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GEG WP 2013/75

Role of Rules and Relations in Global Trade Governance

Pooja Sharma



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Pooja Sharma*

Abstract

Global Trade Governance, as embodied by the former General Agreement on Tariffs and Trade (GATT) and the present World Trade Organisation (WTO), is generally described as a rules-based system, wherein a framework of formal rules and procedures govern accession, negotiations and enforcement of agreements. Whilst acknowledging that an elaborate system of rules has indeed evolved that influences global trade negotiations, this paper proposes that a relations-based system of trade governance (centred on close communications in small group situations) is equally pertinent, and is influential to the GATT/WTO's operation. The author argues that the implicit relations-based nature of trade governance considerably shapes trade negotiations. Relations-based decision-making represents the alternative dimension of global trade governance, and is critical to the GATT/WTO rule-making, agenda-setting process. In defining and describing the key characteristics of rules-based and relations-based systems of governance and the distinctions between them, the author argues for a better understanding of global trade governance as a two-tiered governance system to enhance global trade and incomes.

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1. Introduction

The post-war system of global governance, particularly global trade governance, as embodied in the erstwhile General Agreement on Tariffs and Trade (GATT) and the present World Trade Organisation (WTO), is characterised as a rules-based system (Bagwell and Staiger, 1999, 2002; Jackson, 1989; Keohane, 1984; Mayer, 1981). Participating member states first negotiate and establish a framework of rules and procedures for engagement within which subsequent discussions and negotiations take place. The rules also guide the manner in which any binding commitments made, voluntarily, by members might be enforced. The rules pertaining to reciprocity and non-discrimination are often described as the twin foundational pillars of the GATT. To this the more institutionalised successor organisation, the WTO, has added the overarching rule of the Single Undertaking, which requires that all WTO members must agree on every decision to conclude the negotiations and that all members must accept all of the obligations barring a few exceptions. The WTO's integrated dispute settlement mechanism is more legalistic and been given more teeth. The WTO describes itself as a negotiating forum (a table), a set of rules and a place to help settle disputes.¹

This paper argues that whilst an elaborate system of rules has indeed evolved in the over sixty-year old history of international trade cooperation, it is important to better acknowledge and understand the alternative dimension of global trade governance, namely, relations. In common parlance, rules are defined as set of explicit principles, regulations, procedures etc. that govern conduct in a particular sphere and relationship is defined as the way in which two or more people(s) or objects are connected or the state of being so connected. Governance systems are defined in terms of their informational, contractual, organisational and enforcement characteristics. In this paper, a rules-based system of governance is defined as an *arm's-length* system of impersonal communications, explicit complete contracts and enforcement based on appeal to a single impartial third-party or organisational authority. Relationship-based governance is used to refer to governance that works through establishment of close relationships based on relational arrangements, including bilateral or small-group personal communications, implicit incomplete contracts and common values-based and/or community enforcement in small group situations.

I argue that relations-based nature of trade governance is implicit in the WTO's self-visualisation of its role as a table - a table at which officials of member states come together to communicate, exchange negotiating positions and strike mutually beneficial bargains. Another visual conception of the WTO is the *green room*, where a smaller group of members interact much more closely, albeit exclusively, and that lacks pre-specified rules and procedures for engagement and inclusion.² According to the WTO, such small group arrangements are "...necessary for making formal decisions in the councils and committees."³ These features and decision-making structures, including the quadrilateral or the quad, the G-6 and the issue-based and cross-cutting coalitions at the GATT/WTO, represent the alternative dimension of global trade governance, namely, relations, which has been largely neglected in both academic analysis and policy debates on global governance.

In this paper, I evaluate the extent to which the system of international trade governance is relations-based as opposed to rules-based. I argue that relations-oriented mechanisms are crucial to the GATT/WTO rule-making, agenda-setting and other decision-making processes, and therefore key

¹ See http://www.wto.org/English/thewto_e/whatis_e/tif_e/utw_chap1_e.pdf.

² See Ocampo (2010), Narlikar (2001).

³ http://www.wto.org/english/thewto_e/whatis_e/org1_e.htm.

to understanding the multi-dimensional institutional structure of global trade governance. Moreover, the characterisation of the existing global economic governance system as rules-based suggests a certain stability and impartiality of rules and their enforcement but the original GATT rules, which were primarily designed by the United States in close consultation with the United Kingdom (see Irwin et al, 2008), have changed frequently, and as will be shown, based largely on small-group relation-based arrangements, often to accommodate the interests of specific decision-makers. These relations-based governance mechanisms are critical to shaping the global governance agenda and determining global governance rules, which in turn determine the path of negotiation outcomes and associated distribution of gains from international cooperation and therefore the relation-based forms of global governance need to be explicitly appreciated and theorised to improve the understanding and future functioning of the WTO.⁴

The paper is organised as follows: The next section briefly sets up the problem that trade agreements attempt to resolve and the trade-theoretic and economic governance approaches to interpreting the problem. Readers familiar with the trade-theoretic and economic governance literature on trade agreements may skip to section 3. In section 3, I define and describe the key characteristics of rules-based and relations-based systems of governance. Section 4 distinguishes two modes of international trade governance - the global and regional modes - and assesses the extent to which these modes are rules-based as against relationship-based. Section 5 draws some conclusions.

2. *The trade-theoretic and governance views of trade agreements*

At any given time, countries may engage, solely or simultaneously, in different modes of trade liberalisation – unilateral, bilateral, sub-regional, regional, or global. According to standard international trade theory, under competitive settings, a single given mode of liberalisation is likely to be optimal for liberalising international trade. For instance, unilateral trade liberalisation by welfare-maximising small developing economies and reciprocal tariff reductions amongst larger countries, within a *rules-based multilateral* arrangement, are considered the most efficient alternatives for liberalizing international trade. Several developing countries liberalised international trade unilaterally during the 1980s and 1990s, largely as part of a broader economic reforms programme.⁵ Assessments of the performance of the global system of trade governance (Irwin, 1995; Rose, 2004; Subramanian and Wei, 2007) find that the GATT/WTO system of trade liberalisation has been successful mostly in implementing negotiated reciprocal tariff reductions, in industrial products, amongst the industrialised economies.⁶

More interestingly, perhaps, *preferential* trade and integration arrangements are often used in conjunction with non-discriminatory trade liberalisation, despite inconclusive theoretical and empirical findings regarding their impact on members' welfare and implications for the global trading system.⁷ The longstanding enthusiasm for preferential arrangements underwent an upsurge in the early 1990s

⁴ Although this piece is focused on trade governance, it recognises that relational forms of governance are not confined to trade but are implicit in the G-7/8 and now the G-20 leading economies groupings that are acknowledged as important agenda-shaping structures for the Bretton Woods Institutions and other regional and global governance institutions.

⁵ Although liberalisation was on a unilateral basis, in several cases it was influenced by the conditionality imposed by other international organisations including the International Monetary Fund and the World Bank.

⁶ Tomz, Goldstein and Rivers (2007) refute Rose (2004) results by employing a broader definition of GATT membership but Subramanian and Wei (2007) confirm differential impact on developed and developing country members of the GATT/WTO.

⁷ See Panagariya (2000) for a survey.

and has continued unabated since.⁸ Despite the demonstrated preference for preferential trade agreements, spatially and temporally, it continues to remain a keenly debated area in the international trade literature.

