

CHAPTER 14

**MULTILATERAL OR REGIONAL — WTO
“AND/OR” FTAs? AN ACADEMIC’S VIEW
OF THE TRENCHES**

By Michael Ewing-Chow

I. Introduction

A former professor of mine was fond of telling us, “Beware of men who ask binary questions because such men already know the answers they want to get”.

When Singapore first started negotiating our first free trade agreements (FTAs), there was fear and loathing from many quarters. Some felt that we were undermining the multilateral process for trade liberalisation represented by the WTO.¹ Others were concerned that we were undermining the regional economies by potentially allowing Trojans into the ASEAN Free Trade Area (AFTA) by the backdoor.²

Both of these early criticisms were perhaps evidence of binary thinking about trade liberalisation. Indeed, while most neo-classical economists accept that there is a need to further the global trade liberalisation efforts, how this should be done is less clear.

¹ See Sree Kumar, “Why FTAs Necessary”, *Today*, 8 March 2001; Yang Razali Kassim, “Asia Pacific’s Changing Economic Landscape”, *Business Times*, 6 June 2001.

² See Hugh Chow, “No AFTA ‘Back Door’ in FTA Strategy”, *Straits Times*, 28 February 2001; *Business Times* (Malaysia), 15 June 2001; Tan Sri Ramon Navaratnam, “A Vital Role for Singapore in ASEAN Trade Relations”, *New Straits Times*, 16 June 2001; “FTA backdoor into ASEAN”, *Business Times* (Malaysia), 19 June 2001; Asad Latif, “FTAs ‘Complement ASEAN’s Integration’”, *Straits Times*, 13 July 2001; “Singapore Can Sign Deals That Do Not Affect AFTA”, *New Straits Times*, 8 Jan 2002.

In 2006, former Assistant for International Economic Affairs to Henry Kissinger, Fred Bergsten, wrote somewhat presciently in an op-ed for the *Financial Times* that:

The indefinite suspension of the Doha round of world trade talks creates big risks for the world economy. A new explosion of discriminatory bilateral and regional agreements is likely to substitute for global liberalisation. This will inevitably erode the multilateral rules-based system of the World Trade Organisation (WTO). The backlash against globalisation will generate more protectionism in the vacuum left as momentum toward wide-ranging reduction of barriers ceases, especially as the world economy slows and global trade imbalances continue to rise. Financial markets will become more unstable as international economic cooperation breaks down further.³

Bergsten called upon APEC to launch a Free Trade Area of the Asia-Pacific (FTAAP) initiative to provide:

a “plan B” to get world trade policy back on track — to spur the revival of Doha, to offer an ambitious alternative to restart the process of liberalisation on the widest possible basis if that primary goal fails, and to counter the proliferation of preferential deals among small groups of countries.⁴

However, again, this statement perhaps evidences a binary approach to trade liberalisation with the underlying assumption that it should be multilateral in preference to regional or bilateral.

Unlike many trade law academics who cut their teeth in GATT or WTO negotiations, my first introduction to trade negotiations occurred when I was appointed as a consultant for Singapore’s early FTA negotiations right after we had concluded our first one — the Agreement between New Zealand and Singapore on a Closer Economic Partnership (ANZSCEP). In particular, I became involved in the Mexico-Singapore FTA which unfortunately faced significant political hurdles when then Mexican President Vicente Fox and his Alliance for Change took over from the more trade liberal government of President Ernesto Zedillo in December 2000.

³ Fred Bergsten, “Plan B for World Trade: Go Regional”, *Financial Times* (London), August 16, 2006.

⁴ *Ibid.*

Now, Singapore was not the only country to embark on FTA negotiations at that time. At the end of the 20th century, there was a surge in bilateral FTAs following the failure of the Third WTO Ministerial Conference held in Seattle in 1999 where an uneasy coalition of environmental and labour rights activists as well as protectionist lobby groups caused a collapse in trade negotiations. During this time, Singapore also embarked on a series of bilateral FTAs.⁵ The official position was that Singapore saw FTAs as possible complements to the multilateral trade liberalisation process offered by the WTO.⁶

While I had no attachment to the WTO or the GATT, like many other trade academics, I had some reservations as to the wisdom of the FTA initiative, believing that Seattle was only a blip on the road to trade liberalisation. I saw the value of having alternatives but I was somewhat concerned that we were acting prematurely and thus diverting our attention from the main game of WTO negotiations. This changed after Cancun.

