## LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE

## The Dynamics of Preferential Trade Agreements and Domestic Institutions – An Alternative Route towards Asian Regionalism: A Case Study of Singapore and Thailand's Preferential Trade Agreements

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A thesis submitted to the Department of International Relations of the London School of Economics and Political Science for the degree of Doctor of Philosophy in International Relations 2008

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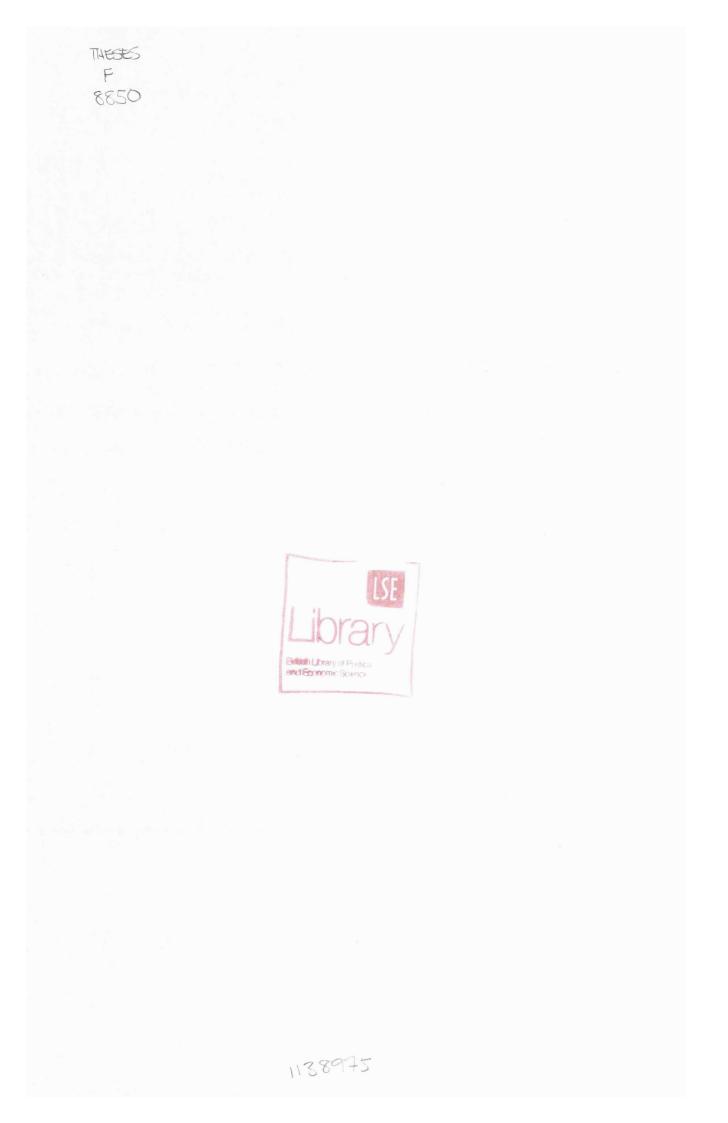
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## Abstract

The greatest concentration of regionalism in international trade today can be found in the Asian Pacific region, and the number of international trade agreements in that region is still rising. In the general literature on regionalism, some proponents claim that regionalism can be a test-site for developing countries to enhancing their institutional capacity, before they actively engage in future trade liberalising agreements. Could the institutional enhancement explain the rise of regionalism in the Asian region? This claim, however, remains empirically untested. This thesis aims to examine this claim by observing the effects inter-regional trade agreements have on developing countries, especially on provisions that eliminate regulatory barriers to trade, and how those provisions may enhance institutional capacity to tackle future trade agreements with regulatory barriers to trade. More importantly, the thesis examines whether those improvements contribute to developments of their own intra-regional trade agreements. The case study countries chosen are Singapore and Thailand because they have spearheaded the most trade agreements in the region.

The thesis examines the effects of regionalism on domestic institutions both at the macro level – general institutions involved with trade policy making, and the micro level – specific institutions involved with the regulatory aspect of trade. To obtain a more comprehensive account of institutional development, the micro level includes two types of institutions: one on the development of trade facilitation, representing trade in goods; the other on the movement of persons, representing trade in services. Overall, developments at the macro and micro levels – improvements in negotiating capacity, moderate progress in governmental cooperation, creation of new governmental agencies, greater involvement of the business community and inputs from civil society –have all contributed to building the case study countries' institutional capacity. This in turn allowed them similarly to improve regulatory barriers to trade in their own intra-regional trade agreements, illustrating how trade agreements enhance developing countries' domestic institutions to engage in future trade agreements.

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## Abbreviations

ACFTAASEAN-China Free Trade AgreementAECASEAN Economic CommunityAFASASEAN Framework Agreement on ServicesAFTAASEAN Investment AreaAIAASEAN Investment AreaANZSCEPAgreement between New Zealand and Singapore on Closer Economic PartnershipAPECAsian Pacific Economic CommunityAQSIQAdministration of Quality Supervision Inspection and QuarantineASEANAssociation of Southeast Asian NationsAVAAgri-Food and Veterinary AuthorityCECAIndia-Singapore Comprehensive Economic Cooperation AgreementCEPTCommon Effective Preferential TariffCERCloser Economic Relations AgreementCGEComputable General EquilibriumCIERPCommittee on International Economic Relations PolicyCTHChange in Tariff HeadingEDBEconomic Development BoardEDIElectronic Data InterchangeEHPEarly Harvest ProgrammeESFTAEFTA-Singapore Free Trade AgreementFDASFood and Drug AdministrationFDIForeign Direct InvestmentFSANZFood Standards Australia New ZealandFTAFree Trade Agreement on ServicesGATTGeneral Agreement on ServicesGATTGeneral Agreement on Tariffs and TradeGLCGovernment Linked CompanyIEInternational EnterpriseJSCCIBJoint Standing Committee on Commerce, Industry, and BankingJSEPAJapan-Singapore Economic Partnership AgreementTFTAKorea-Singapore Fre	ACFS	Agricultural Commodity and Food Standards
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	MND	Ministry of National Development

	MOAC	Ministry of Agriculture and Cooperatives
	MOC	Ministry of Commerce
	MOF	Ministry of Finance
	МОРН	Ministry of Public Health
	MOU	Memorandum of Understanding
	MRA	Mutual Recognition Agreements
	MTI	Ministry of Trade and Industry
	NAFTA	North American Free Trade Area
	NGO	Non-Governmental Organisation
	NICs	Newly Industrialised Countries
	NTB	Non-Tariff Barrier
	OECD	Organisation for Economic Co-operation and Development
	P4/TSEPA	Trans-Pacific Strategic Economic Partnership Agreement
	PAP	People's Action Party
	PTA	Preferential Trade Agreement
	ROO	Rules of Origin
	SAFTA	Singapore-Australia Free Trade Agreement
	SARS	Severe Acute Respiratory Syndrome
•	SBF	Singapore Business Federation
	SJFTA	Singapore-Jordan Free Trade Area
	SPRING	Standards, Productivity and Innovation Board
	SPS	Sanitary and Phyto-sanitary
	STD	Special and Differential Treatment
	STEER	Singapore-Thailand Enhanced Economic Relationship
	TAFTA	Thailand-Australia Free Trade Agreement
	TBT	Technical Barriers to Trade
	TDRI	Thai Development Research Institute
	TR	Technical Requirement to determine origin
	TRT	Thai Rak Thai
	TUSFTA	Thailand-United States Free Trade Agreement
	USSFTA	United States-Singapore Free Trade Area
	USTR	United States Trade Representative
	WCO	World Customs Organisation
	WTO	World Trade Organisation
	VA	Value Added

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Very few people discuss about the difficulties of the PhD process. It was only after I entered the PhD programme that I became aware of the long mental and physical strains of the PhD life. However, equally, very few people discuss about the positive aspects of the PhD process, which is filled with rewarding opportunities, including the prospect of meeting kind and interesting people along the way. I would like to take this occasion to thank the following people I met during my PhD process.

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# 1 Chapter I Introduction

Trade is the natural enemy of all violent passions. Trade loves moderation, delights in compromise, and is most careful to avoid anger. It is patient, supple, and insinuating, only resorting to extreme measures in cases of absolute necessity. Trade makes men independent of one another and gives them a high idea of their personal importance: it leads them to want to manage their own affairs and teaches them to succeed therein. Hence it makes them inclined to liberty but disinclined to revolution. Alexis de Tocqueville (Democracy in America)

### **1.1 Stating the Research Question:**

The recent history of the Asian region<sup>1</sup> paints a picture of countries supporting multilateral free trade. They have strong faith in the multilateral trading system because the global trading system has provided them with rapid economic growth and development. In 1993 the World Bank dubbed this success story as the 'East Asian Miracle'. Consequently, Asian countries found little need to diverge from multilateral trade policies. As a result, while most of the world has undergone multiple waves of PTA, most Asian countries appeared to be shielded from such phenomenon. The notable exceptions were the Association of Southeast Asian Nations (ASEAN) and Asian Pacific Economic Cooperation (APEC). Despite various declarations of creating a regional free trade area, such rhetoric and ideas had never been put into practice. However, in the past decade the canvas has suddenly changed.

#### 1.1.1 Setting the Scene:

Recently there has been a worldwide resurrection of Preferential Trade Agreements (PTAs). In 1990, only 30 PTAs were notified to the World Trade Organization (WTO), however, by 2004, this number rose to 229<sup>2</sup> PTAs (World Bank, 2005). Interestingly, in contrast to the 1960s, the recent waves of PTAs no longer employ import substitution

<sup>&</sup>lt;sup>1</sup> I refer the Asian region -the main region under examination in this thesis- to include East and Southeast Asian region. This is predominately because the greatest concentration of trade agreements in the Asian region can be found in the East and Southeast Asian region. Thus, I have excluded the Central, South, and West Asian region.

<sup>&</sup>lt;sup>2</sup> Prior to the EU enlargement, there were 285 PTAs in total.

policies, instead, they replicate the success stories of export-led growth policies (Sampson, 2003b). It is argued that PTAs today attempt to facilitate their members' participation rather than withdrawing from trade (Sachs & Warner, 1995).

The general literature also refers this phenomenon as regionalism. However, contemporary trade agreements are not bound within one region. Consequently, I refer them as Preferential Trade Agreements.<sup>3</sup> Specifically, I define PTAs as trade agreements between two or more countries, unbounded by geographical constraints, aim to increase trade in goods and services by eliminating tariff and non-tariff barriers to trade.<sup>4</sup> Regionalism, on the other hand, is much broader, it includes economic, political, social and cultural aspects, and goes far beyond free trade. Under regionalism, the political ambition of establishing regional coherence and security are the primary motivation that fuses them together (Buzan, 1998; Björn Hettne, 2005; Bjorn Hettne & Soderbaum, 2000).

The global rise in PTAs can be observed in Figure 1 (Fiorentino, Verdeja, & Toqueboeuf, 2007), where the Asian region was no exception. Prior to the late 1990s the Asian region resembled an island shielded from the waves of PTAs. This shield was composed of a number of factors, such as the heterogeneity of the region<sup>5</sup> and the region's economic success resulting from multilateral free trade that kept Asian countries aligned with globalisation and the multilateral trading system (Yamazawa, 2004). However, those factors slowly faded away, and were overtaken by other pressing matters.

<sup>&</sup>lt;sup>3</sup> I do not refer trade agreements as Free Trade Agreements (FTAs), as commonly known, because these trade agreements do not lead to the liberalisation of free trade, in the strictest sense; instead they liberalise trade preferentially amongst partners and sectors. Moreover, in the economics literature, PTAs encompasses wider range of agreements, from FTAs to Customs Unions.

<sup>&</sup>lt;sup>4</sup> Consequently, agreements that eliminate trade barriers, such as the Singapore-Thailand Enhanced Economic Relationship, is considered a PTA. However, agreements that only promote cooperation and do not eliminate trade barriers, such as the Thailand-Singapore Civil Service Exchange Programme are not considered PTAs.

<sup>&</sup>lt;sup>5</sup> The social and economic heterogeneity of the region made it difficult for Asian countries to find a common ground to foster an environment for regional integration. For further details, see Yamazawa (2004).

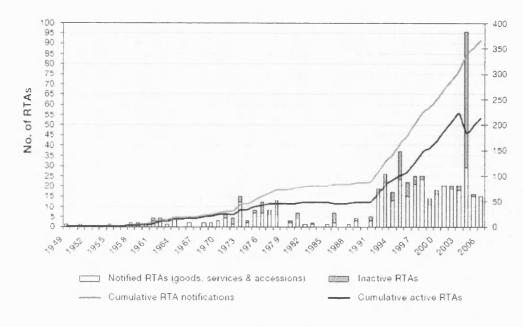


Figure 1: Increase in PTAs

The Asian region's first sign of resentment against the multilateral trading system came when the WTO failed to push further multilateral liberalisation in agricultural trade. In response, several developing countries created a united lobbying front for agricultural liberalisation. As a result, for the first time, many Asian economies benefited from the regionalism card (Desker, 2004; p.9).

The second sign of discontent came during the Asian Financial Crisis in 1997, which caused considerable economic and social detrimental effects to the region. The financial crisis highlighted the inadequate support from its regional ally, the United States. Some scholars believed the financial crisis presented an opportunity for the US, in league with the IMF, to deploy conditionality attached to financial assistance packages in an attempt to recast Asian economies in the US mould (Wade & Veneroso, 1998). Moreover, some Asian states felt they were both let down and put upon by the West during the financial crisis (Higgot, 1998; Ravenhill, 2002). Consequently, several elites in the region committed to a New Millennium resolution that "never again" will they enter this dark pit of financial crisis (Bergsten, 2000; p.4). The financial crisis, therefore, provided the region with the motivation encouraging Asian economies to come together in regional arrangements that would exclude the US, and attempt to redress its balance of power in the region.

Accordingly, the Asian financial crisis and the worldwide rise of PTAs were the main contributing factors prompting the Asian region to join the PTA bandwagon in the

late 1990s. At the time of the Asian financial crisis, the region was host to just a small handful of PTA projects. Several countries, such as China, Hong Kong, Japan, and Korea had never engaged in any form of preferential trade agreements were to become the main instigators of the rising number of PTA projects in the region (Lloyd, 2002). Prior to 1997, there were just two preferential trade agreements in the Asian region. In 2003, almost 50 PTAs were under negotiation or signed (Baldwin, 2000; Dent, 2006a). This rising number can be seen in Figure 2 (World Bank, 2005), making the Asian region the world's fastest growing concentration of PTAs, and the number still continues to rise (Dent, 2003b). Singapore leads with the most number of the PTAs successfully concluded, with Thailand coming a distant second.

Moreover, contemporary PTAs have broaden its coverage to include other trade related issues such as investment, services, rules of origin, harmonisation of rules and standards, intellectual property rights, and dispute settlement mechanisms, as well as tariff measures. According to the then Singaporean Senior Minister, Goh Chok Tong, a large part of PTAs in Asia is represented by such 'New Age FTAs'. Moreover, amongst scholars, the proliferation of bilateral PTAs in the Asian has become an important defining feature of the region's international political economy (Dent, 2003a, 2006a; Lee, 2004; Lloyd, 2002; Ravenhill, 2003; J. J. Schott & Goodrich, 2004).

