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The Coherence of Multi-Level Negotiations: Challenges for developing countries

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1. Introduction

Over the last decades, the process of globalization appears to have gained momentum. This process has been characterised by a number of parallel developments:

- (1) *the integration of the world economy*: world trade and investment have increased at a much faster rate than the growth rate of the world economy;¹
- (2) *the pre-eminence of the multilateral trading system*: with successive rounds of multilateral trade negotiations and institutional developments resulting in the creation of the World Trade Organization (WTO) in 1995, as well as the broadening of the WTO membership (including new trade heavyweights such as China and Russia), the rule-based system enshrined in the General Agreement on Tariffs and Trade (GATT) has been reinforced;
- (3) *the process of regionalisation*: with not only an increase in the number of regional integration agreements, but also the deepening and widening of existing regional initiatives; and
- (4) *the mushrooming of bilateral and plurilateral trade, investment and cooperation agreements*: trade integration has increasingly taken place among non neighbouring countries or regions.
- (5) *the increase in North-South agreements*: parallel to North-North Regional Trade Agreements (RTAs) and the development of South-South regional integration initiatives, the last decade has been marked by numerous initiatives of North-South trade agreements, as well as the emergence of continental and sub-continental regionalism.

This evolution provides numerous new opportunities to foster economic growth and development. For developing countries in particular, which have often call for ‘trade not aid’, the opening of world and regional markets offer new perspectives. At the same time, trade liberalisation and deeper forms of integration generate serious challenges which, if not properly addressed, might disrupt their economies and negatively affect their development.

This note reviews some of the recent developments and considers some of the questions related to the linkages and coherence of the multi-level trade negotiations.

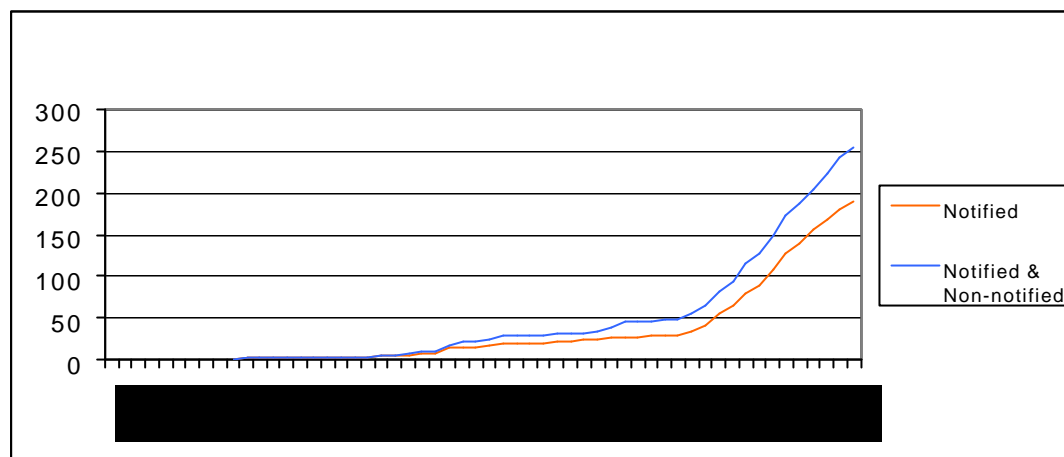
2. Regionalism

Nowadays, almost all countries belong to at least one regional agreement. Graph 1 illustrates the increasing interest in bilateral and regional trade agreements (RTAs) over the last half century. While a total of 189 RTAs officially notified to the GATT / WTO system (General Agreement on Trade and Tariffs / World Trade Organization)

¹ For instance, Carrere and Schiff (2004) report that since 1950 world trade has increased more than three times faster than world GDP (2000 percent and 600 percent, respectively).

were in force in October 2003, 149 of them had been notified since 1995. It is estimated that an additional 60 other RTAs are currently in force, but not yet notified (see WTO Secretariat, 2003).²

Graph 1: *RTAs notified to the GATT/WTO (1948-2003) and non-notified RTAs, cumulative, in force*



Source: WTO Secretariat (2003).