Two different strands of literature present somewhat competing views on preferential arrangements. Although plenty of disagreement exists within what I call the “trade-theoretic” view, according to a survey of the literature, “a consensus appears to be emerging...proliferation of free trade areas is leading to the creation of what Bhagwati ... calls “spaghetti bowl” of tariffs...and that the best solution to this problem is to speed up MFN (most-favoured nation) liberalisation” (Panagariya, 2000, pg. 328). In general, the trade-theoretic literature concludes that preferential trade agreements may pose a threat to the existing global system of trade liberalisation (Bagwell and Staiger, 2002, pg. 9). A contrasting view, which I call the “governance” view, on the other hand, argues that all feasible modes of organization are flawed in comparison to a hypothetical ideal and societies create alternative institutions to provide the necessary governance, which entails mitigation of conflict and realisation of mutual gains (Williamson, 2005, 1996; Dixit, 2009, 2004). The governance view suggests that the co-existence of alternative governance arrangements must be better understood if all potential gains from cooperation are to be harvested.

Trade-theoretic view of trade agreements

In the trade-theoretic literature (Johnson, 1953-54; Mayer, 1981; Grossman & Helpman, 1995; Bagwell and Staiger, 1999, 2002), the problem of international trade cooperation is characterised as a classic case of a Prisoner’s Dilemma. While cooperation is beneficial for all parties ex-ante, the payoffs from unilateral defection or cheating are higher ex-post in the absence of appropriate governance.⁹ This particular case of the dilemma is a terms-of-trade (ToT) driven dilemma, where unilateral tariffs are set too high and as a consequence trade volumes are too low. A government hesitates to liberalize unilaterally since it does not want to suffer a terms-of-trade loss that such an action would entail but if the governments were to liberalize reciprocally then the terms-of-trade would be preserved and the impediment to liberalization and realisation of associated gains from trade would be removed.

One of the problems with this trade-theoretic view of the problem is that given the efficiency properties of a cooperative equilibrium, governments should be able to come to a self-enforcing tacit agreement.¹⁰ That is to say that the trade-theoretic literature is unable to explain the existence of an explicit contract or agreement and an organizational infrastructure to support that agreement such as the GATT/WTO. As posited by the main proponents of the ToT theory of trade agreements, “..given

⁸ In the period 1948-1994, the GATT received 124 notifications of regional agreements (relating to trade in goods), and since the creation of the WTO in 1995, almost 300 additional arrangements covering trade in goods or services have been notified (WTO, 2009).⁸ Some 421 regional trade agreements were notified to the WTO up to December 2008. At present, all 153 members of the WTO, barring Mongolia, are members of a regional trade arrangement.

⁹ There are other economic explanations of international trade agreements, including: (i) The domestic-commitment theory (Maggi and Rodriguez-Clare, 2007, 1998; Staiger and Tabellini, 1987), which argues that trade agreements serve as credible instruments for governments to make commitments against their domestic constituents (see Rodrik, 1995) and (ii) Ethier’s (2004) reduced-form political economy explanation, which argues that unilateral trade liberalisation reduces political support for incumbent governments whilst sufficiently small reciprocal liberalisation may be desirable.

¹⁰ Some of the other problems include the following: First, the ToT theory assumes that governments maximise social welfare, which is often at odds with political considerations of real-world policymakers. Although, the ToT theory extends to alternative specification of the objective function, it remains rooted in the ToT externality (Bagwell and Staiger, 2002). Second, Krugman (1997) and Ethier (2004) forcefully argue that optimal tariffs play little role in real-world trade policy considerations. However, Broda, Limao and Weinstein (2008) show that market power does explain more of the tariff variation, as compared to the commonly used political economy variables, in non-cooperative trade policy.

the efficiency-enhancing properties of the rules of the GATT/WTO, it is not obvious why governments could not come to a tacit understanding to follow the rules. Why is it necessary to have an actual institution?" (Bagwell and Staiger, 2003, pgs. 24-25). Thus, there exists a significant gap in the main trade-theoretic explanation of international trade agreements, which in practice take the form of explicit arrangements and organizational structures to support international trade agreements.¹¹

Economic governance view of trade agreements

This is where the literature on economic governance comes into play. It shifts the focus to the operational, organisational and enforcement aspects of trade agreements. The new institutional economics (NIE) literature argues that institutions and organisations indeed arise as actors cannot independently achieve cooperative outcomes.¹² Institutions are defined as rules of the game or a framework within which interactions occur and that structure incentives in exchange. Organizations, on the other hand, are groups of individuals bound by some common interest to achieve an objective through a combination of skills, strategies and coordination. Organizations can act as agents of institutional change. The sub-field of economic governance argues that alternative forms of governance co-exist (Williamson, 2005; Dixit, 2009).

The economic governance approach reformulates the problem of trade governance in terms of information, organisation, and enforcement of agreements. For instance, economic activities may be classified into three types: (i) activities observable by and only by the acting party itself (the first party); (ii) activities observable by and only by the two transacting parties (the first and second party); and (iii) activities observable by the first, second and a third party.¹³ The problem of international trade governance may be characterized in terms of an absence of: a third-party enforcement authority akin to the state at the nation-state level; effective world-wide community type sanctions; second-party type enforcement through the threat of retaliation due to general lack of balance in trading relations at the bilateral level; similar social preferences or beliefs about behaviour for effective first-party type enforcement in general. In other words, the problem of governance arises as there is no supranational authority to enforce agreements between nation-states nor is there any form of effective international community type sanctions available as a substitute for a formal authority. Efficacy of second-party type enforcement through the threat of retaliation, in repeated interactions, depends on reciprocity and balance in trading relation at the bilateral level as a pre-requisite for retaliation.

3. Rules-based and relationship-based governance

Following Keohane and Nye (1977), the standard conception of global trade governance as rules-based governance can be perceived as an *ideal type*. This paper characterises another *ideal type*, relationship-based governance.

¹¹ The need for explicit agreements can be attributed to information related failures but the explanatory power of the ToT theory itself is based on the assumption of common knowledge in the repeated game framework (see Srinivasan, 2007).

¹² North (1990) defines institutions as "the humanly devised constraints that structure human interaction", which are made up of formal constraints (rules, laws, constitutions etc.), informal constraints (norms of behaviour, conventions, self-imposed codes of conduct) and their enforcement characteristics. Together, they define the incentive structures of societies and specifically economies.

¹³ Type 1 activities can be governed only by the first-party, or incentive-compatible enforcement mechanisms. Type 2 activities can be governed by first- and also second-party enforcement mechanisms such as retaliation in repeated interactions. Type 3 activities can be governed by first-, second- and also the third-party enforcement mechanisms such as state or organisational enforcement and community sanctions (Li, 2003).

A rules-based system of governance is an *arm's-length* system of impersonal communications, explicit complete contracts and enforcement based on appeal to a single impartial third-party or organisational authority. Rules-based governance relies on publicly available and verifiable information and involves considerable costs in drafting, interpreting and implementing and enforcing negotiated agreements. As a result, rules-based governance is ideally suitable for enforcing a limited set of agreements, those which are mutually observable as well as verifiable by third-parties. The cost of adding more parties, however, to the negotiated agreements are relatively small. A rule-based governance system involves large total fixed transaction costs of formulating agreements and creating an informational infrastructure to support such agreements. However, there are relatively low marginal costs of enforcing an (additional) contract between an (additional) transaction pair as rules-based governance relies largely on impersonal and explicit contracts. The size of the group is much less of a constraint to cooperation in a rules-based system of governance as rules can be devised for all possible situations. However, the *distance* between parties in large groups constrains the flows of information so that violation of rules may not be transmittable in a timely and accurate manner (Dixit, 2004).