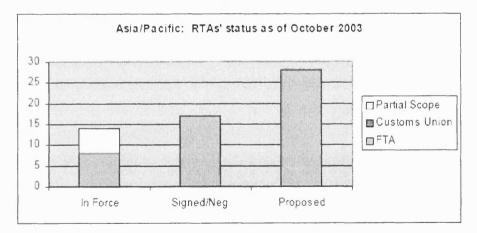


Figure 2: RTAs in the Asian Region

Previously, traditional literature on regionalism focused on the welfare effects, calculating the trade creation versus trade diversion. However, some scholars believe that contemporary PTAs are different and cannot be analysed with such existing tools (Burfisher, Robinson, & Thierfelder, 2003; Ethier, 1998). Scholars believe that modern PTAs contain several interesting characteristics, such as predominantly being between

developed and developing countries (Ethier, 1998), they are sometimes referred as crossregional or 'inter-regional PTAs'. Moreover, recently there has been an increasing number of 'intra-regional PTAs', some of which are trade agreements between developing countries, as well.

The traditional discussions on PTAs generally revolved around 'shallow integration', meaning the liberalisation of trade through tariff reduction. However, Contemporary PTAs are generally undergoing 'deeper integration,' or the elimination of regulatory barrier to trade, such as the sanitary standards for agricultural produce. Since regulation often hinders firms from obtaining the appropriate resource. Regulatory reform may help introduce or enhance international competition by opening markets, leading to more intense competition (Shelton, 1997, pp. 301-306). Moreover, regulatory barriers do not generate any economic revenue, they simply waste economic resources and directly constrain productivity (World Bank, 2005, pp. 92-93). Thus, contemporary PTAs are considered superior.

Moreover, the inclusion of deeper integration provisions is very visible amongst trade agreements between developed and developing countries. However, more importantly, some of the deeper integration provisions goes deeper than the multilateral level, these are sometimes referred as WTO-plus trade agreements (Sampson & Woolcock, 2003). Nevertheless, there are concerns whether, through trade liberalisation developing countries are forced to adopt regulatory reforms and norms from developed countries, which might not be best suited for developing countries. (Collier, 2006; Weiss, Thurbon, & Mathews, 2004).

Traditionally, PTAs between developing countries do not contain deeper integration (Ethier, 1998). This is, however, slowly changing; a handful of PTAs between developing countries have attempted to incorporate behind border barriers. Why have they suddenly decided to tackle regulatory barriers? It is too simplistic to argue that, until now, they were uninterested in these issues. In fact there have been cries amongst academics and business elites in Asia to resolve such barriers to trade (Jayasuriya, 2003; Keidanren, 2000; Nesadurai, 2003; Ravenhill, 2003). Perhaps an analysis of the internal dynamics within developing countries is required in order to explain this recent phenomenon.

From the domestic perspective, when countries negotiate trade agreements that eliminate behind border barriers, the negotiating party must believe their trade partners have the institutional capacity to make credible commitments (Ravenhill, 2003, p. 304).

However, Asian countries have limited experience with deeper integration, which could prevent them from participating in regulatory agreements. Some scholars believe bilateral and regional cooperation will not run smoothly if domestic institutions do not have the capacity to commit to deeper integration (Hamilton-Hart, 2003). Consequently, the ability to negotiate, undertake, and commit to the obligations under a trade agreement crucially depends on domestic institutional capacity. This requires an examination of domestic institutional capacity.

Many Asian states have climbed on board the new regionalism bandwagon. They can be divided into two groups: the first are industrialised economies seeking to expand their market beyond trade in goods, this includes Singapore. The second group are the advanced developing countries with coherent trade policies, but which still rely on agricultural trade, a prime example is Thailand. Currently, both Singapore and Thailand are eager to move forward and sign more PTAs. More importantly, they have signed several PTAs with deeper integration provisions. Why have these countries been able to move forward with comprehensive deeper integration PTAs? Has their engagement in bilateral PTAs with developed countries contributed to their willingness to consider comprehensive PTAs, especially in their own intra-regional PTAs?

In the literature, proponents believe PTAs can be testing-sites or pilot projects for exploring complex trade issues, preparing developing countries' awareness and domestic institutions before they embark on future liberalisation projects (Sen, 2006; World Bank, 2005). This could explain recent developments in Asian PTAs? Perhaps after signing PTAs, some Asian countries discovered lessons from inter-regional PTAs to embrace liberalisation. This leads us to ponder whether bilateral PTAs have eroded some of the problems of insufficient institutional capacity, mentioned above. The idea that PTAs can become a testing-site, however, remains empirically untested. What are the variables involved and what are their dynamics? A dissection of the domestic sub-unit or domestic level of Asian states is required, in order to understand the current dynamics of regionalism in the Asian region.

#### 1.1.2 The Research Questions:

The above questions can be subsumed into the main question of this thesis. What are the reinforcing relationships between preferential trade agreements and domestic institutional capacity related to trade? To answer this, Singapore and Thailand have been selected as the two main case study countries. The main rationale for choosing the

two Southeast Asian states will be discussed later, however, one of chief reasons is because they have spearheaded the largest number of PTAs in the Asian region, providing more observations.

As mentioned above, nowadays PTAs are becoming more comprehensive, encompassing a wide range of trade related issues, and they aim to eliminate behind border barriers to trade. Why has there been this sudden change? Why were Asian countries unable to tackle these problems before?

One of the possible explanations could be the weak institutional capacity, and being unable to commit to regulatory polices. Unlike tariff barriers, once removed tariffs can no longer be used as an instrument. Regulatory barriers, on the other hand, require continuous enforcement (Hamilton-Hart, 2003). Furthermore, regulatory policies also require greater involvement and communication between bureaucratic agencies. As a result, weak institutional capacities and the inability to commit towards regulatory policies does not foster the necessary environment for deeper integration.

Consequently, in this thesis, I define institutional capacity related to trade as the ability of a country to independently formulate and organise complex trade policies and operations, whether they are tariff or regulatory barriers, in a coherent fashion (OECD, 2001; Prowse, 2002, pp. 1238-1240). This definition will be further elaborated in chapter two.

However, in order to answer the main question of the thesis, there are also three sets of interrelated questions which need to be addressed. The interrelated questions act as a guideline; by responding to each interrelated questions, they will lead towards answering the main research question. In other words, the main question of the thesis will act as a thread that ties all the interrelated questions together, aiming to uncover the relationship that may exist between PTAs and domestic institutional capacity.

The first interrelated question, refers to the sub-unit or domestic level: *How do PTAs with comprehensive agreements influence the domestic system*? Would the signing and the negotiations of comprehensive bilateral PTAs between developed and developing countries, such as the Australia-Thailand FTA, enhance developing countries' domestic institutional capabilities and commit towards deeper liberalisation provisions? When signing PTAs with developed countries, this thesis assumes that developed countries will impose stringent provisions, such that weaker states will be compelled to accept the stringent provisions of the trade agreement. This would allow developed countries to influence developing countries' domestic systems. In other words, PTAs could encourage

governments to initiate domestic economic reforms. The thesis will aim to isolate the channels by which deeper regulatory provisions influence domestic institutional capacity. Moreover, the changes bought about by PTAs that nurture domestic institutional capacity could also bring spillover effects to the non-trade functions of a state.

The second question deals with the bilateral level, asking: *Why have Singapore and Thailand been able to completed their PTAs, especially their intra-regional PTAs?* This question becomes more striking when one compares Singapore and Thailand with their Southeast Asian neighbours. How did these two states, both with limited deeper integration experiences, manage to complete a comprehensive trade agreement on their own? Can the change in their behaviour be attributed to their active engagement in interregional PTAs? Also, can this also be attributed to their domestic institutions? Do interregional PTAs assist their domestic institutions to understand the rules of the game and influence their own deeper integration. It is argued that, through legal provisions, PTAs encourage the commitment and the locking-in of trade reforms, this was especially the case when Mexico signed the WTO-plus provisions of the North American Free Trade Area (NAFTA) (Frankel, 1996, p. 216; Sen, 2006; Tornell & Esquivel, 1997; World Bank, 2005, p. 7). However, PTAs could also go beyond merely locking-in reforms, and foster an environment for further liberalisation and adopting WTO-plus provisions.

The third question refers to the regional and multilateral dimension of this research. If inter-regional PTAs lead towards more intra-regional projects amongst Asian nations: *Could this lead towards an Asian regional PTA Approach?* Some scholars argue there is no such thing as Asian regionalism, but they believe one should exist (Katzenstein, 2000).<sup>6</sup> Would the engagement of inter-regional PTAs, that influence the development of domestic institutional capacity, assist in the development of Asian regionalism. Understandably it is still early days, but the seeds of deeper liberalisation have just been planted in Asian intra-regional PTAs. Furthermore, if such an approach existed, what implications would it have for the multilateral trading system? Would the Asian approach further complicate the picture for the global trading system?<sup>7</sup>

In sum, there are several works explaining how bilateral trade arrangements foster the environment at the domestic level to support or undermine regional and multilateral

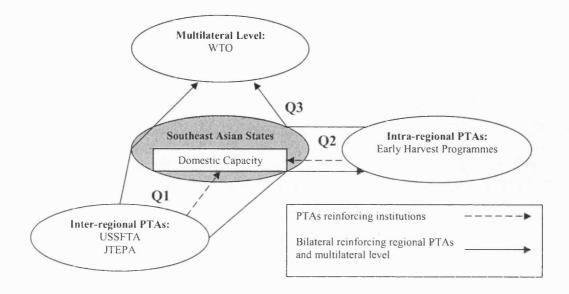
<sup>&</sup>lt;sup>6</sup> Katsenstein (2005) distinguished Asian Regionalism in different areas, however, he has not distinguished Asian Regionalism in trade related matters.

<sup>&</sup>lt;sup>7</sup> The latter question also leads towards another interesting question. If countries enhanced their domestic institutions to tackle regulatory barriers to trade, could these developments become a catalyst enhancing the pace of multilateral trade liberalisation? Unfortunately, due to lack of empirical evidence we were unable to discuss such findings.

trade liberalisation (Mansfield & Milner, 1999, p. 604). This thesis aims to explore this question, through domestic institutions as an intermediary. Simultaneously, the thesis shall also aim to examine three interrelated questions: Firstly, how do comprehensive PTAs influence domestic institutional towards international trade policies? Secondly, would the change in domestic institutions lead towards greater trade liberalisation in their intra-regional agreements? Finally, what are the implications for future trade negotiations: bilaterally, regionally, and multilaterally? This process will be explained in the hypothesis below.

### 1.1.3 The Hypothesis

The main hypothesis focuses on the interaction between PTAs and domestic institutional capacity. When developing countries conduct comprehensive inter-regional PTAs with deeper integration, they are forced to find ways to tackle these barriers. Specifically, it is assumed that developed countries will impose their norms and regulation on developing countries, who are enforced to adopt those regulatory provisions, which would lead to regulatory reforms. Moreover, those provisions will be rooted in the state's system, influencing developing countries' domestic institutions, such as assisting developing countries to enhance domestic institutional efficiency related to trade. Simultaneously, the imposed provisions could also assist Asian states to create their own positions on regulatory barriers at the intra-regional level, and possibly become a catalyst for enhancing the pace of multilateral trade liberalisation. This in turn reveals the reciprocal relationship between PTAs and domestic institutions. This is elaborated in Figure 3 below.



#### Figure 3: Hypothesis

Moreover, the general hypothesis above can be separated into the three assumptions corresponding to the three interrelated questions above. The first question concerns the state, illustrated as Q1 on the diagram. When developing countries, such as Southeast Asian states, engage in PTAs, which include deeper liberalisation provisions, their domestic institutional capacity gains awareness and experience through trade negotiations, leading to other institutional systems and capacities, especially those related to trade.

The second interrelated question refers to intra-regional PTAs, is illustrated in Q2. When inter-regional PTAs influenced domestic capacity, they should create either positive or negative spillover effects. The spillover effects should encourage states to engage in more PTAs, including intra-regional PTAs. Consequently, some Asian states have been able to move forward in their intra-regional PTAs, especially on regulatory barriers, which have hardly been touched before.

The third interrelated question, Q3, deals with the rise of Asian Regional PTA, and its impact on the multilateral level. Some observers believe bilateral, regional, and multilateral trade liberalisation frameworks are complementary and mutually reinforcing (Chirathivat & Mallikamas, 2004; Liang, 2005). Hence, both inter-regional and intra-regional trade agreements will create a feedback that enhances domestic capabilities and

experience to engage in other trade agreements, including the multilateral level. Thus ensuring regionalism is compatible with the multilateral system.

Overall, once the three assumptions are tied together, they should become the guide for answering the main research question. What makes these questions interesting and relevant is how the findings can generate a better understanding of the relationship between PTAs and the multilateral trading system.

The economics literature on PTAs argues that any form of liberalisation is considered beneficial. Economic theory contends that liberalisation through international trade will lead to more intense competition between firms and this gives those firms opportunities to compete and learn from the best business practice in the global market. This allowing consumers to benefit from cheaper products. Moreover, PTAs that deal with deeper integration are superior to PTAs that tackle shallow integration because the costs of institutional obstacles, informal barriers, and sub-optimal regulatory scales are often higher than the costs associated with shallow barriers.

Consequently, contemporary PTAs that liberalise trade generally also undertakes the task of eliminating regulatory barriers to trade, which leads to regulatory reform. There are concerns whether these reform are necessary or whether they are good for developing countries? There are cases where regulatory reform through liberalisation does not necessary lead to more competition, such as the case of intellectual property rights provisions which protects the right of the inventory, rather than the consumer. Nonetheless, the regulation were created to protect some groups, and this indirectly protects the consumers by ensuring that the product will exists, and the general public as a whole. There will be further discussion on this topic in the concluding chapter of this thesis. Nevertheless, it must be understood that this thesis does not aim to argue that liberalisation is a good, rather it merely infers that liberalisation leads to greater competition, which could lead to providing consumers with greater choice. The thesis does not place any value judgement on liberalisation. Moreover, the main aim of this thesis is to focus on the process of PTAs and how it may enhance domestic institutions.

The general literature on PTAs and Regionalism still remains inconclusive. This research aims to contribute to the discussion by providing an alternative understanding of the reinforcing relationship between PTAs and domestic institutions. However, institutional capacity is not the single variable that determines international trade policy, but it is a key ingredient that should not be left out in the analysis. Moreover, this thesis aims to provide an alternative explanation for the recent developments in the Asian

region, elaborating how Singapore and Thailand cope in a world with a multiplying number of PTAs. As a result, explaining how states evolve and adapt themselves to the ever-changing climate of the global trading system.

## 1.2 Research Method:

The thesis will adopt a qualitative case study approach involving a study of a sequence of events and processes in order to identify the relationship between historical events. The aim is to build an account for deeper integration in the Asian region, and how it influences states' ability to formulate international trade policy. This requires a detailed knowledge of the sequence of events within the region, as well as the domestic political economy of the studied period.