II. A Change of Views

The WTO Fifth Ministerial Conference in Cancun, held in September 2003, was tasked in the 2001 Doha Ministerial Declaration “to take stock of progress in the negotiations, to provide any necessary political guidance, and take decisions as necessary”. Sadly, the collapse of the talks on 14th September meant that these three ends could not be satisfactorily achieved.

Although it would appear from the WTO’s summary of the Conference proceedings that the lack of agreement on modalities for the “Singapore issues”⁷ precipitated the collapse of the talks,⁸ the chief reason behind the collapse in Cancun was ultimately due to the lack of progress on reducing

⁵ Michael Ewing-Chow, “Southeast Asia and Free Trade Agreements: WTO Plus or Bust?”, (2004) 8 *SYBIL* 193, 200.

⁶ Margaret Liang, “Singapore’s Trade Policies: Priorities and Options”, (2005) 22 *ASEAN Economic Bulletin* 1, 13–14.

⁷ The four issues are transparency in government procurement, investment, trade facilitation and competition. They are referred to as the Singapore issues only because they were raised at the First WTO Ministerial Conference in Singapore back in 1996.

⁸ The WTO’s summary of the Conference proceedings is available online at <http://www.wto.org/english/thewto_e/minist_e/min03_e/min03_e.htm>.

agricultural subsidies, and the cold treatment given to the cotton proposal raised by Benin, Burkina Faso, Chad and Mali.⁹

The issue of agricultural subsidies was of primary importance on the Cancun agenda as developing producer countries represented by the Group of 21 were increasingly incensed by generous subsidies in the form of tax reliefs or import taxes given by developed states, particularly Japan, France and the United States, which distorted demand both in the importing country concerned as well as in the producing country. With farmers being powerful lobby groups in these countries, political willingness to remove such subsidies and to impose agricultural reform is weak, especially in light of domestic elections, thus perpetuating the problem.

The Group of 21 was formed prior to the Cancun Ministerial in an incensed response to the proposal submitted by the EU and the United States for the Cancun Ministerial, as it made no mention of reducing export subsidies, although it required agricultural reforms to be made.¹⁰ Such a scheme was unsatisfactory to many developing countries, and the Group of 21, led by Brazil, China and India, was formed to push the richer developed nations to make more ambitious strides in reducing subsidies and freeing farm trade.

Nevertheless, despite the difficulties arising from the standoff between the US and the EU on one hand and the Group of 21 on the other, it must be noted that accommodating political stances had been arrived at on Day 3 of the Conference before the Agriculture Facilitator (then Singapore's Minister for Trade and Industry, BG George Yeo),¹¹ but surprisingly, there was no airing and concretisation of the progress made over the past few days on Day 4, suggesting that such stances had been reversed after the government officials involved in the agricultural meetings reverted to their home countries for approval. This permitted underlying tensions between the developing and developed countries to rise to the fore, and ultimately led to the collapse of the Conference via the "vehicle" of the "Singapore issues", when dispute raged over whether some or all of the issues should be discussed or postponed to a later time.

⁹ See "The WTO Under Fire", *The Economist*, 18 September 2003, available online: <<http://www.globalpolicy.org/socecon/bwi-wto/wto/2003/0918underfire.htm>>.

¹⁰ *Supra* n. 9.

¹¹ "BG George Yeo's Mexican Beach Adventure: Cold Food, Little Sleep...and Some Tricky International Diplomacy", *The Sunday Times*, 21 September 2003.

