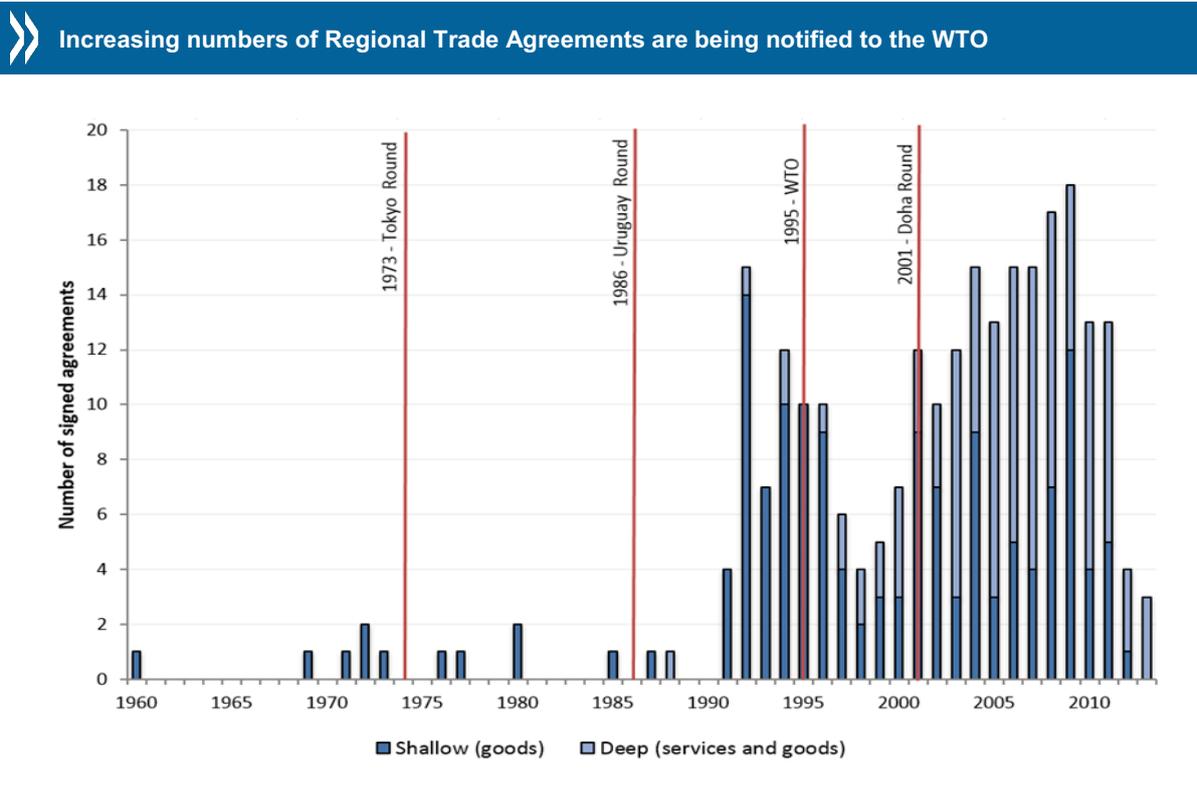


Deep Provisions in Regional Trade Agreements: How Multilateral Friendly?

In recent years, many countries have actively sought to establish new bilateral and regional trade agreements (RTAs) to increase trade and spur economic growth. The current proliferation of RTAs reflects, in part, a demand for deeper integration than what has been achieved by older multilateral agreements. To the extent that they go beyond commitments made in the WTO and remain open to additional participation by countries committed to meeting their standards, RTAs can indeed complement the multilateral trading system.

More than 250 RTAs notified to the WTO are in force today, and around 30 new trade agreements are under negotiation (Figure).¹ With the exception of Mongolia, all WTO Members have notified participation in one or more RTAs, with the average being 13 per country although some report being party to 20 or more agreements. It is estimated there are at least 100 other active RTAs that have not been notified to the WTO and remain largely outside the purview of its monitoring efforts.



Source: OECD, based on WTO RTAs Database.

¹RTAs in this note include any free trade agreement, customs union, or economic integration in and co-operation arrangement among two or more sovereign nations, both within or across regions. It does not include the accession of a country to an existing RTA (for instance, Bulgaria or Romania to the European Union) which is counted as a separate RTA in the WTO notification system. The numbers reported here do not include notified RTAs that are now inactive.

RTAs are currently developing in ways that go beyond existing WTO multilateral rules. The areas they cover – e.g. investment, movement of capital and persons, competition and state-owned enterprises, e-commerce, anti-corruption, and intellectual property rights – are essential policy issues that need to be addressed in today’s more interconnected markets.