The analysis employs documentary research as well as semi-structured interviews as sources of empirical material. Primary and secondary sources will be used to build a narrative of events within the region. The primary sources will come from official statements and the trade agreements will also be employed to present the outcome of these process. The composition of the teams of negotiators will also be used to identify the interconnectedness and cooperation required between the actors. All the above will be used in combination with the elite interviews, which are key to providing behind-the-scenes knowledge of the negotiations, bargaining and decision making process.<sup>8</sup> Moreover, they should provide crucial information with regard to the position of national governments, how the decisions were reached through negotiations and bargaining between ministries and how they have changed as the number of PTAs has increased.

## 1.2.1 Case Study Approach: Why Singaporean and Thai PTAs?

The empirical focus will be on the two Southeast Asian countries with the most advanced PTA policy, namely Singapore and Thailand. Their individual strategies and experiences in PTA policy during the specific period, and how this may influence the domestic institutional system in Singapore and Thailand, will be examined.

These countries were not chosen randomly, but because they share some common features and also have some differences. Both Singapore and Thailand have a fairly

<sup>&</sup>lt;sup>8</sup> Primary sources are material compiled by participants or first-hand eyewitness evidence of the event in question. This includes diaries, memoirs, minutes, court records, memoranda, letters, and interviews. Secondary sources are the published material based on primary sources, these are: treaties, agreements, press releases, government white papers, official publications, and parliamentary debates (Burgess, 1990)

coherent international trade policy compared with other developing countries. Most importantly, they have completed the greatest number of bilateral PTAs in the Southeast Asian region, and they have both signed PTA agreements with Australia, Japan and New Zealand. Singapore has already completed an agreement with the USA, whereas Thailand is cautiously negotiating an agreement with the USA. This exhibits their eagerness to liberalise trade at a faster rate than the current international system can offer them. Singapore may have instigated the PTA fashion in Southeast Asian, but this small island country crucially depends on international trade to survive. Thailand, on the other hand, may not rely on international trade as a life-support machine, but like Singapore, does require international trade as a means to achieving economic growth and development. Nevertheless, both countries yearn to engage in PTAs.

Both Singapore and Thailand are latecomers to new regionalism, they have only begun to engage in deeper integration recently. This is in contrast with the major regional trading blocs of North America and Europe, which have a longer history and sophistication in their PTAs. On the other hand, this provides us with an opportunity to examine how latecomers complete complex PTAs. Moreover, other Asian economies are closely observing both countries in the hope of duplicating their agreements. Furthermore, at the regional level, both Singapore and Thailand have conducted the Accelerated Early Harvest Programme with China, and the Singapore-Thailand Enhanced Economic Relationship (STEER). These intra-regional PTAs could instigate paths that may foster the environment for Asian regional economic integration.

Even though Singapore and Thailand lie in the same continent, they also have a number of significant differences. Singapore was the original Asian Tiger with a "robust state capacity", unlike the second generation Newly Industrialised Countries (NICs), such as Thailand (Weiss, 1997, pp. 4-5). There is also a difference in the natural resource endowments; Singapore, for example, has virtually no natural resources. For economists, this could explain the divergence in the quality and type of PTA agreements. Consequently Singaporean PTAs may attempt to focus more on trade in services; whereas Thailand, a more agriculture-based economy, is centred towards gaining greater agricultural market access. More importantly, there also exist some differences in their political and social structures as well. To illustrate, Thailand has a reasonably mobile civil society, which also appears to be gaining momentum; whereas Singapore's civil society is almost non-existent.

There may be several areas of differences between Singapore and Thailand, but the fact that they have chosen to employ PTAs as their current trade liberalisation strategy should provide certain commonalities, one of which might be the relationship PTAs have with domestic institutional capabilities.

More importantly, from a methodological standpoint, when the two dissimilar countries are used for comparative case study, and when similarities can be drawn out from the study, those similarities will provide a more powerful generalisation result (Odell, 2001). Consequently, adopting the Singapore-Thailand comparison could extract some rich similarities and differences from the mixture of evolving international trade policy in the Asian region.

## 1.2.2 Which Horizontal Policy Areas?

The key aim of this research is to elicit how deeper regulatory provisions in PTAs may influence a government's international trade capacity. However, due to time constraints, and the need for in depth analysis, two horizontal policy areas have been chosen.

Firstly, Facilitating Trade; generally, when countries choose to liberalise trade, one of the first areas to be negotiated are agreements that allow goods to enter countries more easily. It must be understood that the term "facilitating trade" as used in this thesis does not follow the narrow definition of customs procedures, instead it follows a wider definition, which will be elaborated on in chapter five. Trade facilitating measures which both Singapore and Thailand have employed include; changes in customs procedures, and Technical Barriers to Trade (TBTs).

The second policy area which will be placed under the microscope is the temporary movement of persons and the recognition of professional qualifications. Interestingly, both Thailand and Singapore have placed much emphasis on the movement of persons and they have signed some Mutual Recognition Agreements (MRAs) for professionals. Understandably the types of professional services Singapore and Thailand aim to liberalise will differ, due to the difference in their service sectors. Nevertheless, the adoption of MRAs for professionals is an example of service trade which Singapore and Thailand are moving in the same direction, both at the bilateral and regional level. Moreover, this is an example that can be utilised for comparison, especially when the literature on service trade in Southeast Asia is scarce.

### 1.2.3 Delimitation and Time Period

The time period for this research was 1997–2006; this time period was chosen because Asian countries engaged in PTAs after the Asian Financial Crisis, which caused the initial peak in the proliferation of PTAs for both Singapore and Thailand. The cut-off period of 2006 was chosen because on 19 September 2006, a military junta overthrew the elected Thai government, which could possibly lead to a change in foreign and trade policy. Nevertheless, prior to that point, both Singapore and Thailand had concluded several important PTAs.<sup>9</sup> Furthermore, there is also the international dimension to consider. This research aims to observe whether PTAs have influenced the case study countries' willingness for participation at the multilateral level. As a result, this study will also include some documentary evidence on multilateral trade, such as the developments from the Hong Kong Ministerial at the end of 2005.<sup>10</sup>

### 1.2.4 Timeline Comparison Approach

We are unable to define what is the most efficient institution, in absolute terms, but it is possible to compare the relative efficiency and the reduction of transaction costs at a given time.<sup>11</sup> Given this approach, we can observe and compare institutional changes prior the PTA era and during the peak of PTAs in the case study countries.

Consequently, this research will adopt a timeline comparison approach. Comparing the key dates of the negotiation and the signing of PTAs with domestic institutional development after those key dates. In other words, when comparing certain domestic institutional developments, they should be compared with the signed PTAs, and examine whether these domestic developments were inspired by previous PTAs that have tackled similar regulatory barriers to trade.

However, as will be revealed, the timeline approach does not always provide a direct causal link between PTAs and newly developed domestic institutions. There are a number of reasons why the two may simply be coincidences, such as political delays in

<sup>&</sup>lt;sup>9</sup> Certain agreements were signed later, such as JTEPA on 3 April 2007, however, the negotiations was already finalised by late 2006; the agreement was not changed, but it was stalled due to the military government. As a consequence, I consider this agreement to be completed before the end of 2006, and I have included it in the case study, despite the signing date.

<sup>&</sup>lt;sup>10</sup> Unfortunately, there is limited empirical evidence from the multilateral level, given the limited progress of the Doha Development Round.

<sup>&</sup>lt;sup>11</sup> An example would be observing how the UK overtook several countries at similar stages of development in the eighteenth century. The reason for this can be traced through their different economic performance and institutions that supported the industrial revolution. Thus it is possible to compare institutions over a given time frame. For more details, see Shin (2003).

establishing domestic developments, resulting in a coincidence of establishment in the same time period after the PTA. Nonetheless, these problems can be revealed through cross-referencing in the elite interviews and documentary research.

### 1.2.5 Interviews

Two sets of interviews were conducted, the first was between July and September 2005, and the second between December 2005 and September 2006. The interviews were conducted in a semi-structured way. Instead of a rigid questionnaire, an aide-memoire was used and referred to during the interviews. In some cases, if further clarification from interviews was required, it were obtained either through electronic mail or telephone.

A total of 22 separate interviews were conducted with 18 individuals in the two case study countries. The individuals interviewed were selected for their elite status. Elites are essentially individuals or groups who hold, or have held, a privileged position in society and thus are more likely to assert a strong influence on political outcomes than members of the general public (Richards, 1996). Thus, from the nature of this research most of the interviewees are trade negotiators and key members in the trade delegations, senior officials in government such as permanent secretaries or their deputies, as well as heads of government departments, agencies and research institutes. Interviews with middle-level officials were also conducted because they are an equally valuable source of information, as these individuals generally have detailed knowledge of the governmental and inter-governmental operational workings and process. Interviews with scholars and non-governmental organisations were also conducted because they provided valuable local knowledge, particularly about the political and business dynamics that helps in the interpretation of the events.

All of the interviews were recorded by note taken, instead of tape recorded. This is not considered a disadvantage because taping could result in interviewees being less forthcoming in the information they provide if they knew their remarks were being recorded (Richards, 1996).

The reliability of information was also a problem in interviews, interviewees tend to present their own personal, subjective view of events. In general, information and interpretations of events collected from one interview was crossed-referenced with information obtained from other interviews on the same event. In particular, the crossreferencing of interviews across countries proved to be helpful in revealing the personal or national biases of the interviewees. Nevertheless, some biases may themselves be useful or even vital to the study as they indicate national differences in the way events are perceived.<sup>12</sup>

#### 1.2.6 Documentary Research

Documentary evidence predominantly came from primary and secondary sources, mainly from domestic governmental agencies representing international and regional interests from the two case study countries. Documentary evidence from other domestic agencies involved in the negotiating process was also sought. Only materials written in English and Thai were accessed, this included official documents issued by other governments that were translated into English. Some of the documents, such as official press statements of annual meetings and copies of the signed preferential trade agreements themselves were obtained from the case studied countries. Some official documents relating to international and regional economic polices were also recovered from regional and international organisations, such as ASEAN and the WTO, respectively.

Scholarly papers on economic regionalism, multilateral trade, deeper integration, and on the Asian region were also consulted for empirical information, additional insight on Asian regionalism, and how it relates to international political economy in general.

Finally, newspapers were also valuable resources when creating an account of current developments in the region. Both daily newspapers (national, regional, and international) and weekly news journals were consulted. Nevertheless, the key concern regarding newspaper sources is their accuracy. Consequently, when possible, newspaper coverage of items was cross-referenced across a range of other newspapers from different countries and international sources to minimise the possibility of biases that may occur in news stories presented.

### 1.3 Thesis Outline

The thesis has been broken down into eight chapters. The first chapter lays out the research question, the hypothesis, the significance of the study, and the methodology of this thesis. The second chapter provides a comprehensive account of the strengths and weaknesses of the existing literature on PTAs and on domestic institutions; the chapter will attempt to fuse the two sets of literature and formulate a conceptual framework to analyse the underlying question of this thesis. The third chapter empirically traces

<sup>&</sup>lt;sup>12</sup> The list of undisclosed interviewees is in Appendix A.

Singapore and Thailand's recent PTA projects, from ambitious regional PTAs, such as ASEAN Free Trade Area (AFTA) and APEC to becoming spearheads in the proliferation of bilateral PTAs in the region. The chapter will also provide an account of the PTAs the two states have undertaken, as well as explaining the political and economic motivations behind the signed PTAs.

The following section explores the impact of inter-regional PTAs on Singapore and Thailand's domestic institutions. Rodrik (2000) suggests there is a need to distinguish between institutions that operate at the macro-economic level and those at the micro-economic level. The macro-economic level is changes made to trade policy in general. The micro-economic addresses the smooth running of the market such as property rights and regulations. As a result, the fourth chapter will focus on the macro part, and provide a comparison of the changes that have directly occurred to trade policy in general. The chapter will focus on the structural and procedural changes that have occurred to the domestic agencies directly involved with international trade policy making. However, the chapter also points out the difficulties in distinguishing whether the changes PTAs have induced certain trade policies or whether they have been motivated by other domestic political forces. The fifth and sixth chapters will be the micro section, providing a clearer picture of how changes in domestic trade policies have been motivated, influenced by PTAs. Specifically, chapter five will focus on provisions related to facilitating trade, and the domestic institutions related to facilitating trade, such as customs procedures, TBT, and SPS. Chapter six examines changes that relate to the movement of persons and professional qualifications.

Chapter seven focuses on the impact and the implications of inter-regional PTAs. In light of the findings in the previous chapters, this chapter examines whether the changes brought by inter-regional PTAs will influence the case studied countries' attitudes towards deeper liberalisation, especially in their own intra-regional PTAs. The chapter aims to ask which provisions on trade facilitation and movement of persons have been adopted at the intra-regional level? Where did the inspiration for those provisions come from? Overall, the chapter aims to argue that the interaction with cross-regional PTAs has enhanced these countries' domestic institutional trade capabilities to engage in deeper liberalisation polices at the intra-regional level.

The eighth and concluding chapter discusses the extent to which the research questions were answered, and explores the strengths and weaknesses of the theoretical framework and the methodology. Furthermore, it attempts to conceptualise a model for Asian Regional PTAs. The chapter shall conclude by discussing the implications of the findings, which can be interpreted as both a building and stumbling bloc for the multilateral trading system.

## 2 Chapter II

# Preferential Trade Agreements & Domestic Institutional Capacity: Building Conceptual Frameworks

One of the best ways to understand how the international economy works is to start looking at what happens inside nations. Paul Krugman

Commerce and manufactures can seldom flourish long in any state which does not enjoy a regular administration of justice, in which the people do not feel themselves secure in the possession of their property, in which the faith of contracts is not supported by law, and in which the authority of the state is not supposed to be regularly employed in enforcing the payment of debts from all those who are able to pay. Commerce and manufactures, in short, can seldom flourish in any state in which there is not a certain degree of confidence in the justice of government.

Adam Smith (The Wealth of Nations)

## 2.1 Introduction

The preceding chapter discussed the current dynamics of PTAs within the Asian region, and the research question. Previously, several PTAs in the region were based on shallow integration, however, that is no longer the case. Currently, the Asian region has been late comers to contemporary comprehensive PTAs, sometimes referred in the literature as "New Regionalism", and the region appears to be making up for lost time. A similar analogy can also be made on the literature on PTAs. The theoretical literature on PTAs may have begun over half a century ago, dominated by economists applying neo-classical economic theories, but only recently, with the emergence of comprehensive PTAs, the theoretical literature on New Regionalism begun to break through. Modern literature on PTAs is no longer confined to the discipline of economics, other disciplines, such as political science and legal studies have been equally insightful. This chapter attempts to draw out the contemporary theoretical literature and discussions on PTAs, provide a critical examination of those studies, and build a conceptual framework posed by the question in the first chapter. The first section will outline the literature on PTAs, beginning with traditional "Old Regionalism" arguments. This chapter will argue that the literature from Old Regionalism may appear to provide elegant solutions, however, they no longer apply to the current dynamics of comprehensive PTAs. The second section exposes the limited discussion on how the domestic level interacts with PTAs. The section will suggest a need to understand the domestic actors and proposes to integrate the literature on domestic institutions with that on PTAs. Consequently, the final section will construct a conceptual framework that emphasises the relationship between domestic institutional capacity and PTAs. Furthermore, the chapter will end by providing two analytical frameworks: one for analysing how domestic institutional variables interact with the recent rise of PTAs; and the second for analysing the implications of the first analytical framework, or the domestic level, on regionalism as well as the multilateral system.