In contrast, relationship-based governance has been used in the past to describe East Asian institutions (Rajan and Zingales, 1998; Li, 2003). Li defines relations and relations-based governance in terms of information and enforcement and compares relations-based governance with the alternative system of rules-based governance. Two parties are said to have a relation if they share certain relevant private information about one another locally (i.e. mutually observable). The relevant information on a relational partner may include the partner's identity, history, reputation, and future prospects. In such a system, one can signal, screen, select and monitor each and every partner and each partner can act as a third-party type enforcer for every transaction. Value-based enforcement is also likely to work relatively effectively in relationship-oriented systems. In relationship-based governance, transactions are largely based on implicit and incomplete agreements. In some cases, agreements may be made partially explicit for third-party verification. In this case, contracts could be enforced by two types of third-party enforcement mechanism: community sanctions as well as an impartial third-party or organisational authority. A relations-based governance system involves low fixed costs of formulating and implementing contracts and exchanging information but significant marginal costs of adding and monitoring more transacting parties. A stable and balanced relation-based governance system can enforce a larger set of agreements between transaction partners than rules-based governance, which can only support a subset of agreements (Dixit, 2004). To induce efficiency ex-ante, within a relation-based governance system, the bargaining power of all transacting parties must either be symmetrically distributed or decentralised (Li, 2003). Alternatively, more powerful players could offer to limit their ex-post bargaining power by surrendering power to either a third-party or specifying a much more complete contract. Table 1 summarizes the main characteristics of rules-based and relationship-based systems of governance.

Table 1: Rules-based and relationship-based governance

<i>Structural Dimension</i>	<i>Rules-based system</i>	<i>Relationship-based system</i>
Membership	Large	Small
Bargaining	Asymmetric	Symmetric
Transactions	Limited number of transaction types	Larger number of transaction types

	Simple transaction technology or exchange – no linkage	More complex transaction technology – with inter-linkages
Contract	Complete, explicit	Incomplete, implicit
Organization	High (supra-national or inter-governmental) authority, no residual rights	Absent or limited organizational authority, broad principle/value-based
Information	Centralized, distant or arms' length exchange, multilateral monitoring	Informal, close bilateral or small-group based communications including selection, signaling, monitoring
Enforcement	Legalistic, organizational, third-party based	Value-based, community-based (possibly organizational third-party based)

In this paper, relationship-based governance is used to refer to governance that works through establishment of close relationships based on relational arrangements including personal communications, implicit incomplete contracts and common values-based and/or community enforcement in small group situations. In small community based systems of governance, where information on violation of rules is much more readily available and transmittable, incentives for violation of agreements are blunted. Thus, in a relationship-based system one would observe a small-group of transacting parties entering into implicit agreements on wide range of transactions with regularity and closeness of interactions for efficient exchange of information. Such agreements would be more feasible between parties located close to each other and having similar values and other social and political institutions. In such relationship-based systems of governance, there would be little utility of a formal dispute settlement mechanism.

In contrast, in a rules-based system, one would find a large number of transacting parties with detailed and complete contracts and publicly available information so that there would be little need for close proximate interaction among transacting parties. However, due to inability to form absolutely complete contracts and differences in interpretation of rules, one would find a formal dispute settlement mechanism. Addressal of asymmetries and redistributive justice could potentially become a problem in large rules-based systems, should the decision-making and rule-making be captured by influential interests groups or the vested organisational authority.

4. *Rules and relations in trade governance*

In this section, I evaluate the extent to which the existing modes of international trade governance are relations-based as opposed to rules-based. I consider two modes of trade governance: the close to universal global integration mode as embodied in the WTO but mostly its predecessor the GATT and an alternative regional integration mode.¹⁴

¹⁴ It is acknowledged at the outset that an overwhelming majority of existing preferential arrangements notified to the GATT/WTO are on a bilateral than regional basis and between non-contiguous state boundaries so that we are restricting attention to a small subset of preferential arrangements.

At the outset, it is important to clarify that I use the terminology of global, as against *multilateral*, with reference to the GATT/WTO mode, as in its current form the GATT/WTO system is far from multilateral in its current form even though it is commonly described as such. This is because the GATT/WTO has adopted a largely bilateral or small group approach to rule-making, negotiations and enforcement in the past. Although the most-favoured-nation (MFN) principle, which requires that the results of any reciprocal bargaining outcome between two or more members be multilateralised to all members, should render the GATT/WTO multilateral in terms of its negotiating function, the enforcement mechanism of the WTO, the other pillar of the WTO governance system, works largely on a bilateral basis. Moreover, there is considerable circumspection in both the theoretical and empirical literature on the practical effectiveness of the MFN principle in benefiting non-participating members¹⁵ as well as its weakening through various exceptions.¹⁶ For instance, as discussed later, according to Bagwell and Staiger (2009), theoretically, the twin principles of MFN and reciprocity can be understood as minimizing third-country spill-over from bilateral tariff bargaining and empirically, Subramanian and Wei (2007) find that only countries that engaged in reciprocal trade negotiations and liberalised reciprocally witnessed increases in trade.

The main stage of GATT/WTO accession negotiations, the request-and-offer stage, also works largely on a bilateral basis.¹⁷ Acceding states are required to go through an often lengthy, complex and costly accession process and make important institutional changes as part of their GATT/WTO accession. After a formal written request by the applicant government and its establishment of a Working Party (open to all incumbents), the applicant government presents a memorandum, containing detailed information explaining the country's trade and legal regime, followed by written questions and answers. After this, a process of much more intensive bilateral and small group negotiations on the terms of accession takes place. In the bilateral negotiations, each member of the Working Party negotiates with the acceding country on specific market access commitments. The multilateral negotiations focus on the compliance with WTO rules and disciplines. The compliance often requires the need to reform domestic legal framework.

Similarly, the negotiations and enforcement stages of GATT/WTO trade governance system is also largely bilateral or small group based i.e. relations-based. The GATT negotiations occurred largely on a bilateral or small-group basis. Until the fourth round (Geneva Round, 1956) negotiations were conducted on the basis of product-by-product, principal supplier method, where a country could only be requested to give tariff concessions on a particular product by the principal supplier of that product to that country. Although the rules were subsequently altered to allow countries to act collectively in requesting concessions, other rules, norms, and procedures, including exclusion of products and policies of interest from the negotiating agenda as well as high costs of co-ordination, prevented developing countries from making requests in an effective manner. It was only from the Uruguay Round (1986) that developing countries began to use coalitions effectively to enhance their bargaining power at the GATT/WTO.

The enforcement stage of the global mode is also largely bilateral in its actual functioning. The corresponding WTO rule requires "withdrawal of substantially equivalent concessions." Smaller

¹⁵ See Horn and Mavroidis (2001) and Caplin and Krishna (1988) for surveys and Bagwell and Staiger (2009), Ludema and Mayda (2009) and Subramanian and Wei (2007) for recent developments in the theoretical and empirical literature respectively. The MFN principle is discussed further in the sections on bargaining and enforcement.

¹⁶ Such as the introduction of article XXIV in 1958 permitting preferential trade arrangements followed by the US-Canada auto pact in 1965, the Generalised System of Preferences in 1971 and introduction of plurilateral agreements in the Tokyo Round (1973-79); through the use of discriminatory trade instruments like voluntary export restraints (VERs), anti-dumping and countervailing duties and US Section 301 (Cebi and Ludema, 2001).