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While several ministers from states belonging to the Group of 21 expressed “joy” over the collapse,¹² many others rightly expressed sorrow over the lost opportunities for further beneficial economic gains due to the lack of compromise.¹³ In particular, the poorest nations stand to lose the most as they have little to offer in bilateral trade negotiations with richer nations, and thus risk being sidelined in the global pursuit for economic growth. As such, while the reluctance of rich developing countries to remove or substantially reduce agricultural export subsidies is blameworthy, the unwillingness of certain developing countries to compromise and insistence on having “no deal”¹⁴ other than one which comes substantially close to their preferred positions was curious.

Therefore, after Cancun, I began to rethink the accepted academic position on FTAs. It began to dawn on me that perhaps the road to greater multilateral trade liberalisation would not be as smooth as many had initially anticipated or as rational. As I thought about it more, it occurred to me that Singapore, a country very dependent on trade, would be in an untenable position were it to stick with the “academically sound” option of only multilateral trade liberalisation.

III. WTO or FTAs

Now, ideally, a global trading system would maximise the benefits from exploiting the competitive and comparative advantages of all countries and reduce transactional costs. These benefits and savings should then be passed on to the consumer. FTAs should not exist in such a multilateral trading system, as they potentially create preferential bilateral or regional markets that disrupt a level playing field. This could cause trade that would normally flow to other countries to divert and flow between countries benefiting from the preferential treatment, thus distorting trade.¹⁵ An example of this which is often cited is that when the US reduced or eliminated tariffs on exports from Peru, Ecuador and Bolivia in the 1991 Andean Free

¹² Jeffrey Schott, “Unlocking the Benefits of World Trade”, *The Economist* (US Edition), 1 November 2003.

¹³ *Supra* n. 9.

¹⁴ “Commentary: Cancun Sees World Split”, *The Straits Times*, 16 September 2003.

¹⁵ Jaime Serra Pucho, “Regionalism and the WTO”, in *The WTO Secretariat, From GATT to the WTO: the Multilateral Trading System in the New Millennium* (The Hague: Kluwer Law International, 2000), 123.

Trade Pact, demand for canned tuna from the Philippines, Indonesia and Thailand fell in favour of tuna from Ecuador.¹⁶

Unfortunately, we do not live in a world where states altruistically place the global welfare and common interest over their own immediate self-interest.¹⁷ Ideally, states should balance their short-term self-interest against long-term self-interest as part of a community of nations which would achieve significant aggregate gains from trade liberalisation. However, the global trading system operates in a political reality that is increasingly cautious about trade liberalisation, and many countries continue to impose significant barriers to trade in goods and services.

This is even so despite explicit agreement on important principles of trade law such as the principle of non-discrimination, as manifested in GATT Articles I and III. Article I on MFN Treatment provides that the benefits accorded by any GATT member state to the products produced in another state are automatically granted to other member states as well, while Article III on National Treatment obliges members not to treat "like" imports from another contracting party in a manner which affords protection to domestic production.

Sadly, contrary to the spirit of promoting free trade as manifested in such principles, many developed countries continue to impose trade barriers on agricultural produce, textiles and clothing, in which developing countries have a comparative advantage in producing. In addition, WTO member states are increasingly turning to non-tariff barriers (NTBs) to curb the degree to which imports compete with their domestic products. Often, interest groups and protectionist power players can influence the trade policies of a country and governments may be persuaded to make trade policy decisions that are motivated by political rather than economic considerations.

Yet, despite these limitations of the multilateral system, many people have been critical of the alternative that FTAs provide. The criticism of

¹⁶ William Choong, "You and FTA: For Freer or For Poorer", *The Straits Times*, 25 Aug 2002, 39.

¹⁷ A notably laudable exception to this statement occurred on 30 August 2003 when an interim waiver (until TRIPS is amended) was made to the compulsory licensing rule in Article 3(f) of TRIPS for eligible poorer countries who are unable to manufacture much needed medicines, thus permitting them to import such cheaper generics. See "Decision removes final patent obstacle to cheap drug imports", WTO Press Release, Press/350, 30 August 2003, available online: <http://www.wto.org/english/news_e/pres03_e/pr350_e.htm>.