#### 2.2 Conceptualising Modern PTAs

Since the end of World War II, the global economic system has undergone multiple waves of PTAs (J. N. Bhagwati, 1991, 1993). During the first wave, in the 1950s and 1960s, most PTAs were concentrated in developing countries, with the exception of the EEC.<sup>13</sup> Moreover, Bhagwati (1991) claimed these PTAs were constructed to extend their import substitution and protectionist policies behind the curtain of regionalism. The second wave occurred during the 1980s, when the United States was unable to steer the multilateral trade talks into more liberal waters, resulting in a gradual change in US trade policy towards more bilateral trade agreements with its neighbours, most notably the establishment of NAFTA. Zoellick described the US's pursuit of PTAs as a strategy to achieve short term economic goals which help break the logjam in the multilateral negotiations (in Burfisher et al., 2003, p. 2). This sudden change of direction has caused some countries to pursue similar navigational change. Some scholars, notably economists, were alarmed that multilateral trade was manoeuvring further away from the utopian goal of global free trade, causing economists to re-examine the merits of such agreements (Winters, 1996). This section shall examine the literature on PTAs from the

<sup>&</sup>lt;sup>13</sup> The first ever PTA notified to the GATT was the Treaty of Rome on 24 April 1957.

traditional debates of Old Regionalism, which deals with traditional trade barriers, to New Regionalism.

## 2.2.1 Old Regionalism: Static Effects on Individual Countries

The pioneering work on PTAs, was conducted over half a century ago by Jacob Viner (1950). When assessing the effects of trade blocs, in the static analysis, a comparison of the costs and benefits is required. The benefits, trade creation, occur when supplies from a low-cost trading partner are able to displace high-cost domestic producers. On the contrary, trade diversion occurs as the removal of barriers between the PTA partners allows the less competitive members of the PTA to undercut a more competitive outsider, allowing the less competitive insider to capture the competitive outsider's market. In short, most economists view trade creation and terms-of-trade gains as welfare enhancing, and trade diversion and terms-of-trade losses as potentially damaging. However, it is extremely difficult to draw strong conclusions about the desirability of forming PTAs from welfare analysis alone. Both theoretical and empirical findings will result in ambiguous conclusions.

Since Viner's seminal paper, the neoclassical economic framework still remains an integral part of literature today. A review of this literature by Frankel concludes that "there is no shortage of economic models and arguments in which regional trading arrangements can undermine multilateral liberalisation" (1996, p. 216).

The varying theoretical models have inspired a long lasting debate on the merits of PTAs. Opponents believe PTAs are policies pursed by the stronger states, and the weak ones are sidelined from the global trading system (Pelagidis & Papasotiriou, 2002). In contrast, some economists argue that PTAs can also be trade creating. They contend that as long as trade liberalisation occurs, it does not matter whether it takes place at the bilateral or multilateral level. The benefit of trade liberalisation, even at the bilateral level, brings about openness to global trade and investment, which plays a vital role in countries' development and economic growth. Some PTAs are now perceived as mechanisms that enhance multilateral trade participation (Sachs & Warner, 1995). Proponents of PTAs argue that the actual picture may appear to be complex, however, on balance regional and global trading arrangements could be compatible with one another (Oye, 1992).

## 2.2.2 Old Regionalism: Dynamic Multilateral Implications

Currently, the number of PTAs are rising exponentially, causing much concerns amongst certain groups of practitioners and academics. The then Director General of the WTO, Supachai Panitchpakdi, expressed anxieties over the current situation as "à la carte regionalism", referring to the assortment of PTAs that can create inconsistency and discrimination for the whole global trading system, diverting attention from the multilateral trading system (SECO, 2004). From a legal viewpoint, PTAs obstruct the cornerstone of the multilateral trading system, namely the Most Favoured Nation (MFN) principle, by which the lowest tariff applicable to one member must be similarly applied to all other members of the WTO. PTAs, on the other hand, can evade the MFN requirement of the WTO agreements by applying positive discrimination to goods and services to a limited number of countries, rather than all countries. Accordingly, critics challenge the merits of permitting PTAs to bypass MFN, under article XXIV of the GATT and Article V of GATS.

One such example is the hub-and-spoke argument. The theory argues that larger markets will sign individual trade agreements with a wide range of peripheral countries among which market access remains restricted. Such trade agreements can marginalise the weaker economics, which become spokes. The hub, however, enjoys improved access to all of the spokes. As a consequence, overall the hub-and-spoke merely benefits the hub (R. J. Wonnacott, 1996). Is it possible to apply this theory to the Asian region, however, given the multiplying number of PTAs it is difficult identify the a hub in the region. Nevertheless, this will be discussed again in the concluding chapter.

The basic question underlying most research and debates on PTAs was ignited by Bhagwati's (1991) dynamic query on PTAs: whether PTAs were building blocs or stumbling blocs for the multilateral trade system? This statement has now become part of an ongoing debate on whether PTAs help or hurt the prospects of continuing global liberalisation. Under Bhagwati and Panagariya's (1996) criteria, building blocs were defined as trade agreements that accelerate multilateral negotiations, by going deeper and expanding faster than multilateralism, and creating successful experience with reform. Building blocs also widens membership until the bloc covers the entire global free trade. In contrast, stumbling blocs are the opposite, they create or entrench trade diversion and protectionism, and they are closed to expansion.

To date, most of the literature on building versus stumbling blocs still applies the Vinerian framework. One theory argues that when global tariffs are set non-

cooperatively, PTAs have a tendency to become stumbling blocs. Krugman (1991a) postulated that global welfare depends on the number of PTAs in the world system. When there are many small blocs, PTAs will set low external tariffs due to their limited market power. As the number of blocs declines, they will seek their optimal tariff and set their tariffs high, tending to increase trade diversion relative to trade creation. However, when there is the single one bloc, trade diversion is eliminated and the world has achieved free trade on a multilateral basis.

However, Krugman's (1991a) work also faces criticism. Generally, large blocs do not appear to be motivated by the exercise of market power, nor are their tariffs rising such that it excludes other members. An example would be APEC, which claims to neutralise the diversionary aspects of PTAs, while encouraging the absorption of third parties into growing blocs and simultaneously continuing the overall reduction of trade barriers thought multinational negotiations. Unfortunately, this theoretical concept, also known as open regionalism (Bergsten, 1997), has raised many question marks on its validity outside the Asian region.

Contemporary theories by international economists have focused on "New Trade Theory", which goes beyond efficiency gains from resource allocation according to comparative advantage theory. New trade theory adopts various characteristics, such as the importance of geographical distances, technological transfer and pro-competition polices from imports allowing potential for economies of scale. This provides an additional source of growth and welfare gains from expanded trade. However, new trade theory still depends on the welfare effects of trade creation and trade diversion.

One of the pioneering fathers of new trade theory, Paul Krugman (1991b), observed that even without PTAs a disproportionate share of international trade has already occurred; we can observe that trade takes place predominantly within a region. Krugman believes this is chiefly due to transportation costs. By stressing the importance of transportation and communication costs we have a strong tendency for countries to trade with their neighbours. If this is the case, the gains from intra-trade creation within regional blocs are likely to outweigh any possible losses from inter-trade diversion because there is less to be diverted in terms of distance. Krugman thus concludes that trade follows the natural lines dictated by proximity, and the formation of regional trading blocs is constructive; referring to these blocs as "*natural free trade areas*"<sup>14</sup> in

<sup>&</sup>lt;sup>14</sup> The term "natural free trade area" was first coined by Wonnacott and Lutz (1989)

contrast to unnatural free trading blocs, which are PTAs between countries from different continents.

New trade theory appears to explain why there is a rise in intra-regional PTAs in the Asian region, reinforcing the idea that proximity is a key factor for PTAs. Nevertheless, there appear to be limitations in the theories as well. Firstly, several Asian countries are negotiating PTAs with the US, which should be construed as unnatural trading blocs. The second shortfall lies in the limited explanations of their empirical findings.

#### 2.2.3 Limited Empirical Findings of Old Regionalism

Despite various theories of international trade, from both neoclassical and new trade theories, most of the empirical findings have been unsuccessful in providing any decisive evidence on the global menace of PTAs, or otherwise. Some international economists have invested considerable time in quantifying the welfare effects of PTAs. More innovative methods include the application of Newtonian physics to international economics, this fashionable tool is also known as the gravity model; which postulates that trade occurs more between larger and adjacent countries (Frankel, Stein, & Wei, 1996; Van Hoa, 2003a). Nevertheless, these models are criticised because of their weak theoretical foundation and the estimated coefficients sometimes capture influences of unrelated effects that occur simultaneously with the PTA (Anderson & Van Wincoop, 2003). Furthermore, most empirical findings with the gravity model have found mixed results on the effects of trade creation and trade diversion (Frankel et al., 1996), the same problems also occur when analysing PTAs in the Asian region (Gilbert, Scollay, & Bora, 2001; Van Hoa, 2003b).

An alternative empirical approach is the Computable General Equilibrium (CGE) model, which observes the long run effects by including price analysis to evaluate the welfare, or terms-of-trade, effects. CGE models allow for controlled simulations of the effects of trade reforms, through the impact of PTAs, thus eliminating problems affecting the Gravity model.<sup>15</sup> Nevertheless, CGE results are still inconclusive. Schiff and Winters (2003) criticises the use of CGE models on the grounds that they are mainly used for counterfactual simulations, not forecasts. Furthermore, CGE models overstate the terms-of-trade benefit from PTAs because the models use the assumption that products are

<sup>&</sup>lt;sup>15</sup> Moreover, the inclusion of both terms of trade effects and trade allows CGE models to generate welfare outcomes, an intrinsic feature of economic theories (J. N. Bhagwati & Panagariya, 1996, p. 54)

differentiated by country of origin, giving each country some degree of market power. This inaccurate feature focuses only on the terms-of-trade members gain at the expense of non-members (Schiff & Winters, 2003).

Overall, the various theoretical models highlight the significant effects of PTAs, however, we are unable to obtain a generic conclusion from theory alone. This is mainly due to the inherent neo-classical economic assumption on welfare and terms-of-trade effects. Moreover, the empirical evidence has also been, at best, inconclusive. There is little evidence that the world economy is devolving into exclusive regional blocs. Moreover, it appears that both PTAs and multilateral trade are expanding simultaneously without undermining each other (Vayrynen, 2003, p. 33). More importantly, neo-classical economic models have heavily relied upon the Vinerian framework and the terms-of-trade effect, which does not capture the entire picture of PTAs. More importantly, it is unable to answer the question of this thesis. Perhaps the time is ripe to depart from the Old Regionalism framework.

#### 2.2.4 New Regionalism

During the 1980s, while most academics were predominantly preoccupied with traditional debates about the global welfare effects of PTAs, some scholars such as Lawrence (1992) and Ethier (1998) attempted to analyse PTAs differently. Ethier (1998) was one of the first scholars to characterise fully contemporary PTAs. Instead of treating the proliferation of PTAs as exogenous, Ethier examined them and outlined the following features of 'New Regionalism'. Firstly, modern PTAs included one or more developing countries linking up with at least one developed country. Secondly, when developing countries are admitted into a trade agreement, they typically undergo significant unilateral reform. Ethier cites Mexico entering NAFTA or reforms undertaken by the new European Union (EU) members as examples. Thirdly, current PTAs seldom address only market access and trade barriers; the degree of trade liberalisation in terms of tariff barriers has generally been modest, however, new regionalism also incorporates elements of deeper economic integration. Fourthly, liberalisation has primarily been achieved by members from developing countries. Overall, Ethier (1998) focuses on the role of contemporary PTAs in reaching deeper integration. Furthermore, Ethier believes New Regionalism plays a transitory role in the reform process of PTA members before they begin to liberalise and integrate fully into the global economy (1998, p. 1161).

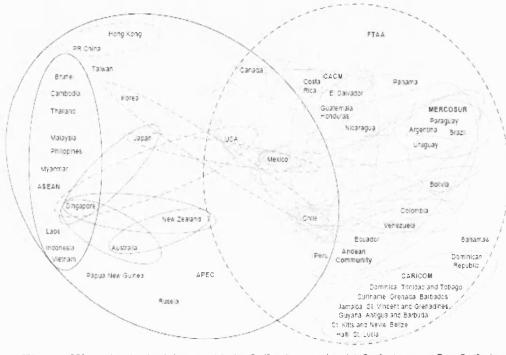
The above stylised facts note the high correlation between new regionalism and deeper integration. However, why have countries begun to emphasise deeper integration? In order to understand, we must look at recent developments of the global system. The WTO's undisputable achievement has been its ability to negotiate a virtually worldwide free tariff.<sup>16</sup> Baldwin (1970), however, described the successful reduction in tariff as the draining of a swamp, by lowering the water or tariff levels, we suddenly discover all the snags and stumps of regulatory and non-tariff barriers that still needed to be cleared away. Three decades later, Baldwin (2000) believes the stumps are not only visible, but they are also rising, with tighter regulations. The complications of tackling behind-border policies and the elimination of regulatory policies require the harmonisation of measures central to domestic economic policies and regulations. Consequently, it has been difficult for the WTO, or any international organisation, to confront such a complex and sensitive task (Feketekuty, 1998). Since these stumps have rarely been tackled at the multilateral level, some countries have begun to engage them at the preferential trade level instead. This includes the contemporary comprehensive PTAs in the Asian region.

One of the first scholars to write on deeper integration was Robert Lawrence. Embracing deeper integration, Lawrence believes, will reduce the costs in trade incurred from regulatory barriers to trade (Lawrence, 1995). Some scholars believe the liberalisation of regulatory barriers is more important than the liberalisation of tariffs because the cost of institutional obstacles, informal barriers and sub-optional regulatory schemes sometimes generate greater cost; although these costs may seem small, once they are aggregated they can accumulate to a large sum. Furthermore these barriers do not accumulate any economic revenue, instead they waste economic resources and constrain productivity. Consequently, when trade agreements, whether bilateral or multilateral, undertake the liberalisation of such barriers, the removal of these barriers would provide greater benefit for all the members.

However, there are still scholars who oppose the liberalisation of regulatory barriers by PTAs, and maintain the idea that any form of trade liberalisation should be resolved at the multilateral level. Bhagwati, Greenaway & Panagariya (1998) expressed their concerns with the "spaghetti bowl" effect analogy. They believe the proliferation of agreements will most likely create an overlapping of PTAs, causing inconsistencies

<sup>&</sup>lt;sup>16</sup> The average tariff in industrial countries was brought down from more than 40 per cent in 1947 to less than 5 per cent by the 1990s, and it is still declining. However, tariffs amongst developing countries still remain high.

between various elements of the agreements, such as different schedules for phasing out tariffs, different rules of origin, exclusions, conflicting standards, and differences in rules dealing with anti-dumping and other regulations and policies, as expressed in Figure 4 (World Bank, 2005, p. 39).