This renewed interest for RTAs has taken various forms. The conventional model of integration starts with standard trade agreements (non-reciprocal preferential trade agreements, free trade areas and customs unions), covering traditional market access for industrial goods and generally to a more limited extent agricultural products. The new generation of agreements tend also to cover services (often along the lines of the General Agreement on Trade in Services – GATS) and fisheries, and to address a broader range of market access constraints and trade related issues, such as non-tariff barriers to trade (NTBs), technical barriers to trade (TBT), norms and standards, health security issues (sanitary and phytosanitary measures - SPS), customs procedures, trade facilitation, as well as more contentious issues such as investment, competition policy, intellectual property rights (IPRs), government procurement, environment and labour standards, etc.

The deepening of regional integration has also taken place with existing RTAs, and included other areas, such as monetary and fiscal integration, and other forms of policy cooperation and/or harmonisation. This deepening of integration has often been accompanied by a widening of regional agreements. The European Union (EU) is a case a point, emulated by a number of other regional groupings.

Parallel to this seemingly linear process of integration, where countries move from shallower free trade agreements towards deeper forms of integration, regional agreements have also been pursued to address other forms of cooperation (e.g. Delvin and Estevadeordal, 2002; Schiff and Winters, 2002). Regional cooperation agreements can prove an effective substitute (or complement, depending on cases) to address common issues, in general among neighbouring countries. This is particularly the case for regional public goods, where cooperation is desirable on shared common

² All RTAs should in principle be notified to the GATT/WTO, under either GATT Article XXIV, GATS Article V and the Enabling Clause. Since the inception of GATT, 285 RTAs have been notified under GATT/WTO as of October 2003, 96 of which has ceased to exist.

resources (e.g. environment, rivers, lakes, other fishing grounds, hydroelectric power, forests, transport infrastructure) and common problems and objectives (e.g. natural disasters, clean air, transnational diseases, research projects, policy standards).

Last, but not least, trade agreements may also be pursued for political, security and other geo-strategic objectives (e.g. Schiff and Winters, 1997). The desire to form alliances for non-economic reasons does not prevent economic integration among partners. On the contrary, many RTAs pursue trade ties as a means to achieve more strategic objectives. Besides the classic example of the EU integration, the use of trade and economic cooperation has been often sought by developing countries to pursue domestic and/or regional stability, security, credibility of their internal (policy and institutional) reform process, and development objectives. Some of these strategic intents are at time explicit in the agreement, such as in the case of the association agreements and other political coordination, trade, development and cooperation agreements of the EU with developing countries (e.g. Chile, Mediterranean countries, Mexico, South Africa). More often (if not always), however, the real geo-strategic and political objectives are not fully articulated by the parties.

In considering the various bilateral, regional and plurilateral trade and integration agreements, it is important to keep in mind the variety of forms and objectives pursued by these agreements.

In recent years, developing countries have increasingly been involved in regional agreements. Many developing countries belong to more than one regional groupings, some of which with overlapping membership and in some cases conflicting objectives and obligations. This is the case for instance in east and southern Africa with COMESA/SADC/EAC whose integration processes and agenda are still not consistent.

Parallel to advancing in their own regional integration, developing countries have increasingly been entering into trade agreements with Northern partners. While the absolute number of North-South trade agreements is still relatively modest (20 out of 146 RTAs in 2003), the recent surge of such agreements makes it arguably one of the most important development of regionalism over the last decade. Since the conclusion of the North American Free Trade Agreement (NAFTA) between Mexico, the United States (US) and Canada, a number of new initiatives have taken place. For instance, negotiations at the hemispheric level on the Free Trade Area of the Americas (FTAA) are under way. The US has already concluded FTAs with Central American countries (CAFTA), Chile, the Dominican Republic, Jordan, Morocco, Singapore, and expect to conclude one with Columbia, Ecuador and Peru, Panama, Bahrain, SACU and Thailand, not to mention trade and investment framework agreements with numerous other countries. Canada has signed FTAs with Chile and Costa Rica, and is currently negotiating one with CARICOM. The EU, as indicated above, has signed trade agreements with the Mediterranean (MED) countries, Mexico, South Africa, Chile, and is currently negotiating new RTAs with Mercosur as well as with regional groupings of the African, Caribbean and Pacific (ACP) Group, the so-called economic partnership agreements (EPA) in the context of the Cotonou Agreement (see www.acp-eu-trade.org). An overview of some of the main FTAs in Sub-Saharan Africa, the Americas and Asia is provided in Annex 1.

