be a precursor of things to come. Initial comments suggest that the agreement adopts the EU's model of international trade governance. For example it adopts the EU's regulatory rules on cars, dispute settlement, rules of origin and geographical indicators for food. The Atlantic RTAs might, therefore, be the first move in this direction. Progress towards multilateral rule convergence, however, depends on the political will of partner countries to open up dialogue on controversial trade and nontrade issues, including the principles of sovereignty and noninterference. The current USA administration may achieve its trade goals better by re-engaging with the multilateral system and shaping its governance structures. Given that there are developed and developing countries in the Atlantic region, with differing levels of capacity, trade facilitation is an important aspect and imperative for the developing countries in the region (particularly in Africa), as it can support their integration into the world economy.

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## Endnotes

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<sup>1</sup> Within this category of determinants should lie the role of multilateral negotiations in the formation of new trade agreements as suggested by Mansfield and Reinhardt (2003). These are omitted in this paper as the period under investigation only includes one round of negotiations, unlike that used in Mansfield and Reinhardt (2003).