--- FTAA --- APEC --- Intra-Americas in force --- Intra-Asia-Pacific in force --- Intra-Asia-Pacific signed Figure 4: Spaghetti Bowl of PTAs in the Americas and Asian Pacific

Currently, it is disputable whether the spaghetti bowl argument (J. N. Bhagwati et al., 1998), postulated during the peak of Old Regionalism, can still be applied with contemporary PTAs. The Spaghetti phenomena may not rely on traditional neo-classical economic welfare effects, however, scholars have responded to this theory. Dent (2003a) observed the rising number of bilateral PTAs in the Asian region, and noted two points: Firstly, the substantive content of Asian PTAs go beyond traditional PTAs, they "carrying additional trade and investment facilitation and economic cooperation measures that seek to develop wider collaborative links between economic agents from both states" (Dent, 2003a, p. 20). In other words, Asian PTAs carry elements of deeper integration. Secondly Asian PTAs exhibit the ability to merge into new sub-regional or plurilateral arrangements. At first, there is a gradual expansion of bilateral PTAs within a specified region. The network of PTAs will begin to expand and the differing PTAs will slowly merge, even with the higher cost of regulatory harmonisation. These features provide the basis for rationalising bilateral PTAs into a wider plurilateral agreement in

which common rules and provisions that can be established between sub-regional groups, resulting in a need to network between these separate bilateral PTAs together, this is referred as "Lattice Regionalism".<sup>17</sup> In a subsequent paper Dent (2006a) elaborates the effects of lattice regionalism and discusses its positive and negative effects. He constructs the following dualistic conceptual framework: "Region-convergent bilateralism" which can make positive contributions to the development of regional PTA through the construction of bilateral PTAs. In contrast, "Region-divergent bilateralism" is how the increasing bilateral PTAs within a region can work against the development of regionalism. Ultimately, depending on the weight of these two factors, they will determine the speed and effects of lattice regionalism, thus warning of the long term prospect of lattice regionalism. However, Dent's (2003a; Dent, 2006a) papers have been empirically untested.

Nevertheless, for now, lattice regionalism is seen as a response to the spaghetti analogy. The rising number of PTAs in the Asia region may cause inconsistency in rules, however, it also provides the basis for rationalising the inconsistent rules when merging into a common provision under a wider plurilateral agreement. In turn this process of crisscrossing agreements, growing from bilateral agreements to regional agreements, may provide the stepping stones leading towards multilateral economic integration.

Another response against the spaghetti effect calls for the need to rethink our understanding of the global trading system. The interaction between the bilateral, regional and the multilateral level is a complicated one, regulatory developments at the regional level might bring similar progress at the plurilateral or multilateral level. Bilateral PTAs have accomplished novel rulemaking developments beyond their multilateral obligations, thus setting an example of regulatory best practice, creating guidelines, not only for other preferential trade projects to emulate, but also setting the blueprints for the future multilateral trading rules. This suggest the multilateral trade is a multi-level process, with diverse interactions from the multilateral to the regional and bilateral levels. This multi-level process allows us to depart from the spaghetti bowl analogy<sup>18</sup> (Woolcock, 2006).

<sup>&</sup>lt;sup>17</sup> Dent (1996) believes this theoretically bilateral-to-plurilateral progression of Asian Pacific PTA represents a unique evolutionary process of regional economic integration, contrary to the EU experience of an institutionalised regional centre.
<sup>18</sup> Consequently, Woolcock believed the global trading system should be observed under the "lasagne"

<sup>&</sup>lt;sup>18</sup> Consequently, Woolcock believed the global trading system should be observed under the "lasagne" analogy, continuing the metaphor of Italian cuisine.

More importantly, both Dent (2003a) and Woolcock's (2003; 2006) arguments stem from the logic that PTAs, wherein members agree to move beyond their WTO commitments, could provide a demonstration effect that motivates future rounds of broader trade negotiations, whether under bilateral or multilateral negotiations. Such PTAs could be regarded as a testing ground or pilot project for exploring complex trade issues (Sen, 2006). As a result, allowing the possibility for comprehensive PTAs can provide a catalyst for enhancing the pace of multilateral trade liberalisation, since PTAs between like-minded trading partners create a domino effect on other non-members to try and liberalise faster.

To conclude this section, much ink has been spilt on PTAs, yet no conclusion has been reached on its merits. The economic arguments from opponents have been vast, but they generally revolve around one theme; namely, the preferential agreements will reduce welfare from the first best option which is multilateral free trade (J. N. Bhagwati & Panagariva, 1996).<sup>19</sup> This section has outlined the concerns of attaching too much reliance on Old Regionalism and the neoclassical economic Vinerian framework. Under Old Regionalism, both theoretical and empirical works have found no convincing evidence that PTAs are trade creating or trade diverting. Moreover, the proliferation of PTAs has shown how powerless neo-classical economic arguments have been. Why has this been the case? As noted by Desker: "The genesis of the problem...is a conflict between the economic logic of free markets and the political logic of the state-based international system. While economists may seek the ideal solution, governments will focus on the politically attainable, even if it is a second best choice" (Desker, 2004, pp. 7-8). The terms-of-trade arguments may have an important place in theoretical models; there is, however, a consensus view that large countries or blocs do not appear to be motivated by the exercise of market power, nor are they raising tariffs barriers, they have moved to regulatory barriers instead. This has prompted several scholars to move beyond the neo-classical economic and Vinerian framework (Burfisher et al., 2003; Ethier, 1998). As Lawrence contends, "the normal presumption about trade creation and diversion may not hold anymore" (1995, p. 32)

Current issues of international trade are dominated by behind-border barriers to trade, thus pushing international trade into the realms of New Regionalism. Nevertheless,

<sup>&</sup>lt;sup>19</sup> The proliferation of PTAs has provoked a highly vocal and at times bitter response from prominent economists, such as Bhagwati and Panagariya (1996) and Kruger (1999). For example, Bhagwati suggests that "PTAs are ... indeed a gigantic step backwards" (J. N. Bhagwati & Panagariya, 1996, p. 54).

new regionalism has also struggled to provide a better understanding of PTAs, including the proliferation of comprehensive PTAs in the Asian region. Perhaps this is because new regionalism is so attached to deeper integration, and non-tariff barriers to trade are usually attached to domestic regulatory programmes that are linked to the domestic norms and practice of societies.

Most studies on PTAs, with some notable exceptions, have generally neglected domestic factors; they have merely treated the state as a black box in their analysis, and simplistically regarded the state actors as given, and driven by exogenous forces. Breslin & Higgot (2000), among others, demand a marriage between the disciplinary approaches of PTAs and the richer empirical work on specific historical and political contexts within the domestic arena, to be taken seriously (Nesadurai, 2003). For the purpose of this research, it may be appropriate to open this black box.

With this note, perhaps the study of PTAs should be conducted under the lens of international political economy, since the procedures of establishing regulatory issues is a political agenda. From the bargaining on regulatory barriers to trade between negotiating partners to the bargaining power of interest groups and bureaucratic agencies at the domestic level, these are all related to rule-making, and the struggle for power outside of as well as within states, resulting in a world where domestic interactions can influence the multilateral level. Consequently, we should perhaps refocus towards examining the domestic level instead.

#### 2.3 Conceptualising Domestic Interactions

The preceding section, illustrated the limitations in the literature on PTAs, chiefly because a majority of the literature is focused on events after the negotiations. Moreover, interestingly the literature on PTAs shows limited attention to the domestic level, and the domestic process involved in international trade policy making. This section will outline the literature on PTAs and the domestic level, thus departing from the state-centric framework that has confined the study of regionalism.

The section begins with the general analysis of domestic interaction on PTAs. This is followed by a discussion of the impact from interest groups, however, there are drawbacks. As a result, domestic analysis is concentrated on institutions instead. The final part of this section focuses on the links between institutions and regulatory barriers to trade. Overall this section aims to merge the literature on domestic institutions with the literature on new regionalism.

## 2.3.1 PTAs and Domestic Variables

Ever since Putman's (1988) seminal paper on two-level game, there has been interest in and attempts at understanding the dynamics between the international and national levels; the literature on PTAs has been no exception to this. Some economists argue that PTA projects are a result of imprudent myopic politicians seeking attention. Due to the short life cycle of politicians in office, Bhagwati (1992) believes politicians hastily sign PTAs as a sign of having accomplished something, which may satisfy their ultimate political objective of getting re-elected. On a related topic, Bhagwati et al. (1998) also postulated the CNN theory of PTAs, suggesting that politicians are willing to conclude trade agreements because, at the multilateral level, the media and attention are focused on the major key players; in contrast, at the bilateral level, smaller states can have their 15 minutes of fame because it is negotiated with smaller group. In short, Bhagwati argues that policy makers entering PTAs do not consider the consequences of signing weak PTAs. Nevertheless, these arguments are too simplistic, there are other crucial actors at the domestic level that need to be considered. More importantly, this being the case, why have Asian countries been able to sign comprehensive PTAs?

#### 2.3.2 Role of Interest Groups

The arguments above missed the crucial point that politicians are not the sole actors at the domestic level. Recently, there have been substantial research studies elaborating the interplay between the domestic level and the adoption of a PTA, from both the economic and political science perspectives (Gourevitch, 1996). The general framework was established in Solingen's (1998) book, breaking away from the state-centric approach, emphasising the importance of domestic coalitions and the grand strategies pursued with other states. The coalitional approach stresses the importance of domestic factors, Solingen postulated two competing groups: The statist–nationalist, who prefer economic protection and political conflict; and the liberal–internationalist coalitions, who desire economic cooperation and political accommodation. The strength of the coalitions rest on whether regional PTA is cooperative or conflicting, and on the distributional effects of

participation in the world market. More significantly, the model stresses the importance of domestic coalitions, to be equally important as the regional dimension.

Other scholars also emphasise the importance of vested interests and lobbying for understanding PTAs. Grossman & Helpman (1995) argue that whether a country chooses to enter a trade agreement is determined by how much influence different interest groups have and how much the government is concerned about voters' welfare. They argued that the political viability of a PTA often depends on the amount of discrimination the PTA yields. Trade agreements that divert trade will benefit certain interest groups while consumers bear the cost. If these interest groups have more political bargaining power than other segments of society, it is highly likely that the PTA will become trade diverting, rather than trade creating. Moreover, the reason why many PTAs do not cover politically sensitive industries is because governments can increase the domestic support for the PTA if the sensitive sectors are excluded from the trade agreement. Consequently, Grossman & Helpman (1995) explains why PTAs ultimately result in a socially undesirable outcome.

Other authors provide similar explanations for Asian nations. Ravenhill (2003) observed that the limited liberalisation of the sensitive agricultural sectors in Japan can be fully attributed to the powerful Japanese farm lobby. Accordingly Ravenhill refers to this as liberalising without pain, liberalising sectors with competitive edge. Nevertheless, most of these papers fail to discuss the other side of the coin, what about the business groups that desire to compete and export abroad?

Consequently, there has been other research on domestic actors which have lead to further liberalisation in the Asian region. Remaining with interest groups, Bowles and MacLean (1996) emphasised the growing influence of interest groups amongst business elites, which helped fashion a domestic coalition that removed government opposition towards AFTA. Similarly Stubbs (2000) argued that elites with protectionist interests used to be in power amongst Southeast Asian states, however, there was a sudden shift of power that placed technocrats with more outward looking economic liberalisation policies in power.

More contemporary works include Nesadurai's (2003) inter-link between regional PTAs and domestic interaction. She combined the developmental state theory of state intervention that promotes developmental agendas and endorses trade liberalisation with open regionalism, thus conceptualising 'Developmental Regionalism'. Interestingly, her analysis offers useful understanding for the relationships between political elites and

emerging domestic business groups in ASEAN, which interact and decide to engage in deeper regional integration. Nesadurai's (2003) work offers a compelling insight into how domestic interaction enters into the decision of AFTA commitments. However, it does not fully account for how external forces, such as inter-regional PTAs, can also influence internal variables at the domestic level.

The importance of interest groups can also influence the multilateral outcome as well. Baldwin's (1999) Domino theory postulates that governments of countries outside a PTA will receive massive lobbying from local businesses to gain access to PTA membership. The momentum will favour the pro-liberalisation forces because they are adversely affected by trade or investment diversion. This process will occur in every country excluded from the PTA until every country is a member of the larger free trade bloc, when there are no PTAs. The domino theory could possibly explain the rising momentum of Asian PTAs.

However, there are some limitations on the literature of interest groups. Firstly, due to the high degree of sectoral diversification within businesses, it is often problematic to visualise a clear picture of what policies firms are willing to support (Hamilton-Hart, 2003). Secondly, there is a lack of empirical evidence specifying, ex post, which interest groups are truly influencing policy changes. It is unclear which domestic groups support PTAs, whose interests these trade agreements serve, and why particular groups prefer bilateral to multilateral liberalisation. For example, it is difficult to distinguish which interest groups, or whether any interest group at all, has actually influenced the recent corporate and financial reforms in Southeast Asia countries (Haggard, 2000). This is more complicated for certain Asian countries, such as Singapore. Thirdly, very few papers have tested whether, once in place, PTAs foster domestic support for broader, multilateral trade liberalisation or whether they undermine such support (Mansfield & Milner, 1999, p. 604).

## 2.3.3 Role of Institutions

In the literature on PTAs, most of the domestic analysis has predominantly emphasised the role of interest and lobby groups. In contrast, the literature on domestic institutions has been at best scarce. Nevertheless, due to the limitations of interest group analysis, there have been calls by a number of scholars to adopt an approach that analyses the role of domestic institutions instead. Rodrik argues "institutions have received increasing attention... as it has become clear that property rights, appropriate regulatory structure, quality and independence of the judiciary, and bureaucratic capacity could not be taken for granted in many settings and that they were of utmost importance to initiating and sustaining economic growth" (2003, p. 7).

Furthermore, advocates argue that institutions have greater importance than interest groups because political institutions can exclude certain interest groups from influencing policies. Political institutions are able to constrain individual and interest groups' behaviour by rendering some choices unviable, precluding a particular course of action, and restraining certain patterns of resource allocation (Shepsle, 1989). From an extreme perspective, some might argue that institutions do not just constrain options, they establish the very criteria by which agents and interest groups may discover their preference (DiMaggio & Powell, 1991). As a result, domestic institutions may provide equal, if not more insightful, analysis.<sup>20</sup>

What are domestic institutions? There are several definitions of institutions. Sometimes they are broadly referred to as the formal and informal rules that shape the nature and extent of human interaction (North, 1990). Williamson argues that under neoclassical economics, it is assumed that organisations of economic activity, such as firms, are characterised as production functions with a motive of profit maximisation (Williamson, 1985, p. 199). He believes we should depart from such assumptions because institutions have a distinct dynamic of their own. Consequently, this thesis will adopt a more practical approach:

Institutions are a set of humanly devised behavioural rules that govern and shape the interactions of human beings, in part by helping them to form expectations of what other people will do. In so constraining behaviour, institutions may be reflected in the appearance of certain behavioural regularities or norms.

(Lin & Nugent, 1995, pp. 2306-2307).