These recent developments in regionalism and the intricate relationships that exist among these various initiatives constitute one of the main challenges developing countries have to face in their efforts to better integrate into the world economy and promote their sustainable development.

3. Multilateralism

In parallel to the renewed wave of regionalism, the desire to maintain and further enhance the world trading system and to facilitate world integration appear to have prevailed in the international concert of nations. Such objectives have been best pursued at the multilateral level under the aegis of the GATT and, since 1995, under the WTO. The evolution of the world trading system and rules took place along eight successive rounds of GATT/WTO negotiations, which have led to the broadening of the scope of trade issues addressed, from traditional tariff and quantitative restrictions to the coverage of new areas such as agriculture, intellectual property rights, etc.

With the Doha Round, launched in November 2001, developing countries have finally been granted centre stage, at least in principle, with the adoption of the “Development Agenda”. Yet, behind the rhetoric of the Doha Declaration, the real challenge lies in moving from *good intentions*, as repeatedly expressed by developed countries and endorsed by the international community, to *concrete positive steps* in effectively addressing the development concerns of the often neglected majority of WTO members.

At the Fifth WTO Ministerial Conference in Cancun, in September 2003, lack of progress in the initial phase of the negotiations, insufficient preparation, at times some arrogance by key actors, mismanagement and miscalculations have all contributed to the failure by WTO members to reach any kind of consensus, leaving the negotiations to a *de facto* halt for over half a year. The innovative aspect of Cancun, though, is not the clash among major groups of actors and the lack of results. This has several times been the case in the history of the GATT/WTO. The new element is the active participation of developing countries, and their coalition in effective groups, able to counterbalance the driving force of major developed countries, until then used to determine the ultimate outcome of the negotiations. This is true in particular for the G20 alliance, which regrouped most of the more advanced developing countries, but also for the least developed countries (LDC), the African, Caribbean and Pacific (ACP) group of countries and the African Union (AU) alliance. One must acknowledge that most of the cohesion among developing countries’ groupings was in reaction to proposals put forward by developed countries, and therefore to a large extent based on a negative agenda (with possible exceptions concerning the proposal on agriculture by the G20). It still remains to be seen whether, as some early indications might suggest, the G20, and other weaker developing countries can foster their coalitions along a positive agenda, with concrete proposals and potential concessions for a successful completion of the Doha round. But the fact remains that the so-called ‘failure’ of Cancun might well have been a victory for the developing countries in making their voice heard (e.g. Bhagwati, 2004; Primack and Bilal, 2004; Stiglitz, 2004).

4. The question of coherence

The challenge faced by the international community is how to maintain (or introduce when appropriate) some coherence into this multi-level system of trade agreements. The question is particularly acute for developing countries, whose capacity, resources, development (economic and institutional) and bargaining power are more limited. The central question to be urgently addressed by all developing countries is therefore: *how best can they face these multi-level trade negotiations?* What are the challenges, threats and opportunities generated by the interaction among the various forms of RTAs initiatives and the multilateral trading system?

The remainder of this short note focuses on the interactions and various linkages within the different levels and types of trade negotiations.

5. The aftermath of Cancun on regionalism³

Immediately after the failure of Cancun, the United States, through the voice of its Trade Representative (USTR) Robert Zoellick, expressed its frustration with the WTO negotiation process, indicating that the US will pursue free trade negotiations with those countries showing some good will to do so (i.e. at the regional level), without waiting for the more reluctant ones (i.e. at the WTO level). Such sentiments threw into the limelight the longstanding debate of multilateralism versus regionalism, where free trade agreements are sometimes considered stumbling blocks, rather than building blocks, towards an enhanced and coherent multilateral trading system. Mr. Zoellick's remarks did not mean that the US would shy away from the multilateral path. Indeed, he also reaffirmed the US commitment to the multilateral system and a successful conclusion of the Doha Round. However the USTR's lashing at some developing countries soon after Cancun does confirm that the US is keen to push even more aggressively on regional negotiations. Since Cancun, the US has concluded an increasing number of FTAs (including by the way with developed countries, as in the case of Australia) and initiated many new ones (see Section 2). It would also seem to confirm that the US is willing to reward (and/or pressure) their partners to further liberalise trade, and support US positions in bilateral, regional and multilateral negotiations. Nevertheless, these bilateral trade talks in the Americas, Southern Africa (e.g. Draper and Soko, 2004), the Middle East, and Asia have long been part of a longer-term strategy towards promoting US interests abroad, complementing rather than substituting multilateral negotiations.