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FTAs can be summed up into three main categories: first, FTAs will cause trade diversion and distortion; second, FTAs will overwork limited trade negotiating resources; and, finally, FTAs will create a chaotic network of trade rules which are not harmonised and therefore will add to transaction costs.

In light of present realities, FTAs are perhaps a “second best”¹⁸ alternative to direct multilateral trade negotiations in fostering trade liberalisation. As a tool of state policy-making, they have numerous advantages. Apart from diplomatic and national security benefits and positive public relations with potential investors, they permit countries that wish to liberalise their economies at a faster and deeper pace to do so,¹⁹ instead of being held back by less willing states in a phenomenon called the “convoy problem”.²⁰ They encourage foreign direct investments and also expose local industries to a limited degree of foreign competition, allowing them some time to adjust prior to greater competition at the regional and multilateral levels.

Further, FTA negotiations are more likely to succeed than multilateral trade negotiations as fewer parties are involved, resulting in an increase in the efficiency and flexibility of trade discussions, especially amongst like-minded countries.²¹ The modalities of negotiating a bilateral or even regional FTA, when compared to the inevitably more difficult multilateral negotiating process of a large and diverse WTO membership, enable deeper understanding of the concerns of other parties and the more ready development of trust amongst the negotiating parties. These advantages potentially enable FTA parties to commit themselves to trade liberalisation standards higher than those of the WTO. The problem is that due to the absence of strong incentives through “horse-trading” of key interests between the big players, real significant gains are difficult to obtain via the

¹⁸ *The World Trade Report 2003*, available online: WTO website <http://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report_2003_e.pdf> at 49.

¹⁹ S. Laird, “Regional Trade Agreements: Dangerous Liaisons?” (1999) 22 *The World Economy* 1179, 1183.

²⁰ Ramkishan S. Rajan, Rahul Sen and Reza Siregar, “Singapore and the New Regionalism: Bilateral Trade Linkages with Japan and the US”, August 2002 (Second revision), available online: <<http://www.economics.adelaide.edu.au/staff/rrajan/unpub/ftAshort.pdf>> at 3.

²¹ Robert Lawrence and Charles Schultze, *An American Trade Strategy: Options for the 1990s* (Washington DC: Institute for International Economics, 1989).

modality of bilateral FTAs between a typically bigger economy and a smaller one. Nonetheless, some gains are better than none and in the case of some of Singapore's FTAs, they have forced us to become comfortable with certain rules such as "negative listing" for services and very liberal investor-to-state arbitration rules. This required some significant amount of coordination with all the affected stakeholders and a lot of housekeeping but I believe that once done, we then were in a stronger position as far as being prepared for trade liberation was concerned.

The concern that FTAs would drain limited negotiating resources has also not been proven to be the case. Many countries have actually developed trade negotiating resources through the FTA negotiating process. The trade negotiating team for Singapore, for example, has more than doubled Singapore's capacity since Singapore began its FTA efforts. Of course, Singapore is in the happy position of being able to pay for capacity building, and in the Singapore-Mexico FTA situation, being our first FTA negotiation with a NAFTA member, we were able to pay for foreign counsel like Christopher Thomas and Greg Tereposky to train the team on NAFTA and in particular the workings of Chapter 11, the investment protection chapter. Even then, retention has been a problem and many have moved internally within the civil service or have left the service. The upside of this, however, is that the experience of trade negotiations have added to the expertise of many who have been involved and this has created capacity in the relevant ministries, the Attorney-General's Chambers (AGC) and even in academia and therefore indirectly expanded Singapore's capacity in this regard.²² The trade negotiation network suggested by Ong Ye Kung back in 2001 to alleviate this migration of personnel was foresighted, though in recent years, due perhaps to a pipeline of sufficient expertise having been developed in-house by MTI and AGC, this has not been much used.

