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CHALLENGES TO MULTILATERAL TRADE

THE IMPACT OF BILATERAL,
PREFERENTIAL AND REGIONAL
AGREEMENTS

Edited by
Ross Buckley, Vai lo Lo
and Laurence Boulle



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The Impact of Bilateral, Preferential and Regional Agreements

Ross Buckley

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Challenges to Multilateral Trade

The Impact of Bilateral, Preferential and Regional Agreements

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Introduction

The global trade system is at a cross-roads. The multilateral system has made enormous gains in the past 60 years in some areas. Tariffs on goods have been reduced to trivial levels, and this has enhanced prosperity for many nations, rich and poor. However, much remains to be done: tariffs on agricultural produce remain far too high, which penalizes many poor nations for whom agricultural products comprise much of their exports. Past gains will not be lost, but further progress in liberalizing the multilateral system is at a standstill. The Doha Development Round, so named because it was intended to promote development in poorer nations around the world, has, in six years, delivered nothing, while many countries remain effectively outside the dominant global trade regime.

At the same time, there has been an absolute proliferation of regional, bilateral and preferential trade agreements, which we describe using the generic term Free Trade Agreements (FTAs). Three hundred and eighty have been notified to the World Trade Organization at the time of writing, each with the weaknesses specific to their kind: (i) their openness to capture by the more powerful party, (ii) their capacity to indulge special interest groups within each of the national parties, (iii) their tendency, especially in poorer nations, toward consuming the available administrative capacity and thus precluding progress on multilateral negotiations, (iv) the extent to which they make multilateral progress more difficult by altering incentives to cooperate at that level and removing bargaining chips available for trading in that forum; and, in our view, the three overarching problems of (v) the erosion of the core of the multilateral regime, Most-Favoured-Nation status, by the proliferation of more favoured statuses; (vi) the inefficiencies of the trade diversion they generate; and (vii) the quite extraordinary administrative costs on corporations and governments of complying, or ensuring compliance with, so many different bundles of rules.

This book examines these issues and FTAs more generally from a multitude of perspectives. It is based on the proceedings of a conference on 'Free Trade Agreements: Where is the World Heading?' hosted by the Faculty of Law and

Tim Fischer Centre for Global Trade and Finance at Bond University in March 2007. At the conference participants from five continents and many disciplines discussed, analysed and debated some of the most important trade and finance issues currently facing the world.

This volume begins with the big picture, contextual perspectives of Christine Lagarde and Tim Fischer, former Minister for Foreign Trade of France and Minister of Trade of Australia, respectively.¹ The volume then harnesses the insights of game theory to analyse the threshold question of why FTAs have proliferated, notwithstanding the fact that the multilateral regime offers a better solution for all nations. Separate detailed chapters then analyse the FTA stories and strategies of Japan, China and Vietnam and scrutinize *NAFTA*, the *Australia–US FTA* and the *Korea–US FTA*. This volume then questions the impact of FTAs on investment and services, intellectual property, human rights, and cultural products, and probes the critical issue of whether intellectual property belongs at all in FTAs and the multilateral regime. Finally, dispute settlement issues are canvassed.

FTAs are a rapidly growing elephant – an elephant that currently sits upon and blocks much of the road that the multilateral journey must take. This volume describes and analyses this elephant from above and below, from each side and from inside out. We need to understand this beast as well as we can. We cannot wish it away, so we need to use it productively, preferably to guide the entire system to a coherent, workable outcome that benefits all nations. This volume illuminates part of the journey to better understanding FTAs, why they have proliferated, their strengths and weaknesses, and how different Pacific Rim nations have used and abused them and might use and abuse them in the future.

Ross Buckley, Vai Io Lo and Laurence Boule, Australia, August 2007

1. Christine Lagarde, at the time of writing, is the French Minister of Finance and the Hon Tim Fischer has also served as Deputy Prime Minister of Australia.

Part I

Multilateralism, Regionalism and Bilateralism