¹⁷ See http://www.wto.org/english/thewto_e/wahtis_e/tif_e/org3_e.htm#join.

countries are at a disadvantage in terms of their ability to retaliate. If the small country imposes retaliatory tariffs, it only increases its local price and is unable to inflict any effective punishment on the bigger trading party due to the small size of its market. Partly as a reflection of this inability there have been repeated calls for permitting *multilateralism* in retaliation (Maggi, 1999), tradability of retaliation rights (formally proposed by Mexico during the Doha Round (WTO, 2002)) or monetary compensation (Bronckers and Van Den Broek, 2005) or disproportionate retaliation. Developing countries first proposed the possibility of collective retaliation in 1965 to address violation of obligations by a large country against a smaller country (Hudec, 2000). The most recent proposal for instilling multilateralism in retaliation was made by Mexico in the ongoing Doha Round, proposing tradability of retaliation rights. Analytically, Maggi (1999) underscores the importance of multilateral enforcement mechanisms in the face of strong imbalances in bilateral trading relationship.

In what follows, it is argued that although in comparison to the global mode of trade governance, the regional mode might be characterised as relatively relations-oriented, the role of relations in governing the global trading mode is far from insignificant. In other words, the global mode cannot be characterised as primarily rules-based. Relations-based forms of governance play a critical role in governing global trade interactions. The remainder of this section provides a comparative assessment of the roles of rules and relations-based forms of governance in global and regional modes of trade governance.

Membership and information structure

A relationship-based governance system would typically have a limited membership and allow for close and implicit systems of information and communication, including screening and signalling by potential members, key aspect of relations-based forms of governance. In contrast, a rules-based system would have a large number of members with little need for close proximate interactions among members.

The global trading system, which originated as the GATT, in 1947, began with a membership of 23 countries, which remained relatively stable at 26 until the Dillon Round, in 1960, after which the membership started rising to reach the 153-strong WTO membership at present (compared to the 192 member states of the United Nations). It is, however, important to note that the membership of the rule-making and agenda-setting sub-groups at the GATT/WTO has been small and that decision-making has occurred largely on a bilateral or small-group basis as also discussed above.

The preparation of the (Havana) Charter of the International Trade Organization (ITO) and the process of creating the GATT was led by the United States in close consultation with the United Kingdom although 18 countries were part of the Preparatory Committee, which had been invited to draft a convention for consideration of an International Conference on Trade and Employment (Irwin et al, 2008). The establishment of the European Economic Community (EEC) in 1958 led to an improvement in the bargaining leverage of Western European economies, vis-à-vis the United States (Bagwell and Staiger, 2002). The EC took over the GATT membership of its six states. Individually, each European country had limited leverage against the United States but by coordinating through the regional organisation, they could improve their bargaining position. In fact, the EEC, renamed the European Community (EC) in 1967, emerged as a major player in GATT negotiations, contributing significantly to the making of rules at the global level.

The United States and the EEC became the main negotiators at the GATT negotiations with fundamental disagreements over the tariff cutting formula during the Kennedy and Tokyo rounds, which gave rise to the exclusive *Green Room* meetings. The United States preferred linear cuts whilst the EEC preferred harmonising cuts in accordance with their existing tariff structures and interests (see Mayer, 1981). More broadly, the GATT/WTO negotiations occurred largely amongst the so-called quad members consisting of the United States, the European Union, Japan and Canada until the Uruguay Round. The Doha Round of trade negotiations witnessed the emergence of a “new quad” comprising the United States, European Union, Brazil and India and the G-6 consisting additionally of Australia and Japan. The Doha Round also witnessed the emergence of several issue-based and cross-cutting coalitions, which helped in limiting the number of negotiators and negotiating positions and thereby improving the flows of information through small group based interactions.¹⁸ As regards regional trade agreements, the membership of real-world regional trade agreements is relatively small as compared to the close to universal global trade arrangement. The size of regional agreements ranges from 3 members in case of the NAFTA (North American Free Trade Agreement), to 4, 7, 10 and 27 for the MERCOSUR (Southern Market), SAARC (South Asian Association for Regional Cooperation), ASEAN (Association for South East Asian Nations), and the EU (European Union) respectively (Table 2). Although the EU’s membership is large and increasing, it has developed the most comprehensive set of organisational and institutional arrangements for regular exchange of information and enforcement. In general, in regional arrangements, member states share commonalities in language, history and other institutions, which allow for improved communications.

Bargaining Structure

Symmetry among members, in terms of economic size and ability to influence terms of trade, is expected to be much less of a constraint to cooperation in a rules-based system of governance as rules can be devised for all possible situations in order to prevent exploitation of smaller members by relatively large members. Thus one would expect asymmetry in membership structure in a rules-based system. In contrast, relationship-based arrangements would typically be observed among symmetric member states.

The bargaining structure of international trade agreements plays out at two stages of the agreement. The first is at the stage of negotiation of the agreement and the second is at the level of enforcement. At the negotiation stage of the global mode, there are a number of problems with regard to the bargaining structure. As mentioned earlier, according to the leading theory of trade agreements, the objective of global trade liberalisation is identified as solving the ToT driven prisoner’s dilemma. This means that, by definition, the global mode is most appropriate, as a negotiating forum, for relatively larger economies, which can influence world prices. The relevant GATT/WTO rule requires that there must be a “balance in exchange of concessions.” But in this sense the smaller countries cannot individually offer much to the larger countries because small countries, by definition, cannot influence world prices and therefore impose no negative externality on larger countries that might be resolved through a mutual arrangement based on reciprocity between

¹⁸ The issue-based coalitions included the G20 and G33, NAMA11 groupings on trade in agricultural and industrial products whilst the cross-cutting coalitions included the least developed countries (LDCs), the small and vulnerable economies (SVEs), land-locked developing countries (LLDCs) groupings.

these two types of countries. Thus the terms-of-trade based reciprocity breaks down between large and small countries.¹⁹

This trade related reciprocity can only be exchanged amongst countries that are more or less symmetric in terms-of-trade type bargaining power. As argued above, these large members have been the main rule-makers and decision-makers despite being a minority of the GATT/WTO membership. So although the WTO's actual membership consists of countries of varying sizes, terms-of-trade type market power, is exercised by a small select group of large members. Although rules were created to address asymmetries in membership, the restrictiveness and ineffectiveness of the rules, such as the Special and Differential Treatment (SDT) clause, for addressing such asymmetries is widely recognised (Das, 2003).

Also, although any concessions agreed upon among the negotiating parties are in-principle subsequently extended to all members on an MFN basis, there is little theoretical or empirical support for the view that non-participating members have benefited much, in terms of increased export volumes, from such an arrangement. In theory, according to Bagwell and Staiger (2009), the twin pillars of MFN and reciprocity can be understood as minimizing third-country spill-over from bilateral tariff bargaining. They show that the MFN rule permits the liberalising force of reciprocity to be harnessed in an essentially bilateral manner even in an explicitly multilateral arrangement. Non-liberalising members do not benefit from MFN extension of tariff reductions of liberalising members as productive resources released from the import-competing sectors of liberalising members become available for their export-oriented sectors thereby making their exports more competitive unlike the non-liberalising members, where no reduction in tariffs occurs and thereby no release of resources from import-competing sectors takes place. Empirically, Subramanian and Wei (2007) show that countries that engaged (industrialised economies) in reciprocal trade negotiations witnessed increases in trade and that the WTO, particularly its predecessor the GATT, has been a two-tier organization with far greater liberalisation obligations undertaken by its developed than developing country members.