Finally, the prediction that chaos rather than harmony would be the result of bilateral or regional development of trade rules rather than a multilateral process has also not come to pass. Instead, a comparison of most of the recent FTAs shows a similarity of structure and even at times a similarity in the text. The obvious reason for this is that the trade negotiators, and even more so the lawyers involved in the "legal scrubbing" of the text, often look to existing models for guidance rather than venturing into the

²² Indeed, just in academia, the number of trade law-related courses have increased significantly since we started our FTA initiatives thus indirectly also providing a pipeline for new negotiators.

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unknown. Further, not all trade issues need to be harmonised. Only those disciplines which would be a barrier to trade or would add more directly to trade costs would need to be harmonised. Other “protective” rules like competition, investment and the environment may well be better developed through the easier modalities of negotiating and implementing a bilateral or regional FTA than the multilateral process. The main transactional cost has been the need for Rules of Origin (ROOs) to determine qualifying goods for preferential FTA treatment. Often the cost of certifying that the ROOs are met are sufficiently high that traders prefer to use the GATT rates where such rates result in lower or almost equivalent costs to the cost of ROO certification.

Nonetheless, even if FTAs generally have been less bad than initially anticipated, it should be noted that smaller and poorer developing economies have less bargaining power and are at a disadvantage when negotiating FTAs with more developed states, since they would not be able to bring enough to the bargaining table. This can be ameliorated to some degree by banding with other similar states and negotiating as a bloc.²³ Regardless, even if such smaller states are forced to give many concessions in FTA negotiations, it may be better to give such concessions earlier and to endure some pain, than to be placed at a long-term competitive disadvantage *vis-à-vis* competitors who are participants in an FTA and are thus at the receiving end of FTA benefits.²⁴

IV. WTO and FTAs

How should we then evaluate this FTA phenomenon against the established institution of the WTO? In this regard, the epistemic standard of “legitimacy”, as suggested by Buchanan and Keohane,²⁵ of “minimal moral acceptability, comparative benefit and institutional integrity”²⁶ may be an effective (even if largely utilitarian) method to evaluate institutions (or regimes) for trade liberalisation. While Buchanan and Keohane point

²³ WTO Annual Report of the Director General, 2001.

²⁴ This is the “domino regionalism” theory which has been used to explain the recent sharp increase in FTA membership. See the World Trade Report 2003 at 50, *supra* n. 18.

²⁵ Allen Buchanan and Robert O. Keohane, “The Legitimacy of Global Governance Institutions”, (2006) 20 *Ethics and International Affairs* 405.

²⁶ *Ibid*, 424.

out that their “three substantive conditions are best thought of as what Rawls calls ‘counting principles’: the more of them an institution or regime satisfies, and the higher the degree to which it satisfies them, the stronger its claim to legitimacy”.²⁷

Therefore, the “legitimacy” of the WTO as a trade facilitating institution may well be examined by applying these standards to the WTO and contrasting it with the FTA regime.

If we assume minimal moral acceptability in the belief that generally trade liberalisation is an economically good thing, we are left with the two conditions of comparative benefit (it must be more effective at trade liberalisation than other equivalent institutions or regimes) and institutional integrity (the internal rules of the institution or regime must be consistent with its stated purpose).

The big problem with the WTO in recent years is that its mandate is no longer clear. As Debra Steger puts it:

This is a major problem in the Doha Round that is contributing to its current impasse. The old analogy used by trade policy “insiders” was that trade liberalisation within the GATT was like a bicycle — you had to keep pedalling, or you would fall off. Sylvia Ostry observed some years ago that it would be more appropriate to describe the post-Uruguay Round WTO as a bus with many drivers, and no one knows where it is going.²⁸

While especially developed country negotiators would describe the purpose of the WTO as solely dedicated to trade liberalisation, it is clear that the developing country members of the WTO (which now form the vast majority of its membership) also view development as a key goal of the organisation. There is presently, it is fair to say, no common understanding on what the mandate of the WTO is. However, if one takes into account the views of two-thirds of its membership, it is clear that the WTO serves the development agenda, and is no longer solely concerned with the goal of accelerating trade liberalisation.²⁹

²⁷ *Ibid.*

²⁸ Sylvia Ostry, “The Uruguay Round North-South Grand Bargain: Implications for future negotiations”, in Daniel L. M. Kennedy and James D. Southwick (eds.), *The Political Economy of International Trade Law, Essays in Honor of Robert E. Hudec* (Cambridge: Cambridge University Press, 2002), 285–300.