Fears that the EU would adopt a similar position post-Cancun were evident. After taking some time to reflect on and assess the outcome of Cancun, the European Commission (EC) has proven its strong commitment towards the successful conclusion of the Doha round. In addition, tactical considerations clearly played a key role in the EC approach. Having taken a lead role in promoting the Doha 'development agenda', the EU had also come to realise that it was expected to make major concessions to ensure its success. By publicly re-evaluating its position towards the round, the EU astutely attempted to shift the responsibility for a successful outcome on other WTO members, including not only the major world trading partners

³ This section draws on Primack and Bilal (2004).

such as the US, Canada, and Japan, but also many of the more advanced developing countries. In the meantime, in a similar vain as the US, the EC has also suggested that a more pro-active approach on bilateral and regional agreements (such as the EPAs) may bear more fruits.⁴

Not surprisingly, many trade observers and officials from the ACP have been wondering whether the EC would not try to be more ambitious in pushing for greater progress during the EPA negotiations on issues that have to date been a stronger priority in their WTO agenda, but have not garnered much support at the multilateral level – such as the Singapore issues (investment, competition policy, transparency in government procurement and trade facilitation). Several Commission officials have denied such intentions. In reality however, even prior to Cancun, the bilateral and regional trade negotiating agenda of the EU had been very ambitious, not only with respect to EPAs, but also with the Balkan, Syrian and Mercosur negotiations. With this in mind, one may wonder whether the call for a stronger push for regional initiatives (explicit on the part of the US and hinted to by the EU) is not merely political rhetoric aimed at increasing pressure on the WTO's developing country Members to step back from some of their demands and thus help put the Doha round back on track.

The post-Cancun climate has already influenced the initial position of some ACP countries in the EPA negotiations. For instance, some ACP representatives have called for the exclusion of the Singapore issues from any EPA – most notably investment and competition – for the sake of consistency with the position of the ACP/AU/LDC alliance in Cancun. Arguably, however, the positions in the two fora should not be linked. It may be that some trade and trade-related issues can be addressed in a more effective and in-depth manner in WTO-plus regional trading agreements than in a multilateral context. Investment and competition issues can be viewed as cases in point. Some ACP groupings might be interested in negotiating bilaterally with the EU on these issues (among others), where greater cooperation and adjustment support may also be sought, while remaining opposed to make any binding commitments at the multilateral level.

Nonetheless, to the extent that trade agreements may have deeper consequences on the regulatory structure of the countries concerned (e.g. Sampson and Woolcock, 2003), the position of the EU in EPAs and the US in the FTAA and other bilateral initiatives, is likely to have a significant regulatory demonstration effect that will in turn impact the dynamics of the WTO negotiations. This is because developing countries tend to adopt regulatory instruments and institutions similar to those of their preferential trading partners in the North, and thus become more likely to adopt positions in the WTO that align with those of their developed partners. This is clearly the expectation of the EC, for which “the Economic Partnership Agreement negotiations with the ACP countries offer a wide scope for propagating our approach to international economic co-operation” (EC, 2003).

⁴ In a 9 October 2003 speech, Peter Carl, Director General Trade of the EC, stated that “There has been much speculation surrounding the question of whether the EU or others would now engage more in bilateral negotiations than before, and I do not wish to hide from you that this very question is the subject of much internal discussion which I do not, of course, wish to prejudge.” http://europa.eu.int/comm/commissioners/lamy/speeches_articles/sp_mpc11.htm

6. On some of the linkages between the WTO and regional negotiations

A broader issue relates to the extent to which the negotiation of regional agreements affects the WTO negotiations.