Following from above, the breakdown of bargaining asymmetries amongst members is manifested in the two-tier nature of the governance at the GATT/WTO. Firstly, in the gap between the *de jure* and the *de facto* modes of decision-making practiced at the GATT/WTO. Formally, the WTO rules treat every member equally i.e. every member has equal weight and is equally bound by the negotiated outcome.²⁰ Article XXV of the GATT provided for one-country one-vote and decision by a majority of votes cast unless otherwise provided. In practice, however, the GATT/WTO negotiations have largely been based on consensus in small group settings. These modes of decision-making are what I characterise as relationship-based forms of governance. In international trade negotiations, countries not only try to increase the overall gains through cooperation but also attempt to enhance their share of the gains arising from increased policy cooperation. The extent of the gains that a country is able to realise is shaped by a country's bargaining power. But bargaining power in turn is shaped by the rules and the agenda of negotiations. It is well acknowledged that one of the driving forces for European consolidation, in the second half of the twentieth century, was the object of increasing the region's bargaining power for rule-making, agenda-shaping and policy-setting purposes vis-à-vis the United States at the GATT (Bagwell and Staiger, 2002). More recently, developing

¹⁹ Smaller countries may join global trade agreements for other reasons such as to provide a credible commitment mechanism for their governments with respect to their domestic interests (Staiger and Tabellini, 1987; Maggi and Rodriguez-Clare, 1999, 2007).

²⁰ Although a majority vote is possible, it has never been used at the WTO and was extremely rare under its predecessor, the GATT.

countries have taken recourse to issue-based and cross-cutting coalitions to increase their bargaining power within a small group decision-making setting at the WTO.

The regional mode differs significantly from the global mode in addressing bargaining asymmetries. The EU and ASEAN communities correspond closely in terms of structure of membership – although countries are of different economic sizes, there is no one single giant economy. This cannot be said of the North American, South Asian, and South American agreements. Some parts of Africa are closer to Europe and East Asia. Economic asymmetries exist in most regional arrangements, albeit in varying degrees, but their impact on reciprocity in the exchange of concessions and ultimate distribution of gains has generally been tackled through explicit recognition and addressal of such imbalances through a variety of governance arrangements as discussed below.

The regional agreements tend to explicitly recognise imbalances in bargaining power of partners and may allow for solving the problem in one or more ways so that there is relatively smaller gap in the formal rules and the actual practice unlike at the GATT/WTO. In such cases, areas and policies for negotiations have been chosen to allow for reciprocity within the arrangement or by offering strategic advantages to the larger members for improving their outcomes at alternative negotiating forums. Asymmetry has often been addressed, at the negotiation stage, by creating linkage in other trade or domestic issue areas, especially in cases where reciprocity on mainly trade issues is not possible. This was particularly true in case of the proposals for a free trade arrangement, with the United States, first by Canada and later in its extension to Mexico. As a much bigger economy, the United States was initially reluctant to expend and divert resources away from the GATT. As a strategy to engage the much larger trading partner, Canada offered to incorporate services and investments into the agreement as an instrument to make the deal more attractive to its counterpart to enter into the agreement. “Canada consciously offered the U.S. the possibility of negotiating a regional arrangement in services, which was then an emerging issue in global negotiations, with the understanding that a prior regional agreement would give the U.S. more leverage in subsequently multilateralizing their preferred services agreement” as a result, “a number of seemingly largely content-less chapters appeared in the final agreement...for multilateral agenda shaping purposes” (Whalley, 1996, pg. 20). Similarly, Mexico was accorded tariff preferences in exchange for implementing various labour and environmental standards of value to the United States. Developing countries have tended to accord a special status to the principle of SDT in their regional arrangements such as the SAARC and ASEAN, partly to enhance the strength, precision and effectiveness of the rule at the GATT/WTO forum. The regional mode also allows for addressing asymmetry either by larger countries agreeing to concede authority to a supranational organisation, as in case of the EU, or by allowing for a more complete contract as in case of the NAFTA. Also, in regional agreements which consist of more than two parties, each party can act as a third-party enforcer given the easier flow of information and other relational arrangements. The principle of SDT is also found to be more effectively enforced in regional arrangements like SAARC and ASEAN.

Transaction Structure

The transaction structure considers both the transaction type as well as the transaction technology. Transaction type refers to the scope of the agreement in terms of areas of coverage and policies under consideration. Transaction technology is used to refer to the ability to exchange

concessions across different issue-areas, including across trade and domestic policy areas, as well as the possibility of retaliation across issue-areas and policies, commonly known as linkage.

Rules-based governance is ideally suitable for enforcing limited types of transactions involving simple transaction technology. The cost of adding more parties, however, to a given transaction type are relatively small. In contrast, relationship-based governance is ideal for enforcing a large number of transactions and transaction types among a limited number of parties.

Historically, the GATT focused on *ad valorem* tariffs in the industrial sector. Even within industry, whole sectors, such as textiles and clothing, were effectively excluded from the GATT and administrative regulations such as Voluntary export restraints (VERs), antidumping and countervailing duties were devised to circumvent liberalisation in other areas. It was only during the eighth round, the Uruguay Round (1986-95), of trade talks that a range of new issue areas including trade in agriculture, trade and investment in services, protection for intellectual property, product standards and food safety were incorporated into the global trade negotiating agenda as part of the Single Undertaking at the WTO. Certain types of domestic subsidies for agriculture were also included. More recent attempts to include negotiations on areas like environment, labour and competition policies at the WTO have been highly contentious and so far resisted.

The GATT was historically based on a simple transaction technology (i.e. trade tariff reductions in one sector in exchange for reciprocal tariff reductions in another sector), which is appropriate for a rules-based system of governance. In contrast to the GATT, the WTO's Single Undertaking effectively created a linked agreement by *tying-in* negotiations on different issue-areas. But the jury is still out on the efficacy of enlarging the scope of the global trade agreement as part of the Single Undertaking, which stipulates that all WTO members must agree on every decision to conclude the Round.²¹

Thus, overtime the GATT/WTO system has not only witnessed an increase in number of parties but also in the number of agreements or transaction types and increasing complexity in transaction technology as part of the Single Undertaking. The initial limited focus of the GATT was appropriate within rules-based governance. It would therefore appear that the overreach of the GATT/WTO system has further weakened the efficacy of its rules-oriented governance, which was quite fragile to begin with as discussed. In fact, the Doha Round has been under negotiations for over a decade and is unlikely to conclude successfully, at least in the near future.