²⁹ Debra P. Steger, “The Culture of the WTO: Why It Needs to Change”, 10 *JIEL* (2007), 483–495.

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I like Ostry’s metaphor of a bus. Indeed, the problems arise from the metaphorical vehicle of the WTO itself. As highlighted above, the steering mechanism, and perhaps even the engine and the provisions in case of a blow-up — corresponding to the decision-making process, the Secretariat and the dispute settlement mechanisms respectively — will probably require future development and fine-tuning. Indeed many proposals have been submitted on these fronts. However, if WTO negotiations do not occur under the shadow of a real competitor regime able to provide comparative benefit, it is too easy for those reforms to stall due to the consensus method of decision-making in the WTO.

Thus, rather than seeing FTAs as an “either/or” alternative to the WTO, perhaps like Bergsten, we can see FTAs as incentivising progress on the multilateral front. However, unlike Bergsten, we could perhaps see the end result not as getting the multilateral process to move forward but rather trade to be liberalised by any method, even one which may be second best. This is particularly true if the second best option is actually the only current option and therefore the alternative is not “either/or” but rather “and/or”.

Going back to the Buchanan and Keohane model, if one continues to believe that the WTO *raison d’être* is trade liberalisation, one could perhaps point out that the “comparative benefit” of the FTA regime at the moment outweighs that of the WTO while the trade negotiations are stalled. Should the WTO overcome its current impasse, the equation might change again and if so, the legitimacy of the FTA regime as a trade liberalisation option might correspondingly be reduced in favour of the multilateral process.

As far as institutional integrity goes, much depends on whether the FTA is one that encourages open regionalisation instead of a closed club only for selected members. FTAs founded upon the concept of “open regionalism” were espoused in the 1995 APEC summit as the key to reviving the languishing multilateral Doha Round discussions³⁰ by encouraging closer integration

³⁰ In particular, negotiations on agriculture have stagnated, and this has affected negotiations in other areas, such as in services. As of 1 June 2003, WTO members have failed to adhere to deadlines to conclude modalities for the negotiations on industrial tariffs and non-tariff barriers, and to amend and clarify the Dispute Settlement Understanding. As a result, decision-making on these two issues, if any, is likely to be deferred to the Cancun Ministerial in September. See “WTO Members Miss Additional Key Deadlines: Preparations for Cancun Ministerial Set to Intensify”, WTO Doha Development Agenda Negotiations in 2003 Report No. 3, (Geneva: WCI Consulting Private Limited, June 2003).

between the economies of states. Open regionalism requires FTAs to be drafted in a transparent manner that encourages and permits other states to join in later. In addition, such an FTA must also be committed to outward-looking trade and development policies, trade and investment liberalisation and consistency with GATT and WTO law and policy.³¹ FTAs structured in such an “open” manner would permit the benefits from increased productivity to trickle down to those not part of the FTA, and would minimise the “them versus us” psychology³² inherent in a discriminatory trade bloc.

Sadly, as pointed out by Sung-Hoon Park, the lack of clear modalities as to how open regionalism is to be achieved has hampered greater trade liberalisation via the concept amongst APEC member states.³³ However, the application of the concept to other bilateral and regional FTAs should not create similarly insurmountable problems if “good faith”³⁴ sensitivity is displayed to the difficulties faced by potential new FTA members who are poorer developing economies when applying a conditional MFN model³⁵ to the concept.

In this regard, clauses such as Article 79:2 of the ANZSCEP could help facilitate greater trade liberalisation. The article states that in facilitating the accession of new members,

[t]he terms of such accession or association shall take into account the circumstances of the Member of the WTO, State or separate customs territory, in particular with respect to timetables for liberalisation.