Thus, a few scholars have emphasised the importance of domestic institutions instead of interest groups because the weight on domestic interest can be marginalised. Such authors rigorously highlight the significance of the state and government capacity being

<sup>&</sup>lt;sup>20</sup> Some scholars advocate the significance of studying both domestic institutions and interests in the field of international political economy. Gourevitch (1996), for example, argues that both perspectives allowed previous authors to provide insightful accounts of the interwar years.

the key ingredient that provides the ability to implement and commit to relevant economic policies that lead towards economic development (Evans & Rauch, 1999). Some authors have also attempted to expand their theories through empirical research in the Asian region as well. It is believed, in the Asian region, that the influence of governmental institutions has been more pronounced, and sometimes more efficient than in most other developing countries (Tongzon, 2005). Moreover, others believe institutional features have been a significant factor in determining a country's vulnerability to economic shocks, such as the Asian financial crisis (MacIntyre, 2001). On the whole, there are scholars who aim to bring the importance of domestic institutions into the analysis of international political economy.

# 2.3.4 Institutions and PTAs

A small number of scholars have attempted to advance the study of PTAs by emphasising the role of institutions. They believe, even if influential domestic actors oppose liberalisation altogether, institutional factors can sometimes create opportunities for policymakers to sidestep such opposition, by relying on regional or bilateral PTAs as an defence. For example, institutionalists argue that policymakers will sign PTAs, despite domestic opposition, because the PTAs were undertaken as a means of propagating protectionist barriers.<sup>21</sup> Generally these scholars explain the importance of domestic actors and institutions that influence government strategies in pursuing international goals, including their international and regional goals (Gourevitch, 1996).

With respect to the Asian region, it is argued that economic integration within the region also depends on domestic interactions (Crouch, 1984). More importantly, the quality of the institutions sets the boundaries on how many Asian states are able to implement and commit to their bilateral or regional trade agreements. For example, Katzenstein (1997) argues that domestic interaction is a significant component of regional integration. In the Asian region, however, there are weak formal institutions, such as weak bureaucratic structure and ineffective state capacity. The weakness of formal institutions created a void for informal institutions, such as firms and markets, to fill the gap. In the absence of formal institutions, informal institutions – through intra-industry trade and investment – have helped to create the necessary networks required for an alternative form of regional integration in the Asian region. For example, the Japanese

<sup>&</sup>lt;sup>21</sup> See Eichengreen & Frankel (1995) for further details.

government has found it difficult to conduct bilateral cooperation with its partners, however, it has been much easier for Japanese MNCs to enter. As a result, the Japanese government rely on its MNCs to forge bilateral alliances.

Doner (1997) supports Katzenstein's argument. He believes there is an institutional lag in state-to-state arrangements that finds difficulties in catching up with rapid East Asian expansion of intra-industry firms. However, Doner still emphasises the importance of formal institutions. There are limitations to how much informal institutions can achieve, without formal institutions. Formal institutions, such as the Japanese government, can provide both technical and financial assistance to their neighbours to develop both formal and informal institutional capacity.

More importantly, when discussing contemporary PTAs with deeper integration provisions, it must be remembered that only formal institutions have the authority to negotiate, eliminate, and implement regulatory policies. Informal institutions do not have direct access to the decision making process of regulatory integration. Generally, only states, with formal domestic institutions, may tackle and resolve the problems raised by regulatory barriers to trade.

## 2.3.5 Institutions and PTAs with Regulatory Barriers to Trade

Hamilton-Hart (2003) provides an alternative argument on why there is a limited number of Asian regional projects. She emphasises the importance of institutions that may foster the requirements needed for regional PTA in the Asian region. She stresses the significance of government capacity to implement its own policies in a reasonably consistent and rule-abiding way. More importantly, she elaborates her argument by emphasising regulatory issues. Previous trade liberalisation polices for ASEAN states merely dealt with the reduction of tariffs and subsidies, a freeze of previous government activities. The mentioned policies may be difficult to adopt, but once adopted, they remain in effect until a new policy is announced.

Nowadays, Asian countries have adopted deeper integration. Trade liberalisation polices, such as financial regulation, are more demanding upon states because they require continuous enforcement; they demand involvement from government authorities for as long as they are in operation. The failure to implement and enforce such regulatory policies affects their capacity to implement effective cooperation projects with other states or any form of regional integration commitments (Ravenhill, 2003, p. 304).

Some observers maintain the feasibility of creating a regional agreement depends on members having relatively similar economic or political institutions. If trade liberalisation requires harmonisation, then the more homogeneous are members' national institutions, the easier it may be for them to agree on common regional policies and institutions (Mansfield & Milner, 1999, p. 607). However, the Asian region is an example of differing institutional capacity, given the heterogeneous social economic background. For Hamilton-Hart (2003), weak government capacity complicates the ability of states to commit their ambitious regional integration projects, thus providing an alternative explanation why formal cooperation maybe have been weak or ineffective, since the demanding regulatory policies within the region are unlikely to be implemented.

Nevertheless, one can find weaknesses in Hamilton-Hart's (2003) paper. Firstly, the article is a predictor for possible future outcomes in the Southeast Asian region. Moreover, her research has not been empirically tested. One of the possible explanations could be, understandably, attributed to the insufficient number of case studies for such an analysis. However, the numbers of comprehensive new regionalism PTAs are beginning to emerge extensively. These PTAs contain alternative regulatory policies, which will crucially rely on their trade partner's domestic institutions and regulatory trade provisions. Nevertheless, her influential paper stresses the need for understanding the complexities of domestic institutions within states, and how they affect the implementation of economic integration or cooperation in Asia.

## 2.3.6 Locking in Institutions and PTAs with Regulatory Barriers to Trade

Conversely, some scholars also believe that PTAs can provide positive effects at the domestic level. It is believed that comprehensive PTAs involving deeper liberalisation beyond tariff reduction in goods and containing progressive liberalisation provisions can facilitate governments to initiate domestic economic reforms, which would otherwise be difficult to undertake at the multilateral level, such as services sector and investment liberalisation. These policy reforms, which are 'locked-in' through legal provisions of the PTA, should create a positive impact on their global competitiveness (Frankel, 1996, pp. 216-217; Lawrence, 1992; J. Schott, 2003, p. 11; World Bank, 2005, p. 7). The best example was in the case of Mexico, which underwent several unilateral economic reforms, but used NAFTA to lock in the reforms in a manner that would be difficult to reverse. Thus, Mexico illustrates how institutional change and reform can completely bloc out certain interest groups.

However, there are others who disagree with the locking-in argument (J. N. Bhagwati, 1993, pp. 25-26; Panagariya, 1996, 1999). Some believe the locked-in provisions could have been reached at the multilateral level as well. However, opponents fail to realise the practical difficulties of obtaining a general consensus for NTBs at the multilateral level.

Moreover, PTAs do not only provide lock-in mechanisms, which has been shown in the case of Mexico and other countries with deeper integration PTAs. Some provisions go beyond locking in. For example, the Mexico-US bilateral on countervailing duties was a steppingstone for Mexico's GATT and NAFTA accessions. In other words, PTAs that contain attributes beyond WTO provisions can also provide more than just locking-in mechanisms for domestic institutions, it also allows the possibility to enhance domestic institutions (Frankel, 1996; Tornell & Esquivel, 1997).

Consequently, there are a great number of observers who have written extensively on new regionalism PTAs. They also discuss the possibilities of how signing PTAs could offer states the opportunities to build the necessary capacities before committing to the more important multilateral trade agreements (Dent, 2003b; Sen, 2006; Woolcock, 2006; World Bank, 2005). However, those hypotheses are still underdeveloped and empirically untested. The inclusion of domestic institutions into regulatory barriers to trade which influence the equation of economic integration is an area which needs to be examined. That will be the main theme for the rest of this chapter.

### 2.4 The Analytical Frameworks

Previous studies of PTAs have placed too great an emphasis on the trade agreement and not enough on trade policy linked to sensible economic development and institutional reform policies (World Bank, 2005, pp. 319-320). There are several schools of thought on why previous PTA studies have yielded inconsistent results. The previous section highlighted insufficient domestic social and economic conditions as possible hindrances to regional integration. This section aims to supplement such arguments by building two analytical frameworks that stress the relationship between domestic institutional capacity and PTAs, and how they reinforce each other towards greater economic integration. Moreover, the combination of the two frameworks permits an analysis from a two-level perspective. The first, *institutional trade capacity*, conceptualises the domestic

mechanisms involved in PTAs. The second, *deeper regional PTA integration*, examines how domestic capacity and PTAs can influence regional PTA integration outcomes.

# 2.4.1 Institutional Trade Capacity:

This chapter has flagged domestic institutions as one of the key ingredients for states to commit and implement deeper regulatory integration policies. However, the ability of domestic institutions to design and carry out the planned strategy is a broad term which has not been formally conceptualised. This subsection does not claim to conceptualise the broad term, however, it would be difficult to understand the process involved in trade policy making unless the domestic mechanism that lies at the heart of trade policy is understood. Thus, this subsection attempts to map out some of the key domestic institutional variables, with specific attention to trade policy making, which will be affected by deeper integration. As a result, the section shall attempt to conceptualise *institutional trade capacity*.

Interestingly, no formal conceptualisation of institutional capacity has emerged from the literature.<sup>22</sup> Some have attempted to define this in terms of bureaucratic agencies with effective decision making power to decide the necessary tools for economic growth and development (Evans & Rauch, 1999). Others, such as Hamilton-Hart (2003), describe government capacity as the ability of a government to carry out its own declared policy in a reasonably consistent and rule-abiding way. Rodrik (1995) believes it is a public administrative agency with competent bureaucracy that gathers information, and provides advice and inducement, such as trade promotion incentives, to assist local firms to navigate through the changing world market. Overall, the above works fall under the Weberian school of thought, which emphasises bureaucratic organisation and deploying their own distinctive set of decision-making procedures; such a stance will also be adopted in this thesis, but limited to international trade policy making.

Consequently, as mentioned in chapter one, I define institutional trade capacity as the ability of a country independently to formulate and organise complex trade policies and operations, whether these related to tariff or regulatory barriers, in a coherent fashion (OECD, 2001; Prowse, 2002, pp. 1238-1240). This will be outlined in detail in the subsequent subsection, however, it includes the state's ability to negotiate, coordinate,

<sup>&</sup>lt;sup>22</sup> With the exception of Dent (2006b), who formalises governmental capacity into technocratic and institutional capacity.

consult, implement, and create novel trade strategies. Furthermore, it must be clarified that the conceptualisation of domestic institutional trade capacity does not encompass economic growth, nor does it promote social matters, such as democracy and good governance. As a result, this thesis merely conceptualises the understanding of institutional capacity to formulate and engage in international trade policy making, and nothing else beyond this limitation.

## 2.4.1.1 The channels PTAs affect Domestic Institutional Trade Capacity

This subsection attempts to analyse how PTAs infiltrate domestic institutional trade policy making within a state. The subsection aims to elaborate how PTAs can influence domestic institutions shedding some light on how PTAs may transform and formulate future trade policy. Once such task is completed, one can create an analytical framework.

It is assumed that trade negotiation is a top down approach; the policy maker adopts a stance on trade and the trade negotiating team must faithfully carry out such orders. In reality, however, not all planned trade policies can be implemented. Before an agreement can be concluded, they are heavily negotiated and internally and externally, after which it can be formalised into a trade agreement. Figure 5 aims to illustrate this complex web in a reduced generic form of the channels by which PTAs may influence the domestic mechanism. This model assumes first that PTAs will infiltrate the state mechanism, where the first point of contact would be through the trade negotiating committee. As a result, under the *flows entering the state*, a PTA first penetrates the trade system through the negotiation stage, which reports back to the relevant ministries as well as the policy making bodies, including politicians and high level bureaucrats. The interactions amongst these stages are more complex because more than one government body is involved in comprehensive trade negotiations, which leads to more bargaining and cooperation amongst government agencies. Furthermore, the interaction also involves other domestic non-governmental agents, such as the business community, and the NGOs. These agents are now becoming players to which the government needs to pay attention, especially when these groups hold more specific and reliable information from their industry and group.

This simplistic diagram also includes exogenous variables, such as the WTO, PTAs, or any trade agreement, which hold elements of WTO-plus. Following the same pattern as above, these exogenous variables, with regulatory provisions, may also create a lasting influence on the state and changes in domestic mechanisms.

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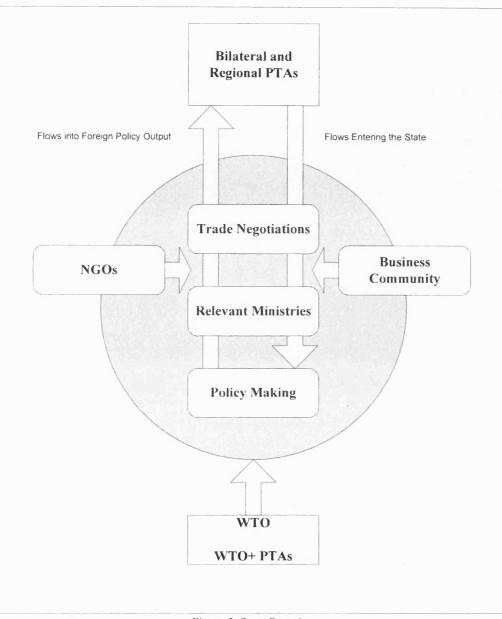


Figure 5: State Capacity

The varying interactions inside the domestic mechanism will also change the nature of the top-down into a more complex process. Observing the interaction of domestic mechanisms is analogous to the study of chemistry. If domestic agencies are molecules, and trade agreements with regulatory WTO-plus provisions is the heat, when turning on the heat, one can observe molecules moving and interacting faster. There could be greater coordination, resulting in greater interaction between policy planning and various government agencies, and more communication amongst government and

non-government agencies. Thus, a complex web is created in the process of trade policy making.

The interaction between government agencies and non-governmental agencies will also produce changes in government policies, especially on regulatory trade agreements, which leads to changes in domestic law; this entails greater need for communication between various actors in the policy structure. Furthermore, it also offers the agenda-setters clarity on whether the appropriate domestic institutions are facilitating trade agreements, or whether other forms of domestic institutions are required. This eliminates the transaction costs from trade, which are considered different from the transaction costs during the design stage (Khan, 1995). All of the above interaction creates a feedback which later transforms into the negotiated trade agreement which becomes the *flow into foreign policy output*.

## 2.4.1.2 Institutional trade capacity framework

From the literature on regionalism, it is argued that strong and clean WTO-plus PTAs should reinforce domestic economic and institutional reforms to remove market distortions (Sally, 2006, pp. 307-308) however, such statements have never been empirically tested. To understand how PTAs with deeper regulatory provisions may influence the domestic mechanism, we must observe the channels and domestic variables affected by trade agreements. This subsection shall deconstruct the effects PTAs may have on the domestic institutional mechanism and construct a framework that observes the channels which PTAs infiltrate the domestic mechanism.

We now return to the literature on the locking-in effects of PTAs. Most proponents of regionalism believe deeper regulatory provisions in PTAs can provide beneficial effects, such as locking-in mechanisms for reform (J. Schott, 2003, p. 11; Tornell & Esquivel, 1997; World Bank, 2005, p. 7). Furthermore, some authors believe that liberalisation from PTAs, or from the multilateral track, goes beyond providing a locking-in mechanism; they believe PTAs can also enhance future domestic reforms as well (Birdsall & Lawrence, 1999; Frankel, 1996; Prowse, 2002). However, this is a concept that have hardly been contested, and it will prove to be a critical component for examining effects of PTAs on domestic institutional trade capacity.