Recently announced mega-regional initiatives are on an entirely new scale. The three largest such initiatives – the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), and the Regional Co-operation in Asia and the Pacific (RCEP) – represent over three-quarters of global GDP and two-thirds of world trade. Although negotiations have not yet concluded, the initial ambitions are certainly high, and some aim to go beyond providing preferential access to member countries’ markets by seeking to establish “high standard” 21st century trade agreements with deep and comprehensive market integration.

Policymakers are mindful that RTAs must be consistent with multilateral rules and that coherence across regional arrangements, as well as between regional and multilateral systems, is necessary. Indeed, some countries even negotiate RTAs with an explicit intent to set precedent for future multilateral rule-making. Other countries view deeper measures in regional partnerships as a way to complement the multilateral system. In either case, there is growing interest in “multilateral-friendly” practices that can help promote convergence.

A grid reflecting the broad profile of various WTO-plus policy areas is contained in Table 1. It should not be construed as a predictor of multilateralisation, but rather as an analytical tool that can organise discussions on the potential amenability of WTO-plus efforts to multilateralisation. Policy areas that score well may be, in technical terms, candidates for multilateralisation. 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 have a high impact only on less processed agricultural goods. Sanitary and phytosanitary (SPS) measures also appear 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.

Multilateralisation Potential of WTO-plus Measures in RTAs		Agriculture	SPS	TBT's	Export Restrictions	Trade Facilitation	Services	Labour Mobility	E-commerce	Investment	Competition	Intellectual Prop. Rights	Government Procurement	Transparency	Anti-corruption	Environment
Critical mass, incl. developing countries		●	●	●	●	●	●	○	○	●	●	●	○	●	○	○
Coherence with WTO agreements		○	●	●	○	●	○	○	○	○	○	●	●	●	○	○
International standards		●	●	●	–	●	○	○	○	●	○	●	–	○	●	●
High degree of homogeneity		○	●	●	○	●	●	○	●	●	○	–	●	●	●	○
Non-discriminatory (non-excludable)		○	●	○	○	●	○	○	●	○	●	●	○	●	●	●
Liberal ROO or lack of ROO		○	●	●	NA	●	●	○	●	●	●	●	○	●	●	●
Third-party MFN or extension benefits		–	–	–	●	NA	○	○	○	●	NA	NA	○	NA	NA	NA
Firm commitments (not best-endeavour)		●	●	○	●	●	●	●	●	●	●	●	○	●	●	○
Enforceable via dispute settlement		●	○	●	●	●	●	○	○	●	○	○	○	●	●	○
Co-operation on implementation		–	●	●	○	●	–	○	–	–	–	–	–	●	●	●
Significant trade creation effect		●	–	–	–	–	–	–	–	●	–	–	–	●	–	–
Favourable political economy		–	–	–	–	–	●	–	–	–	–	–	–	●	–	○

Note: ● High, ○ good and ○ limited potential for multilateralisation. “NA” denotes not applicable, and “–” not assessed in OECD studies. Source: OECD (2014b) “Deep Provisions in Regional Trade Agreements: How Multilateral-friendly? (Trade Policy Paper 168)

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 as well as in 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 the 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.

Other areas suggest less convergence. 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, but 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 effort to make RTA WTO-plus obligations stronger, migrating from provisions couched in best-endeavour language into 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.

Policy implications

Many RTAs contain elements that deepen co-operation across regulatory issues, and that new market opportunities are created even as participants address structural impediments in their own economy. Next-generation RTAs strive to go even further. Countries wishing to participate in and benefit even more from global markets will need to increasingly integrate trade and investment measures in their wider domestic structural reform agendas. In fact, countries may be able to use current and prospective negotiations in mega-regionals on “behind the border” regulatory provisions as drivers for desired domestic reforms.

The larger structural issue of whether, when, and how to multilateralise WTO-plus and WTO-beyond provisions in RTAs is primarily a political question for governments to address. Although regionalism may gradually evolve towards a comprehensive multilateral system, it is desirable for countries to explicitly examine options that would help transfer select emerging practices to a more genuinely global rule-book.

More Information

- » OECD work on Regional Trade Agreements
<http://oe.cd/rta>
- » Trade Policy Papers
<http://oe.cd/trade-papers>
- » Trade and Agriculture Directorate
<http://oe.cd/tad>
- » Sign-up for Trade E-mail Newsletters
<http://oe.cd/direct>