In contrast to the GATT, regional arrangements have tended to include a greater variety of trade related issue-areas and policy instruments as well as non-trade issues on the negotiating agenda. In general, regional arrangements are wider and deeper in terms of coverage of trade in goods and services, movement of people and capital, intellectual property rights, investment, competition, environment and labour standards, government procurement, mutual recognition and regulatory harmonization. The EU requires its members to submit decision-making authority, to the regional organisation, on a range of issues, including agricultural policy, environment and labour standards, intellectual property and human rights. The NAFTA covers agriculture, services and investments as well as clauses on enforcement of IPRs along with side agreements on labour and environment. The ASEAN has been most successful in achieving regional peace and stability, which has in turn contributed to greater intra-regional trade. The Australia-New Zealand CER provide for

²¹ See Mattoo and Subramanian (2008) and Martin and Messerlin (2007) for a critique of this constraint.

mutual recognition of each other's registration. Regional arrangements have been used successfully to foster regional cooperation in areas ranging from infrastructure, energy and environment. In fact, recent research suggests that unlike the more ambiguous conclusions for goods trade, countries are likely to gain from preferential liberalisation of services trade, compared to the status quo, and regulatory cooperation may not only be more feasible but more desirable among a subset of countries than globally and for the creation of regional public goods.²²

The regional mode is based on a more complex transaction technology. Concessions in a particular area may be exchanged for policy concessions in a different issue area, which might largely be a domestic policy concern. Sometimes, signing an agreement in one area, say trade, might be made conditional on signing of an agreement in another area, which might be related to domestic policy, such as environment or labour standards or human rights issues. In fact, tariff preferences may be used as an instrument to promote cooperation in other areas as was the case in the NAFTA. Possibility of cross-issue negotiations may create cooperation, by allowing mutual gains, in situations where such cooperation may not be possible on a single-issue. In other words, when reciprocity in a single issue-area is not possible between two countries then linkage may create the necessary conditions for potentially mutually beneficial exchange. The relatively small-group nature of regional agreements allows for incorporation of greater variety of transaction types as well as transaction technology without compromising relations-oriented governance of such agreements.

The regional mode of trade governance may also implicitly or explicitly allow for cross-retaliation where non-cooperation in any one policy can trigger punishment in any or all policies. Until recently, cross-retaliation was not permitted at the GATT/WTO.²³ The new integrated Dispute Settlement Undertaking (DSU) of the WTO allows cross-retaliation within limits. The TRIPS agreement explicitly permits compliance with intellectual property rights to be enforced through the threat of import barriers. However, cross-issue retaliation, in general is looked upon unfavourably at the WTO. Article 3.10 of the WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes, or the DSU, states "It is also understood that complaints and counter-complaints in regard to distinct matter should not be linked". Further, Article 22.3(a) of the DSU specifies the general principle that "...complaining party should first seek to suspend concessions or other obligations with respect to the same sector(s)" but Articles 22.3 (b) and (c) add "if that party considers it is not practical or effective" then suspension of concessions or retaliation can be sought in another sector but under the same agreement where the violation has occurred but should that also be impracticable or ineffective, retaliation can be sought under another agreement.

Studies on linkage make the following distinctions in evaluating the effectiveness of linkage in creating more balanced and enforceable agreements.²⁴ First, whether issues are linked or tied-in, where the former refers to the *possibility* of forming agreements over multiple issues and the latter to the *requirement* that agreements cover multiple issues. While issue-linkage can be characterised as an equilibrium phenomenon, issue tie-in is in the form of an exogenous constraint on the set of possible agreements. The second distinction is made between, cross-issue negotiations – where concessions in a particular area may be exchanged for policy concessions in a different issue area, which might be a domestic policy concern - as against cross-issue retaliation – when non-cooperation in either issue can be met with punishment in either or all policies. Third, whether the policy issues to

²² See Mattoo, Stern and Zanini (2008) for a survey.

²³ The phrase cross-retaliation itself does not appear in the WTO's DSU but it is commonly understood as describing a situation where the complaining country retaliates (i.e. suspends concession or other obligations) under a sector or an agreement which has not been violated by the defending country (WTO website).

²⁴ See Charnovitz (1984), Sebenius (1983), Spagnolo (1999), Limao (2002) and Conconi and Perroni (2002).

be linked are separable, substitutes or complements. For instance, according to Spagnolo (1999), when policy issues are separable, linkage can facilitate cooperation by reallocating enforcement power i.e. when expected gains from cooperation are small with respect to one issue and large with respect to another, linkage facilitates policy cooperation by allowing slack in enforcement present in the first issue to be disciplined by the stronger enforcement of the second issue. When policy issues are substitutes, issue linkage may further facilitate cooperation by increasing the amount of enforcement power as when countries do not cooperate on one issue they value relatively more cooperation on substitute issues and therefore a simultaneous threat of interruption of cooperation on both policy issues is relatively stronger. The opposite holds when issue are complements.²⁵ Limao (2002) argues that linkage leads to reallocation of enforcement in the linked policies and promotes cooperation in one policy at the expense of the other if the two policies are independent and there is asymmetry in the enforceability of each issue. For instance, if under no-linkage tariffs are closer to their cooperative optimum than e-taxes (environmental standards), then linkage leads to higher e-taxes at the expense of higher tariffs and vice-versa. However, if policies are strategic complements then linkage promotes cooperation in both issues. Limao (2002) concludes that if the goal of the WTO remains multilateral trade liberalisation then the current practice of the WTO with respect to limiting cross-retaliation across independent issues should be preserved but that there is greater scope for the creation of enforcement through linkage within a regional context.

Nature of Contract and Organizational Authority

Under a rules-based governance system, one would observe explicit detailed contracts and formal organisational authority whilst under relationship-based governance, contracts would be implicit and organisational authority limited, if any.

The global mode is formally based on an explicit set of agreements containing detailed specification of rules and procedures for interaction amongst contracting parties for negotiation of policies and settlement of disputes. The GATT itself did not have a *de jure* organisational form as the International Trade Organisation (ITO) to provide the organisational authority to the GATT never came into existence despite detailed discussions. The GATT was therefore largely a forum for trade policy negotiations and for settlement of trade disputes. The global trade governance mode was accorded a formal organisational form only in the recent past with the establishment of the WTO in 1995. The WTO may be characterised as a supranational organisation but with bounded authority.²⁶ Historically, the GATT tended to underscore the self-enforcement properties of trade agreements and for this reason provided for safeguards and escape clauses as in-built flexibilities in the agreement to promote cooperation in a self-enforcing manner. These flexibilities allowed for safeguards for addressing volatility in trade volumes in the form of import surges etc. and for temporary suspension of obligations to prevent a complete breakdown of the agreement in such circumstances. The same logic can be used to explain gradualism of the GATT approach - as initial liberalisation promotes growth of export firms, these firms become better at what they do so that further liberalisation can be undertaken leading to virtuous cycles of liberalisation (Bagwell and Staiger, 2002). For all these reasons the organizational authority of the GATT was limited. Thus, the GATT did not have the organisational features of a typical rules-based system of governance as far as a strong formal organisational authority is concerned.

²⁵ Another linkage considered in the literature (Rama and Tabellini, 1998; Ederington, 2003) is between trade and domestic policy instruments as opposed to two policy issues. These studies find that trade cooperation is best enforced through the trade policy instrument and that non-linkage in trade and domestic policies is optimal.

²⁶ See Cooley and Spryut (2009) and Bagwell and Staiger (2002).

The regional mode of contracting displays a variety in the scope of the agreement, the nature of the contract and its organisational form and specification. For instance, the NAFTA is a relatively complete intergovernmental contract with detailed description of rules and procedures for dispute settlement. On the other hand, the EU with its big bureaucracy, the Commission, the Parliament, the Court of Justice and even a new cultural programme is an incomplete supranational contractual arrangement, where residual authority is vested in these third-party institutions and where the organizational (supranational) authority is high (Cooley and Spryut, 2009). In other words, the regional agreements tend to vary with respect to the degree of rules v relations-orientation of their contractual and organisational characteristics.

Enforcement

A rules-based system would tend to have a relatively legalistic, organisational authority or third-party based enforcement mechanism. In contrast, a relations-based governance system would tend to rely more on value and community based enforcement with little or limited recourse to organisational and third-party based enforcement mechanisms.