For such an effect to arise, I assume that PTAs exhibit a circular rather than a linear chain of causation that affects domestic capacity. As elaborated in Figure 6, states signing PTAs with deeper integration should provide some positive spillover effects.

These positive effects can assist countries towards building domestic mechanisms that adopt further trade liberalisation in future trade agreements. Specifically, they create awareness, which may help countries adapt to domestic reforms required to meet the changes in those provisions. This in turn enhances the country's domestic mechanism as well as preparing the country to sign future, bilateral or multilateral, trade agreements which includes similar WTO-plus provisions as well.

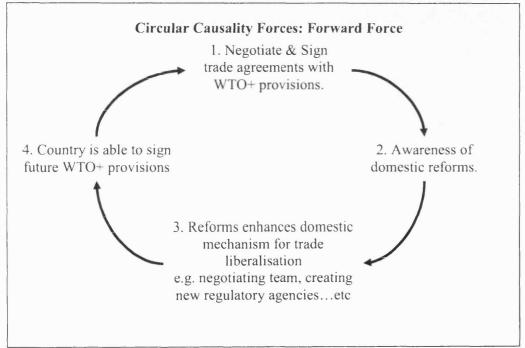


Figure 6: Circular Causal Forces: Forward Force.

Consequently, when observing the influence trade agreements have on domestic mechanisms, we not only observe the locking-in of domestic reforms at the institutional level. There is also a possibility for PTAs with WTO-plus provisions to exert changes on domestic institutions, which results in a positive effect that goes beyond locking in, they could lead towards further trade liberalisation.

However, it is not always necessarily the case that countries which sign PTAs will lead to more trade liberalisation. There is an equal possibility that trade liberalisation from PTAs could also lead to negative spillover effects on domestic mechanisms, leading to protectionism in future trade agreements instead. The diagram on backward forces, under Figure 7, can be read as follows: the signing, or just negotiating, WTO-plus provisions could cause strenuous effects to domestic mechanisms, which comes in the form of overlapping domestic regulations, overstretching trade officials, for example. This in turn causes a weakening of the domestic mechanism to adopt trade liberalisation, which could lead to countries adopting applying less liberalisation policies, either after the review process by policy makers, bureaucrats and trade negotiators, or from nongovernmental actors. Thus, the negative effect will result in countries having less desire to sign future trade agreements containing WTO-plus provisions.

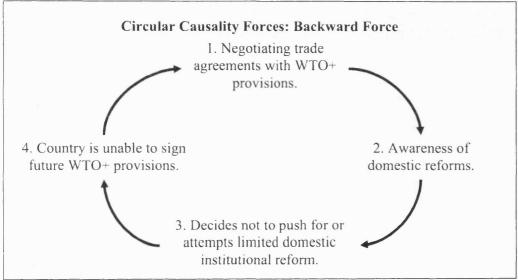


Figure 7: Circular Causal Forces: Backward Force

The positive and negative circular-causality spillover effects on domestic institutional capacity can be described as two opposing forces: *forward force* and *backward force*. The former describes the spillover effects that could lead countries to adopt measures that further liberalise trade; whereas the latter spillover effects could result in countries adopting more protectionist measures. More importantly, these spillover effects can impose changes on domestic institutional capacity, and affect the outcome of future bilateral and multilateral trade agreements.

The forward and backward forces are similar to Dent's (2006a) regional convergent and divergent forces, however, I aim to provide a continuation of Dent's (2006a; 2006b) work by elaborating in greater detail on the positive and negative effects in the institutional trade capacity framework. Both forces will be considered in turn, when analysing the effects of PTAs with deeper regulatory provisions on the domestic mechanism. Moreover, Dent (2006b) separates domestic capacity into technocratic and institutional capacity, this is having sufficient technical trade expert, coherent trade policies, and a robust institutional arrangement. The institutional capacity framework, in

this thesis, aims to further elaborate this observation to include technocratic and industrial capacity. In other words, the model observes both government and non-governmental agents, where non-government agents are now playing an important role for trade negotiators to formalise trade policy. Consequently, institutional capacity framework is separated into five elements: trade negotiation, coordination, consultation with non-governmental sectors, establishing agencies to monitor and regulate trade, and formulating new trade strategies (Birdsall & Lawrence, 1999; OECD, 2001, 2005b; Prowse, 2002); all of which will be discussed in turn in the institutional trade capacity framework, in Table 1. Moreover, the forward and backward force captures the spillover effects of PTAs on domestic institutions; these impacts will determine the outcome of future trade agreements, including regional integration. In other words, the institutional trade capacity framework only explains the domestic dynamics. Nevertheless, the analysis here will be used in conjunction with the deeper regional PTA integration framework.

Area of Impact	Influences	Effects	Effects	Observe and Measure
		Forward Forces	Backward Forces	
Negotiating Capacity	Comprehensive trade agreements will force a change in the composition of the trade negotiating teams, as well as recruiting negotiators from broader variety of background and experiences.	Experience of the trade negotiating team increases, the knowledge gained should pass on to future trade negotiations.	This could result in too many PTAs with too few qualified trade negotiators, resulting in an overstretch of human resources and limiting the use of valuable negotiators in other areas, such at the multilateral negotiations.	Measuring the number of legal experts and the number of specialists from various agencies involved in the trade negotiations, which was not previously there, as well as observing their participation.
Coordination	· · · · · · · · · · · · · · · · · · ·			
Within ministries	Comprehensive PTAs require greater coordination of different departments within the ministry.	Good coordination amongst government officials would lead towards a more detailed negotiating plan and outcome.	Bad coordination could result in greater confusion	Observe the creation of a department for coordination within ministries.
Between ministries	Comprehensive PTAs requires greater coordination between different government agencies.	Greater coordination should lead to detailed position and a more synchronised unit, and create a better understanding of each other.	Bad coordination could result in greater confusion and misunderstandings of the benefits of liberalisation.	Observe how agencies coordinate, the creation of coordinating centres, or a fund for coordination.
Consultation				
Academic institutions	Seeking inputs from academics.	This will help formulate a better negotiating strategy	None	Observing the number and variety of academics involved.
Business society	Seeking advice from the business community	Advice from the business community will provide further information and create a better understanding of what the country can accomplish.	Industries which seek protection might provide negative information, or find other means of hiding from liberalisation	Measuring the number of business groups becoming involved, and their participation.

Area of Impact	Influences	Effects	Effects	Observe and Measure
		Forward Forces	Backward Forces	
Non Profit agencies	Seeking inputs from civil society	Input from these organisations could also help form a better position for the negotiating team. Moreover, they have a role in forcing transparency.	Certain NGOs could have a negative impression of PTAs, they might favour protectionism and never desire to liberalise.	Measuring the number of NGOs involved in PTAs, and their participation.
Implementation				
Judicial and legal system	After signing the trade agreement, the government must ensure that the judicial system will assist the implementation of the agreement in a fair and impartial manner.	This should ensure that future trade agreements will accept the same benefits.	The new legally-binding provisions of the PTA might conflict with the existing domestic laws, causing a negative feedback towards liberalisation.	Observe changes in the legal texts.
Procedural and establishing new agencies.	Assisting the implementation of the agreement by streamlining procedures and creating a new department or a new government agencies for testing.	This should help to ensure a better response and reaction in future trade agreements.	The new governmental agencies could contradict or run an overlap with existing governmental agencies.	Observe the creation of regulatory agencies or procedures, which would not have existed prior to PTAs.
Creating New Trade Strategy				
	The negotiating of PTAs may have forced these countries to create awareness of a new trade strategies, which may have not otherwise been conceived without PTAs.	The new strategy could help create a more coherent trade policy in general, and be utilised in future trade agreements.	The new strategy could end up becoming protectionist policies, that only liberalise a few sectors, and sets the scene for the county to adopt protectionist policies.	Observe the changes in government strategic policies, when announced.

Table 1: Domestic Institutional Trade Capacity Framework

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## Negotiating Capacity:

As mentioned earlier, the front line that first interacts with PTAs are the trade negotiating teams. How negotiating trade agreements influences the trade negotiating team has already been mentioned above. Moreover, comprehensive PTAs can also change the negotiating team's composition, encompassing a wider variety of talent. Each country should aim to develop a core group of trade analysts and negotiators, which comprises a variety of specialists from the varying fields of comprehensive trade negotiations. This includes the training of new trade negotiators and recruiting new talents from the private sector as well. The build up of specialists will be an important factor for enhancing trade capacity, and more importantly, human capital. Learning how to divide the negotiating teams and distributing the division of labour is one of the key elements for modern day negotiations.

The effects of constantly interacting in intensive trade negotiating should accelerate the learning curve of the negotiating team, the lessons learnt from the negotiations help to reshape and redefine the negotiating techniques of the domestic team for future trade negotiations. It must be remembered that the art of negotiation is in actual fact the art of bargaining and persuasion, which is a skill that cannot be taught, but must be acquired from experience. Consequently, PTAs could result in forward force for the negotiating team because it is the best means of accumulating such experiences. All of the above will help negotiators learn the tricks of the trade, and build awareness of their own potential. However, we could equally end up with a backward force, where PTAs draws too many specialists away due to the country negotiating too many trade agreements; which may also affect their negotiating capacity at the multilateral level.

## Coordination:

What naturally follows from the trade negotiation stage is the communication stage between trade negotiators and other government agencies. This has suddenly become a significant matter, thanks to the comprehensive nature of PTAs, which requires a greater need for governmental agencies to communicate. This will be very apparent for countries with weak institutional capacity because there are greater strains and demands amongst domestic agencies to formulate and implement trade policies effectively. The better the communication line the less complications will arise in formulating effective trade policies.

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Coordination comes in two forms. The first is coordination between departments within the single governmental agency. Naturally the government bodies which are responsible for the negotiations are different from the departments responsible for implementing such policies. For example, within the ministry responsible for agriculture, the department of agricultural economics is responsible for the negotiation, however, the department of local agriculture is responsible for communicating with local farmers and stakeholders. It is generally the case that the departments directly involved in the groundwork are usually in the supporting role, whereas the department representing the ministry is the coordinator and communicator of the government agencies.

Secondly, there is also coordination between governmental agencies. This is the most common concern with contemporary PTAs, since it is necessary for several ministries to become involved in international trade negotiations. This is very apparent prior to and during the negotiations, when each ministry must report back to their masters and coordinate amongst each other on the issues which they aim to negotiate and decide how best to achieve the planned goals. Generally there must also be a governmental agency, usually the ministry responsible for trade, as the main anchor to coordinate all the ministries to work harmoniously.

There are also post-negotiation concerns both within and between government agencies. Regarding post-negotiation, it is usually the case that unforeseeable problems, which were not predicted during the negotiations, will arise. As a result, there should also be coordination meetings after the negotiations are concluded. Firstly, the bureaucratic agencies should meet on a regular basis in order to follow up on the signed agreement, so the government may decide which areas require improvement in the agreement and future negotiations. Secondly, there should be regular meetings between the negotiators from both sides of the negotiating table, providing opportunities for both sides to discuss and improve on the signed trade agreement. More importantly, this also allows the possibility for the state to resolve problems without the use of a dispute settlement mechanism.

The lasting benefit of greater coordination, or the forward force, is greater understanding amongst government agencies. Generally, very few ministries fully appreciate the policies designed by other ministries. However, the constant communication between government departments creates an environment for government officials to understand each other and value the justification for implementing such policies, this is not confined to just trade policies, but with government policies in general. Furthermore, another positive affect of forming a stronger communication line between government agencies will result in creating a permanent link and familiarity for trade negotiators who understand each other's position in future negotiations. However, there is also the possibility of backward force If the coordination process is not well designed, it could result in resources being overstretched and confusion arising out of the misinterpretation between government officials.

#### Consultation with Non-Governmental Agencies:

The deepening of regulatory provisions encourages the creation of new mechanisms for developing political and social consensus for the reforms themselves. A recent addition to the decision making process of international trade is the input from non-governmental agencies. One of the most common problems is the lack of accurate information. This is important especially before the negotiation commences, especially when there is asymmetric information favouring one side of the negotiating table. One of the more familiar forms of consultations has come from academics, often called upon to establish a fact-finding mission and assess the viability of formulating the trade agreement. There are concerns that information gathered during the preliminary round may be inaccurate or insufficient because it may have been rushed. Equally important is the assessment of the trade agreement once it has been signed.

Another form of consultation comes from the business community. This should be one of the most natural sources of valuable information, however, very few countries utilise information from the business sector effectively. It has been the case that most government agencies believe they have more accurate information of their own economies. However, it is becoming more accepted that the business community, specifically bigger corporations, holds the most accurate data of their own industry, and perhaps with more information than any government agency would care to comprehend. Thus, several countries are slowly recognising the importance of information, and the necessity to consult with the business community in order to accumulate accurate information on their own economy.

A more recent additional input for consultation is the non-profitmaking NGOs. In most countries the voices of NGOs are rarely heard, especially in international trade matters. Again, the problem of imperfect information resurfaces, which sometimes compels governments to listen to the voices of civil society. More importantly, international trade agreements now encompass a vast range of areas that affect the domestic way of life, from forcing inefficient local industries to relocate to changing the cost of health care policies. PTAs with a regulatory dimension will lead to a change in domestic laws, which causes the mobilisation of civil society. This adds an additional variable to the domestic institutional capacity. Nevertheless, all of this depends on the structure of civil society in that country, and whether the mobilisation of civil society is permitted.

The lasting positive effects of consultation not only bring changes during the negotiating, but the information from consultation also leads toward a better understanding of the country's true economic capacity. Moreover, consultation also builds awareness post-negotiation by allowing feedback and comments from both the government and the non-government agencies. This is valuable especially during the review of each PTA, feedback from businesses will truly indicate whether PTAs have worked.

Likewise, voices from NGOs will push for greater transparency and allow the possibility for the process to be scrutinised. As governments recognise the distrust of the public over accepting trade agreements, they may attempt to invite business and civil society groups to participate in the negotiation process. The invitation should be seen as a means of allowing greater transparency, an element lacking in most developed countries. Initially the introduction of civil society was not welcomed, and its involvement and value remains to be seen:

...but its very creation marks a change from prior trade negotiations that did not deal with the kinds of domestic issues that modern agreements cover. In any event, the point is that the deep integration process, by encouraging domestic policy reform and bringing those reform issues to the international arena can inspire more open and democratic processes in countries where policy-making has traditionally been from the top down. (Birdsall & Lawrence, 1999, p. 138).

Thus, consultation does not merely reduce asymmetric information, but also improves the process in negotiating trade agreements. Trade negotiations are conducted behind closed doors, in extreme cases they are conducted without the knowledge of the general public. Hence, consultation, should provide a channel that allows outsiders to become involved. Simultaneously, this also creates a catalyst for a more open decision making process. Furthermore, in this case the forwards forces will push various groups of society, both profit making and non-profit making groups, to understand, to prepare and participate in future liberalisation processes. Conversely not all consultation leads to greater liberalisation, backward force can also arise through resistance from the various groups that demand an end to the current and future liberalisation projects.