A most recent case in point, taken for the sake of illustration, relates to the letter by the European Commissioners Pascal Lamy (DG Trade) and Franz Fischler (DG Agriculture) sent on 9 May 2004 to all WTO members, in which the European Commission (EC) outlines its proposals for the continuation of the Doha round. In this letter, the EC proposes, among others, that less developed countries (G90) should not be required to lower their trade barriers and should be granted a greater access the markets of developed and more advanced (G20?) developing countries, thus offering the G90 what the EC calls a 'Round for Free'. At first sight, this offer may appear most commendable, as it recognises the particular difficulties that LDCs and the other weak and vulnerable developing countries forming the G90 face in their trade.⁵

However, when looking at the external trade relations of the EU, this offer is far less generous than it might seem. Indeed, the EU has already concluded FTAs or is engaging in such negotiations with most of the G90 members, including the 77 ACP countries (in the context of economic partnership agreements – EPA), leaving only about 10 countries (mostly from Asia) the possibility to maintain their trade barriers towards the EU exports. By calling for the G90 to be able to maintain their current level of effective protection, the EU de facto defends its preferential access to these markets, which may enhance trade diversion in favour of EU producers (although this might arguably not be its intent).

Similarly, the EU has already opened up its market to almost all the G90, under not only its FTAs in place, but also the trade preferences granted to the ACP countries under the Cotonou Agreement (and previously the Lomé Conventions), the 'Everything-But-Arms' (EBA) initiative, which grants free access to the EU market to all products from LDCs (except weapons), and the EU generalised system of preferences (GSP). By calling for greater access for G90 products, the EU does not affect its own market. Rather, it appears as a strategic move to: (i) increase the export opportunities, and hence gains from trade, for less developed countries, (ii) somewhat 'multilateralise' its own preferential market opening (in particular towards the LDCs), and (iii) put under pressure G20 countries (i.e. 'more advanced developing countries' as referred to by the EC in its letter) to open up their markets, with the possibility of breaking the apparent solidarity among developing countries, should some G20 countries refuse to open their market to poorer developing countries.

Besides providing an interesting opportunity to discuss a recent news item of the Doha Round, this example illustrates one type of interaction that may arise between WTO and regional negotiations. In this case, the current and forthcoming preferential

⁵ First the purpose of this note, the mercantilist approach based on the exchange of trade concessions among partners, common in WTO negotiations, is not called into question. In reality, the lack of commitment from less developed countries to open up their markets to world trade may not be beneficial to their development, as often argued by the World Bank for instance. But this is another debate.

trade regimes directly influence the payoff of a proposal made at the WTO level. The EU is not alone in adopting such a strategic behaviour. Malign intent should not be assumed *a priori* in the EU offer. On the contrary, the EC could well claim a demonstration effect. By opening up first bilaterally its market to developing countries, it encourages other developed nations to do the same. This has been for instance the explicit intent of the EU with the EBA initiative, which it would like to see multilateralised. That is, all developed countries and advanced developing countries should make binding commitments, under the WTO, to grant permanent duty and quota free market access to all products exported by LDCs.

Whether the intent is malign or generous is not the main issue here (e.g. Page, 2004). The point here is that the multi-level trade regimes directly influence the position of actors in each negotiation. RTAs and other preferential arrangements do affect the negotiation position and proposals made at the multilateral level.

To keep the above example of the EU proposal in favour of less developed countries, one should note that it also illustrates the problem of consistency in the negotiating positions of the parties. This move in favour of G90 stems from the recognition that, as expressed by Trade Commissioner Lamy, less developed countries have “un besoin clair [...] de protection des marchés et bien entendu de revenu national” and, concerning agriculture, that the EC “pren[d] en compte l’importance de la sécurité alimentaire et du développement rural et accept[e] le besoin des pays en développement les plus fragiles de maintenir la protection” (Lamy, Dakar, 4 May 2004). It is clear from these recent statements that the EC acknowledges the difficulties encountered by the poor countries and thus considers (rightly or not, that a separate issue) that protection in these countries can be maintained. Yet, in the context of the EPA negotiations with ACP regional groupings, which include many of the poorest and weakest countries, the EU has repeatedly called for reciprocal liberalisation, arguing in favour of the benefits for these countries to open up their economies. Obviously, different standards apply when liberalisation is discussed at the multilateral or regional level. Knowing that for many of the ACP countries and regions, the EU is the main trading partner (see Table 1), it is far from evident why protection is not needed for EU imports, but is justified for other imports from the rest of the world!

Table 1: ACP regions’ trade with the EU (2001)

	% of regional exports to EU	% of regional imports from EU
CARICOM	12,7 %	21 %
Mercosur	17,5 %	18 %
EAC	40 %	26 %
Pacific	11 %	1 %
CEDEAO	31 %	41 %
CEMAC	38 %	60 %
COMESA	35 %	33 %

Source: IMF, Eurostat.