Analytically, the main enforcement mechanism in the global system of trade governance is the threat of retaliation, which is codified in the dispute settlement procedures of the GATT/WTO. Incentives to deviate from the agreement are balanced against the anticipated cost of retaliatory response in a repeated game-theoretic interpretation of the dispute settlement procedures. The government's incentive constraint requires that the gains from cheating in the short run be no greater than the discounted future value of gains foregone from non-cooperation. From this game-theoretic perspective, off-equilibrium path behaviour is unlikely to be observed as the credibility of the off-equilibrium-path threat enforces the equilibrium path rules. This perspective gives rise to questions regarding the need for explicit dispute settlement procedures in the GATT to begin with and their further strengthening in the WTO under the new integrated DSU. The gap in theory and practice and the need for GATT/WTO is attributed to the violations of usual assumptions, such as availability of perfect and costless information. However, as Ludema (1991) shows that by improving communications and providing a forum for re-negotiation, the DSU in fact diminishes the deterrent effect of threatened punishments. As mentioned earlier, the need for an explicit agreement remains an unresolved puzzle from this particular trade-theoretic view of trade agreement.

The regional mode has several enforcement advantages associated with the relative relationship-based nature of the mode. The regional mode is found to allow for a variety of enforcement mechanisms to operate simultaneously or sequentially to result in better enforcement of agreements. These range from better ex-ante alignment of preferences of potential members, the traditional threat of retaliation in repeated interaction, community sanctions and perhaps an organisational authority. Regional arrangements allow for selection of potential partners. If members with similar preferences, social, political and economic institutions are selected then more cooperation can be sustained as these preferences and norms of behaviour may be taken to be exogenous in the near future. Social norms are well recognised to act as informal constraints on behaviour that are more deeply embedded than formal rules. If countries share these higher order institutions then actual governance at the lower level improves intrinsically. Evolutionary game-theoretic analysis suggests that group selection can support high frequencies of cooperative behaviour provided the groups are small. It has also been argued that cooperation can be viewed as a trade-off between

material incentives and value-systems of members (Tabellini, 2008). So to the extent members share similar value-systems, ex-post enforcement is enhanced. The selection of *natural* trading partners based on similarity of preferences, shared commonalities in history, geography and other deep institutions provides for much better enforcement through better alignment of preferences and incentives to cooperate than is feasible in the global mode consisting of a highly distant and diverse membership. The threat of retaliation tends to operate more effectively as policies are negotiated simultaneously and allow for cross-retaliation i.e. non-cooperation in any policy can trigger punishment in any or all policies. Community sanctions work better in a regional context as even if one member is unable to retaliate in a particular case, another member could act as a third-party type enforcer. Thus each member can serve as a third-party enforcer but this power gets diluted as the number of parties involved increases as the third-party enforcer bears costs to confer benefits on other group members.

5. *Concluding Remarks*

The existing literature characterises the system of global governance, particularly trade governance, as primarily a rules-based system of governance. In this paper, I consider the alternative dimension of international trade governance, namely, relations. Governance systems are defined in terms of their informational, contractual, organisational and enforcement characteristics. The paper examines the relative role of rules-based and relations-based mechanisms in governing two alternative modes of international trade governance: the global GATT/WTO and regional trade agreements.

The global mode of trade governance, as embodied in the GATT/WTO, has indeed evolved a comprehensive system of rules to overcome its governance challenges. However, it is shown that relational arrangements constitute an important dimension of global trade governance rendering the global trade governance system two-tiered in nature i.e. rules as well as relations-based system. It is critical to explicitly acknowledge this two-dimensional nature of the GATT/WTO system to unlock its huge potential for enhancing global trade and incomes. Whilst the GATT negotiations were initially limited in the types of transactions and transaction technology, the types of transactions and the transaction technology, especially in the form of the Single Undertaking, have increased and become more complex. A rules-based governance system is not appropriate for handling such enlargement in scope and complexity and this paper supports the existing analysis on the Single Undertaking as being an underlying factor for the increasing difficulties in the functioning of the WTO. In contrast to the requirement of a strong organisational authority in an ideal rules-based system, the GATT/WTO system did not have such an organisational form until 1995 and even the authority of the WTO is bounded. The organisation authority of the WTO needs to be adequately extended and exploited in aid of the smaller members to enhance the multilateralism of the system in an effective manner.

References

- Bagwell, Kyle, and Robert Staiger. 1999. An economic theory of GATT. *American Economic Review* 89 (1):215-48.
- . 2002. *The Economics of the World Trading System*. Cambridge: The MIT Press.
- . 2003. Economic theory and the interpretation of GATT/WTO. Columbia University.
- . 2009. The WTO: Theory and Practice. Stanford University.
- Broda, Christian, Nuno Limao, and David Weinstein. 2008. Optimal tariffs and market power: the evidence. *American Economic Review* 98 (5):2032-65.
- Bronckers, Marco, and Naboth Van der Broek. 2005. Financial compensation in the WTO: Improving the remedies of WTO dispute settlement. *Journal of International Economic Law* 8 (1):106-26.
- Caplin, Andrew, and Kala Krishna. 1988. Tariffs and the most-favored nation clause: A game theoretic approach. *Seoul Journal of Economics* 1:267-89.
- Cebi, Pinar, and Rodney Ludema. 2002. The rise and fall of the most-favored-nation clause. *USITR Working Paper*.
- Charnovitz, Steve. 1998. Linking topics in treaties. *University of Pennsylvania Journal of International Economic Law* 19 (2):329-45.
- Conconi, Paolo, and Carlo Perroni. 2002. Issue linkage and issue tie-in in multilateral negotiations. *Journal of International Economics* 57 (2):423-47.
- Cooley, Alexander, and Henrik Spruyt. 2009. *Contracting States: Sovereign Transfers in International Relations*. Princeton: Princeton University Press.
- Dixit, Avinash. 2004. *Lawlessness and Economics: Alternative Modes of Governance*. Princeton: Princeton University Press.
- . 2009. Governance institutions and economic activity. *American Economic Review* 99 (1):5-24.
- Ederington, Josh. 2003. Policy linkage and uncertainty in international agreements. *Economic Inquiry* 41 (2):305-17.
- Ethier, Wilfred. 2004. Political externalities, nondiscrimination, and a multilateral world. *Review of International Economics* 12:303-20.
- Greif, Avner. 1992. Institutions and international trade: Lessons from medieval trade. *American Economic Review* 82 (2):128-33.
- Grossman, Gene, and Elhanan Helpman. 1995. Trade wars and trade talks. *Journal of Political Economy* 103 (4):675-708.
- Horn, Henrik, and Peter Mavroidis. 2001. Economic and legal aspects of the most-favored nation clause. *Journal of Political Economy* 109 (2):233-79.
- Hudec, Robert. 2000. Broadening the scope of remedies in WTO dispute settlement. In *Improving WTO Dispute Settlement Procedures Issues and Lessons from the Practice of Other International Courts and Tribunals*, edited by F. Weiss and J. Weirs. London: Cameron.