It is argued, however, that a better clause would go further and single out “reciprocal liberalisation commitments” when taking into account the

³¹ P. Drysdale, A. Elek and H. Soesastro, “Open Regionalism: the nature of Asia Pacific Integration”, in P. Drysdale *et al.* (eds.), *Europe, East Asia and APEC, A Shared Global Agenda?* (Cambridge: Cambridge University Press, 1998), 103.

³² A.H. Qureshi, “The Role of GATT in the Management of Trade Blocs” (1993) 27 *Journal of World Trade* 101, 105.

³³ Sung-Hoon Park, “Regionalism, Open Regionalism and Article XXIV GATT: Conflicts and Harmony”, in Francis Snyder (ed.), *Regional and Global Regulation of International Trade* (2002: Hart Publishing, Oregon), 270.

³⁴ Michael J. Trebilcock and Robert Howse, *The Regulation of International Trade* (New York: Routledge, 2000), 521.

³⁵ To resolve the problem of free-riding states if an unconditional MFN model is adopted.

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circumstances of the potential new member concerned, since the degree to which FTAs can hasten the liberalisation of the multilateral trading regime depends in part on some accommodation of the interests of poorer developing new members by the more developed “older” member states.

Indeed, on the sidelines of the APEC Ministers Responsible for Trade (MRT) meeting in Jeju, Korea, the ministers of Brunei, Chile, New Zealand and Singapore announced the conclusion of the Trans-Pacific Strategic Economic Partnership Agreement (“Trans-Pacific SEP”) on 3 June 2005. This Trans-Pacific SEP was indeed built on the commitments made under the ANZSCEP, and the inclusion of like-minded parties such as Brunei to the already ongoing trade negotiation process demonstrated the potential of the Trans-Pacific SEP to grow into a larger strategic agreement for trade liberalisation. While it must be admitted that all four members of the FTA are relatively small, trade liberal economies, the architecture of the Agreement made things easier. Article 20.6, paragraph 1 of the Trans-Pacific SEP specifically provides that

[t]his Agreement is open to accession on terms to be agreed among the Parties, by any APEC Economy or other State. The terms of such accession shall take into account the circumstances of that APEC Economy or other State, in particular with respect to timetables for liberalisation.

Thus, if both the WTO as an institution and some FTA regimes have institutional integrity in that the internal rules provide for open trade liberalisation, allowing non-members to relatively easily slot into an existing agreement by accession, then the issue is not really a disjunctive choice between the WTO and FTAs but rather how best to calibrate the conjunctive option. I believe that Singapore has chartered the correct path for itself, taking into account both its short-term and long-term interest by strategically embarking on FTAs vital to its position as a trade hub while continuing to be very invested in the WTO multilateral process through direct interventions in the trade negotiations, active participation in various attempts to restart the process and a continued commitment to regional WTO law and policy capacity building through activities like the Regional Trade Policy Course that Margaret Liang oversees at the National University of Singapore. Basically, it does not matter which vehicle takes us to the destination of further trade liberalisation; so long as they are not mutually exclusive, a combination of the vehicular options allows for legitimate strategies towards the final destination.

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V. Conclusion

I started with Bergsten and I shall end with Bergsten who envisages that:

[A]n FTAAP would embed these Asia-only arrangements in a broader Asia-Pacific framework. It would prevent the creation of a new division across the Pacific, with its adverse security as well as economic consequences for relations between East Asia and the United States. The United States and China would be the natural leaders of an FTAAP process and could simultaneously improve the prospects for resolving their bilateral trade tensions through such a regional framework.

If this is indeed one possibility, then Singapore's "open regionalism" FTAs have prepared us to be part of that final FTAAP infrastructure. The trick will be how to include other less developed Asian states in a way that the multilateral process at the moment does best by reducing their negotiation costs and allowing them to obtain the gains derived from the concessions "horse-traded" between the bigger economic powers. Nonetheless, principles may be gleaned from Singapore's FTA initiatives. First, avoid putting all eggs into one basket and, where options are not mutually exclusive, avoid closing off those options. Second, problems may be alleviated by strategic solutions properly implemented. Finally, an open approach is generally more legitimate than one based on closed doors.