The coherence between the multi-level trade agenda can be justified along one of the three following scenarios:

- (1) *trade liberalisation is desirable* (when accompanied by appropriate measures), including for developing countries; it should be first pursued at the multilateral level; when further integration is sought at the regional, it should be accompanied by some multilateral liberalisation, so as to limit economic distortions (in particular trade diversion); this is roughly the position of institutions such as the World Bank;
- (2) *trade protection is necessary*, as many sectors or countries are not in a position to face international competition without seriously impeding economic and social development; protection might be necessary permanently (e.g. in agriculture sector for food security reasons, multifunctionality, etc.) or for temporary reasons (to provide time for necessary adjustments, supply capacity constraints, institutional development, etc.); various forms of (externally imposed) liberalisation, at the regional or multilateral level, should be resisted; this is the position of some developed countries (in some industrial sectors and in agriculture, with high tariff picks and numerous market restrictions) and some developing countries;
- (3) *regionalism offers greater opportunities for liberalisation*, in which case liberalisation can first take place in the context of regional agreements; in this perspective, RTAs are viewed as building blocks, rather than stumbling blocks, towards multilateral trade liberalisation; this is the approach adopted in the most recent FTAs, based on 'open regionalism', and it is the main justification for most North-South RTAs.

The debate is in fact much more complex. For some, regional integration can provide a most useful tool to help the integration of the developing countries into the world economy, as suggested by the title of a recent publication of the United Nations: 'Meeting the Challenges in an Era of Globalization by Strengthening Regional Development Cooperation' (ESCAP, 2004). This is definitely the approach adopted by the EU, in particular in the EPA negotiations with the ACP, which should reinforce the regional integration process of the ACP sub-regional groupings. Moreover, within the context of the Cotonou Agreement, the EU can complement the trade dimension of its relationship with the ACP by development and political cooperation, arguably facilitating and supporting the adjustment processes necessary to ensure that trade liberalisation foster sustainable development and alleviate poverty in the ACP countries. For others, the negotiations of RTAs is an additional burden for developing countries that would rather need appropriate special and differential treatment, and proper support for their development (e.g. CONCORD, 2004).

7. Some systemic issues

To conclude, it may be useful to review some of the systemic issues that must be considered when assessing the coherence between the multi-level negotiations many developing countries have to face.

First, there is the question of the compatibility of the RTAs with the WTO rule-based system. Current negotiations on RTAs are conducted in parallel to the new WTO round

of multilateral trade negotiations, launched in Doha in November 2001, which should be concluded by a single undertaking, initially foreseen in 2005, but now most likely due at a later date.

In consequence, many developing countries are confronted with the commitment to negotiate new WTO-compatible trade agreements with Northern partners while the WTO rules are being negotiated at the multilateral level, and thus subject to changes.

As a consequence, these countries may be confronted to three sets of issues relating to the linkages between WTO and regional (North-South) trade negotiations: compatibility, coherence and timeframe.

The first issue relates to the explicit requirement of WTO-compatibility of any new RTA. Some developing countries are calling for greater explicit flexibility in terms of (asymmetric) trade coverage and transition periods in trade agreements between developed and developing countries, under GATT Article XXIV on regional trade agreements. More generally, the WTO-compatibility issue relates to the scope for special and differential treatment (SDT) in the WTO system, currently under review in the Doha Round.

The second issue faced by developing countries concerns the coherence between the WTO-agenda and the (North-South) regional negotiations, as many themes are addressed both under the WTO and the RTA framework. These inter-related issues concern notably the SDT provisions, agriculture, fishery, market access, services and trade related issues. In most instances, developing countries will have to determine, among others, the scope and potential relevance of WTO-plus agreements they want to see in a RTA with developed partners. This issue is a sensitive one, in particular due to the imbalance of bargaining power between the developing and developed partners, the latter being not only more influential, but having also already developed more sophisticated institutional and regulatory approach which they may wish to press upon their weaker partners in the South. The regulatory trade-offs and spillovers between regional agreements and the WTO system are one of the most critical issues to investigate.