- Irwin, Douglas. 1995. The GATT in historical perspective. *American Economic Review* 85 (2):323-8.
- Irwin, Douglas, Petros C. Mavroidis, and Alan O. Skyes. 2008. *The Genesis of the GATT*. Cambridge, UK: Cambridge University Press.
- Jackson, John H. 1989. *The World Trading System: Law and Policy of International Economic Relations*, Cambridge, M.A.: Massachusetts Institute of Technology Press.
- Johnson, Harry. 1953-54. Optimum tariffs and retaliation. *The Review of Economic Studies* 21 (2):142-53.
- Keohane, Robert, O. and Joseph S. Nye. 1977. *Power and Interdependence*. Boston: Little, Brown and Company.
- Keohane, Robert. 1984. *After Hegemony*. Princeton: Princeton University Press.
- Krugman, Paul. 1997. What should trade negotiators negotiate about? *Journal of Economic Literature* 35:113-120.
- Li, John Shuh. 2003. Relation-based versus rule-based governance: An explanation of the East Asian miracle and Asian crisis. *Review of International Economics* 11 (4):651-73.
- Limao, Nuno. 2002. Trade policy, cross-border externalities and lobbies: Do linked agreements enforce more cooperative outcomes? : University of Maryland.
- Ludema, Rodney. 1991. International trade bargaining and the most-favored nation clause. *Economics and Politics* 3 (1):1-20.
———. 1996. On the value of preferential trade agreements in multilateral negotiations. Georgetown University.
- Ludema, Rodney, and Anna Maria Mayda. 2009. Do countries free ride on MFN. *Journal of International Economics* 77:137-50.
- Maggi, Giovanni. 1999. The role of multilateral institutions in international trade cooperation. *American Economic Review* 89 (1):190-213.
- Maggi, Giovanni, and Andres Rodriguez-Clare. 1998. The value of trade agreements in the presence of political pressures. *Journal of Political Economy* 106 (3):574-601.
———. 2007. A Political Economy Theory of Trade Agreements. *American Economic Review* 97 (4):1374-1406.
- Martin, Will, and Patrick Messerlin. 2007. Why is it so difficult? Trade liberalisation under the Doha agenda. *Oxford Review of Economic Policy* 23 (3):347-66.
- Mattoo, Aaditya, and Carseten Fink. 2002. Regional agreements and trade in services: Policy issues. *World Bank Policy Research Working Paper*. Washington DC: World Bank.
- Mattoo, Aaditya, and Arvind Subramanian. 2008. India and Bretton Woods II. *Economic and Political Weekly* November:62-70.
- Mayer, Wolfgang. 1981. Theoretical considerations on negotiated tariff adjustments. *Oxford Economic Papers New Series* 33 (1):135-53.

- McCalman, Phillip. 2001. Reaping what you sow: an empirical analysis of international patent harmonisation. *Journal of International Economics* 55 (1):161-86.
- Narlikar, Amrita, 2001. WTO decision-making and developing countries. Trade-related agenda, development and equity working paper 11, South Centre, Geneva.
- North, Douglass. 1990. *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.
- Ocampo, Jose Antonio. 2010. Rethinking global economic and social governance. *Journal of Globalization and Development* 1 (1): 1-27.
- Panagariya, Arvind. 2000. Preferential trade liberalisation: the traditional theory and new developments. *Journal of Economic Literature* 38 (2):287-331.
- Rajan, Raghuram and Luigi Zingales. 1998. Which capitalism? Lessons from the East Asia crisis, mimeo, University of Chicago.
- Rama, Martin, and Guido Tabellini. 1998. Lobbying by capital and labor over trade and labor market policies. *European Economic Review* 42 (7):1295-1316.
- Rodrik, Dani. 1995. Political economy of trade policy. In *Handbook of International Economics* edited by Gene M. Grossman Kenneth S, Rogoff. Amsterdam: North-Holland.
- Rose, Andrew. 2004. Do we really know that the WTO increases trade. *American Economic Review* 94 (1):98-114.
- Sebenius, James. 1983. Negotiation arithmetic: adding and subtracting issues and parties. *International Organisation* 37 (2):281-316.
- Spagnolo, Giancarlo. 1999. Issue linkage, delegation and international policy cooperation. Stockholm School of Economics.
- Srinivasan, T N. 2007. The dispute settlement mechanism of the WTO: a brief history and an evaluation from economic, contractarian and legal perspective. *The World Economy* 30 (7):1033-68.
- Staiger, Robert, and Guido Tabellini. 1987. Discretionary trade policy and excessive protection. *American Economic Review* 77 (5):340-48.
- Subramanian, Arvind, and Shang-Jin Wei. 2007. The WTO promotes trade, strongly but unevenly. *Journal of International Economics* 72 (1):151-75.
- Tabellini, Guido. 2008. The scope of cooperation: Values and incentives. *Quarterly Journal of Economics* 123 (3):905-950.
- Tomz, M, J Goldstein, and D Rivers. 2007. Do we really know that the WTO increases trade? Comment. *American Economic Review* 97 (5):2005-18.
- Whalley, John. 1996. Why do countries seek regional trade agreements? *NBER Working Paper* 5552.
- Williamson, Oliver. 1996. *The Mechanisms of Governance*. New York: Oxford University Press.
- . 2000. The new institutional economics: taking stock, looking ahead. *Journal of Economic Literature* 38 (3):595-613.
- . 2005. The economics of governance. *American Economic Review* 95 (2):1-18.

WTO. 2002. Proposal by Mexico: Improvements and Clarifications of the Dispute Settlement Understanding TN/DS/W/23.

———. 2009. Database on Regional Trade Agreements.

Table 2: Institutional Characteristics of Selected Regional Trade Agreements

Characteristic	GATT/WTO	EC/EU	NAFTA	ASEAN	SAARC	MERCOSUR
Background information						
Establishment	1948 1995: WTO	1958	1994 1984: CUSFTA	1967 1992: AFTA	1985 '06: SAFTA	1991
Type	FTA	CU & EIA	FTA & EIA	FTA	FTA	CU & EIA
Coverage	Goods 1995: Services +	Goods & services +	Goods & services +	Goods	Goods	Goods '05: services
Intra-regional trade ('06)	--	68	51	25	4	14
Institutional information						
Membership	153 Decision-making: Quad; g-6; coalition based	27	3	10	7	4
Bargaining (relative)	Asymmetric	(A)symmetric Decentralised	Asymmetric	Symmetric	Asymmetric	Asymmetric
Transactions	Limited to industrial tariffs initially WTO: increase in transaction types Simple technology WTO: Single undertaking (tie-in)	Steady increase in types (goods, services, factors etc.) Complex	Goods, services, investments, IPRs Linkage	Limited (goods) Simple	Limited (goods) Simple	Increase in types (goods, services, factors) Complex
Contract	Complete (GATT Articles, DSU, WTO)	Incomplete (Treaty, EC as organizational authority)	Complete	Incomplete	Complete	Incomplete (Treaty)
Organisation	Council 1995: WTO	Parliament, Council, Commission, Court of Justice (ECJ), Court of Auditors, ECB & EIB	--	Council, Secretariat	Council, Secretariat	Parliament, Council, Group/executive, Commission
Enforcement	Panel and appellate body	Permanent court (ECJ & CFI)	Ad hoc arbitration tribunal	Ad hoc panel & appellate body	Ad hoc arbitration council	Ad hoc arbitration tribunal & appellate body (permanent review court)
No. of working/official languages	3 (English, French, Spanish)	3 (13 official) (English, French, German for Commission)	3 (English, Spanish, French)	1 (English)	1 (English)	2 (Spanish, Portuguese)

Abbreviations: ASEAN: Association of South East Asian Nations; EU: European Union; MERCOSUR: Southern Common Market; NAFTA: North American Free Trade Agreement; SAARC: South Asian Association for Regional Cooperation; FTA: Free trade agreement; CU: Customs Union; EIA: Economic integration arrangement.

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