The third issue relates to the timing of the WTO and RTA negotiations. Developing countries will have to address these respective agendas in parallel. The scope and progress made in the Doha Round can have an influence on the pace and scope of regional negotiations, as suggested in Sections 5 and 6.

The complementarity and required coherence of the WTO and RTA agenda call for a concerted effort in terms of capacity building initiatives. These should seek to ensure the development of consistent strategies of development and trade policy formation. Effort should therefore be dedicated to promote the adoption of effective measures of technical assistance that should support the developing countries both in their trade negotiations at the WTO and at the regional level, keeping as a guiding principle their ultimate objectives of sustainable development and poverty alleviation.

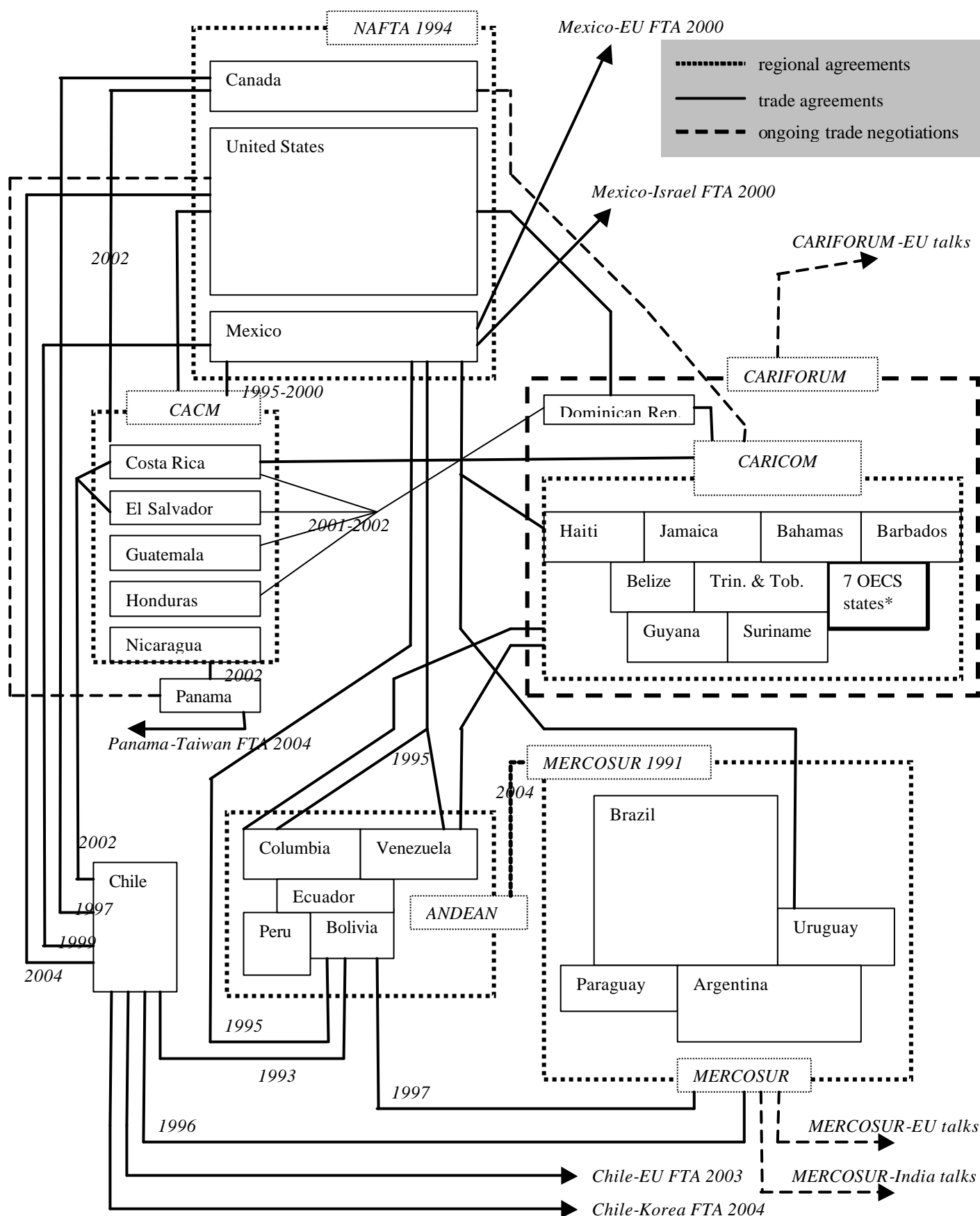
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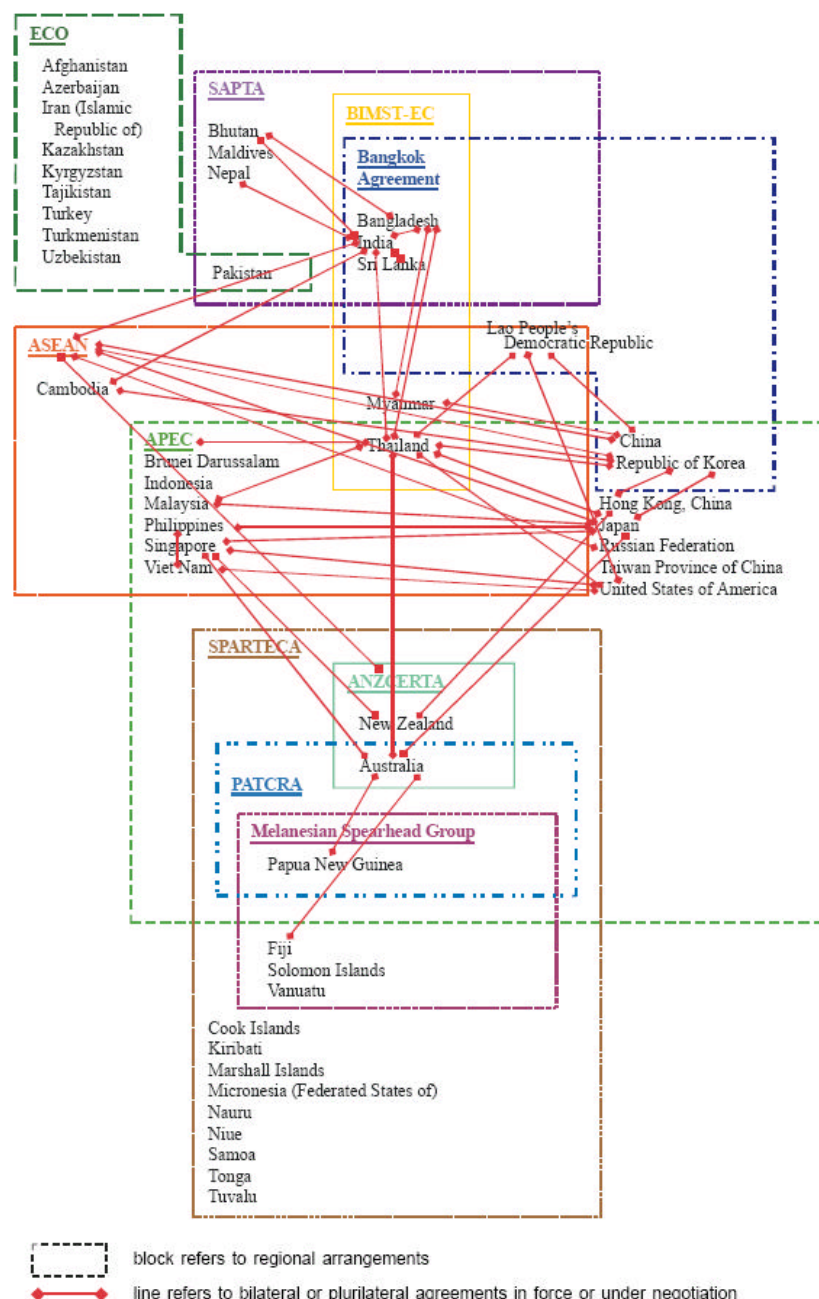
Configuration of some of the main RTAs

1. Sub-Saharan Africa
2. The Americas
3. Asia

Trade Liberalisation in Latin America and the Caribbean

Important trade agreements in force or in negotiation since the 1990s





Source: T. Bonapace, "Experiences emerging from the UNESCAP region: Accession to WTO and Regionalism", in *Progress Towards the Doha Development Agenda* (Bangkok, TID, ADB and UNCTAD, 2003).

Note: Bhutan and Nepal joined BIMST-EC in February 2004, which is not shown in the diagram.

Source : ESCAP (2004)

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