### Implementation:

The most tangible indicator whether PTAs have truly influenced domestic institutions is when governments are required to change their domestic practices and systems in order to adapt to new regulatory provisions in PTAs. This comes in two broad forms, the first being the improvements in the legal system. This could include, through a stronger and more impartial judiciary, a reduction in the number of corrupt officials, or improvements in the performance of officials which ensures that only goods and services that comply with the agreement benefit from the signed treaty. It is generally the case that most developing countries are forced to import institutions and regulatory systems from developing countries. Because modern trade relations require a stable and predictable judicial system, the adoption of certain predictable legal requirements is seen as a stable form of conducting business.<sup>23</sup>

Secondly, improvements in the legal system must also be coupled with a stronger procedural system. The second category of the implementation variables, which are easier to observe, include streamlining bureaucratic and customs procedures to assist the smooth implementation of the trade agreements, and the creation of new institutions to track and monitor the quality of the goods and services. These agencies should be created to control the regulations which the government has committed to in trade agreements. Sometimes countries even import institutions and procedures from their trade partners, such as importing standards from the US Food and Drug Administration; whether this is the appropriate cause of action is another matter. Another example is the construction of an agency which simply reviews PTAs, an important activity which is missing in several countries. These procedures would not be required if the signed agreements were merely traditional trade agreements. However, with new types of trade agreements, come new types of government agencies, aimed at facilitating trade in a predictable manner.

<sup>&</sup>lt;sup>23</sup> Nevertheless, it should be known that there are difficulties in observing judicial improvements, which have changed as a result of PTAs. This is partly because judicial improvements from improved law enforcement are intangible and difficult to observe. Moreover, most of these agreements have recently been implemented, providing insufficient time to observe their benefits.

The forward force of improving the legal and procedural measures ensures the trade agreements are functioning smoothly as anticipated for both trade partners. The spillover effect ensures that similar requirements, in future trade agreements, will receive similar treatment. For example, provisions on prudential banking regulation ensure that other trade partners will receive similar benefits, thus creating the foundations of the building bloc towards future multilateral trade agreements. Conversely backward forces could result in creating new agencies which may contradict some of the existing agencies, such as creating more red-tape, resulting in a negative feedback towards liberalisation in general. Moreover, there are concerns that developing countries will seek to adopt rules and institutions that may not be appropriate to their level of development or needs.

## Creating New Trade Strategies:

By combining all of the above elements: more experience at the negotiating table, greater interaction amongst government agencies, and more accurate information from consultation, policy makers should have greater information and awareness of the capabilities in their own economies, and implement policies which better suit developing countries' national interests. This provides the possibilities for policy makers to realise a new strategy for creating trade policy.

This will become apparent for countries that have never dealt with regulatory barriers to trade before. Countries with limited experience on these issues might simply ignore such issues, or erect barriers because they are uncertain of their affects. Only afterwards might policy makers realise the problems or benefits such regulatory provisions could bring. Thus, with greater information and coordination, this process could be hastened and immediately incorporate regulatory provisions into the trade agreement.

The forward effect will exemplify how states can learn from PTAs, and adopt the experiences from these PTAs and utilise them to their advantage by incorporating them into future trade agreements with other countries. The lessons learnt will create positions and approaches which were not known to them before. Birdsall and Lawrence refers to this as "rule making rather than rule taking":

... over the long run, active participation in the negotiation and ongoing monitoring of deep integration agreements can change the nature of the

dialogue between developing and developed countries—making developing countries actors rather than spectators on the world scene and thus putting them in a much better position to assert their interests.

(1999, p. 139).

Furthermore, these lessons could reshape their trade strategies, and utilise these strategies in future trade negotiations. In other words, the forward force could push further liberalisation, whether at the bilateral, regional or multilateral. Conversely, the backward force would see countries hiding behind PTAs and adopting a strategy which would lead towards further protectionism.

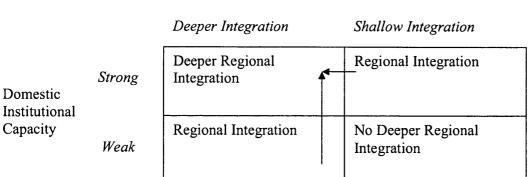
To summarise, this section merely aims to explain the variables involved in observing both forward and backward forces. The significant variables by which PTAs could influence domestic mechanisms includes the negotiating team, coordination, consultation, implementing and establishing new agencies. By entering more complex trade agreements, the state should find means of going beyond the locking-in mechanism of PTAs and develop a more coherent structure and process for international policy making, which should also improve domestic institutional trade capacity. However, what implications would this have for regional integration?

# 2.4.2 Deeper Regional PTA Integration Framework: Dynamic Implications for Regional Integration

Armed with the knowledge on how the domestic mechanism operates, we are in a position to build an analytical framework that aims to test the hypothesis laid out in the first chapter. The dynamic effects of bilateral PTAs on domestic mechanisms and trade policy making is another area which this section aims to address.

The framework also incorporates some basic principles from the literature on PTAs and institutions mentioned above, which shall be illustrated in the matrix in Figure 8. The vertical side indicates the strength of domestic institutions, these are the explanatory variables that may influence domestic institutional capacity. The horizontal dimension discusses the options states have for conducting bilateral PTAs. The left side of the horizontal axis allows states to sign agreements with deeper integration provisions, whereas the right hand side are states that have agreed on shallow integration

provisions.<sup>24</sup> This framework, consequently, yields four possible scenarios for intraregional PTA integration, but they also have dynamic paths.



Inter-Regional (Bilateral) PTAs

#### Figure 8: Deeper Regional PTA Integration Framework

The consequence of signing PTAs with deeper or shallow integration provisions varies according to the type of institutional capacity at the initial stage. In the top left corner, states with strong domestic institutions are able to sign PTAs that contain strong commitments, because they possess a high degree of government capacity to adopt and implement such provisions, reinforcing the possibilities of conducting a wider intraregional agreement. For instance, due to the strong or deeper integration commitments from bilateral PTAs, countries have greater horizontal coordination that may not have existed before. Thus, bilateral PTAs have prepared the actors at the sub-state level to produce similar outcomes at the regional level.

The bottom right corner represents states entering weak PTAs, which will most likely result in states committing to weaker regional agreements as well. In other words, the combination of entering shallow PTAs and weak institutions provides states with little incentive to enhance their domestic institutional organisational enhancement. This provides the opportunity for the weaker institutions to resist change, resulting in little possibility of reaching deeper integration.

The two additional scenarios should provide more interesting outcomes. The top right box are states with strong domestic institutions, but they have signed bilateral PTAs with weak or shallow integration provisions. It should be safe to assume that thanks to

<sup>&</sup>lt;sup>24</sup> I have distinguished the two categories according to the quality of each chapter or provision, not according to the entire trade agreement.

their strong domestic institutional capabilities, regardless of the quality of PTA commitments, they have the abilities to engage in deeper regional PTA integration, if they choose to; but they may also choose no intra-regional integration at all. Thus, graphically, these states have the possible dynamic of moving towards the top left corner as well, since domestic factors can push them towards the possibility of conducting deeper integration, either with other PTAs or at the multilateral level.

Finally, the most interesting case is the bottom left corner, representing states with weak domestic institutions that have signed PTAs with deeper liberalisation provisions. It is possible to hypothesise that the signing of PTAs with strong provisions may create forward forces that foster regional PTA integration. PTAs may enhance their domestic institutional capacity to better coordinate and create a clearer organisational structure. As indicated in the diagram, this creates a dynamic for states with the possibility to enter agreements with deeper integration provisions at the regional level, as well as the multilateral level. This allows states to converge to the top left corner of the diagram. Alternatively, this scenario may also produce an alternative outcome: since these states have limited institutional capacity to begin with, the dynamics may continue to be static due to the limited interest in reform, or the stronger backward force that blocs further liberalisation.

In summary, this section has presented a conceptualisation of domestic institutional trade capacity that merges the literature on PTAs and on institution theory. The merger can be utilised to observe the channels by which PTAs can change the institutional capacity. This section has also supplied an analytical framework that will be used to test the hypothesis that the quality of PTAs and domestic institutional capacity reinforce each other. Strong institutional capacity leads to conditions where states are able to conduct deeper liberalisation provisions, and vice versa. Simultaneously, the framework also has a dynamic dimension. PTAs with strong provisions may also enhance institutional domestic capacity and they may provide a state with a convergence path, enhancing intra-regional integration. Moreover, the implications here are not limited to intra-regional integration. If the spillover effects can improve intra-regional integration, then by extending the analysis further it should also improve multilateral integration as well.

## 2.5 Conclusion:

There is an extensive literature on the Asian region, however, few studies have examined institutional capacity in the region. There have been limited contributions to the literature on institutions, although that is beginning to change, especially after the financial crisis (Tongzon, 2005), and the proliferation of New Regionalism. This chapter, and the thesis in general, attempts to supplement the gap in the literature by introducing a conceptual framework for analysing the interaction between comprehensive PTAs and domestic institutional capacity.

The chapter began by outlining the traditional literature on PTAs, which relied on the Vinerian terms-of-trade arguments. Currently, PTAs and international trade in general, are departing from traditional trade barriers analysis to regulatory trade barriers, and the Asian region is no exception. As a result, it might be more appropriate to analyse PTAs under the scope of New Regionalism, and the regulatory barriers to trade associated with it (Lawrence, 1995). Furthermore, to understand how states decide the liberalisation of deeper regulatory barriers to trade, we must comprehend the domestic mechanism involved in trade policy making. As a result, this chapter proposes the analysis of domestic institutional mechanisms.

It is generally believed that liberalisation can enhance a country's economic performance, and a country's successful economic performance can be attributed to its domestic institutional structure that keeps its transaction costs low (North, 1990). In other words, the improvement of regulatory policies that facilitates trade and investment encourages domestic institutions to change and enhance domestic institutions. This could lead towards greater economic performance and an effective means of trade negotiation. Some scholars (Gourevitch, 1996; Hamilton-Hart, 2003; Katzenstein, 1997) have attempted to analyse and capture this relationship, however, it remains empirically untested.

Drawing from previous literature, this chapter aims to reinforce the proposition that PTAs can lock-in domestic reforms (J. Schott, 2003, p. 11; World Bank, 2005, p. 7). It is also possible to argue that complex trade agreements could build a country's domestic capacity – consisting of policy-makers, enterprises and civil society actors – to take independent positions on trade issues and develop its own trade policies (OECD, 2001; Prowse, 2002, pp. 1238-1240). Moreover, PTAs also allow the possibility for

states to go beyond the locked-in domestic reforms. These propositions will be tested on the two case study countries, with the aid of the analytical frameworks.

Consequently, this thesis will employ the two analytical frameworks. The first illustrates the steps and variables by which PTAs affect domestic mechanisms. The second analytical framework explains the implications that deeper liberalisation may have on intra-regional integration. The two frameworks are linked through the forward and backward forces which allow the possibility for countries to become dynamic; transforming states that are experienced with shallow integration into states that push for the improvement of regulatory policies in future intra-regional trade agreements. More importantly, this could become the catalyst for intra-regional economic integration between developing countries.

It could be argued that the Asian financial crisis may have faded away but one of its remaining side effects was the rise of New Regionalism PTAs. The proliferation of PTAs in the region has opened doors for the study of contemporary PTAs, and institutional changes, amongst other disciplines, in the Asian region.

# 3 Chapter III Singapore and Thailand's PTAs

For small countries, like Thailand, foreign policy is reactive, we must change and adapt according to the times. Thus it is not surprising that we react to the current global dynamics, such as FTAs. Former Permanent Secretary of the Thai Foreign Ministry.

#### 3.1 Introduction

The recent proliferation of PTAs has suddenly changed the global economic map. One of the most apparent hotspots is the Asian region, with Singapore and Thailand being the prime instigators. To date, these two Southeast Asian states have signed the largest number of PTAs in the Asian region. The city state of Singapore has spearheaded the most PTAs, tallying over a dozen trade agreements. The Kingdom of Thailand had to catch up, signing only four comprehensive PTAs. This is not the first time both states have deviated from their multilateral commitments, however, the current alteration entails greater speed and encompasses more trade related matters.

This chapter will provide a chronological account of the PTAs Singapore and Thailand have concluded, and attempt to provide some narrative background to the negotiations, as well as the motivations behind the trade agreements. Most importantly, the chapter will provide a comparison between the PTAs of Singapore and Thailand, since they have signed several agreements with similar states.

In order to understand the origins of the PTA bandwagon, this chapter will begin by observing the intra-regional PTAs Singapore and Thailand signed before they come into vogue. The subsequent sections will provide a chronological account of the interregional PTAs both countries have individually signed until the end of the year 2006. The concluding part of this chapter will present a comparison of the PTAs they have signed. Thus, this chapter should provide some insight in the direction of trade policies the two Southeast Asian countries aim to pursue: from the first-steps PTAs to complex and comprehensive PTAs.

# 3.2 The Grand Regional PTAs

Singapore and Thailand have engaged in PTAs before, however, their limited experience has been focused only on two intra-regional PTAs. These regional PTAs may appear to be out of fashion, but not out of favour; they are ASEAN and APEC. Both intra-regional projects consist of a large cohort of members, with different demands and interests. As a result they have been cumbersome and inefficient, and this has forced some members to seek inter-regional PTAs as an alternative. Nevertheless, the two intra-regional projects were Singapore and Thailand's first PTAs, which have taught them valuable lessons. This section aims to provide an account of the lessons both countries learnt and how they influenced their trade liberalisation polices prior to engaging in the bilateral PTA bandwagon.

# 3.2.1 ASEAN: The Grand Sub-Regional Project

One of the world's oldest and longest-lasting PTA projects is ASEAN. This club encompasses all ten countries in the Southeast Asian region.<sup>25</sup> Established in 1967, the organisation was initially and is still predominantly a political project rather than an economic regional organisation. It was created to "locate post-conflict intra-regional reconciliation within an institutionalised structure of relations" (Leifer, 1999, p. 27). The principal concern above all else was internal security and preventing external interference amongst member states and of the region (Yahuda, 1996). It must also be remembered that ASEAN was neither a vehicle for collective defence nor for collective security. Nevertheless, serious economic integration efforts began a quarter of a century later, erecting three major pillars for the ASEAN economic cooperation and economic integration projects.

In 1991, the then Prime Minister of Thailand, Anand Panyarachun, proposed an idea to create the ASEAN Free Trade Area (AFTA), as the first pillar. In the same year, the economic ministers of the ASEAN countries agreed that all members should establish AFTA, with tariffs reduced to levels of 0–5 per cent by 2008, and to 0 per cent by 2010 for the original ASEAN members, and the same for the CLMV or ASEAN-4<sup>26</sup> members in 2015.

 <sup>&</sup>lt;sup>25</sup> The original members were Indonesia, Malaysia, the Philippines, Singapore and Thailand. States that joined later are: Brunei Darussalam (1984), Vietnam (1995), Laos, Myanmar (1997), and Cambodia (1999)
 <sup>26</sup> ASEAN-4 consists of the new members: Cambodia, Laos, Myanmar and Vietnam (CLMV).

During its initial period, AFTA was on the verge of collapse, but the ASEAN economic ministers were able to revive it by radically modifying it. In 1994, the then Minister for Commerce of Thailand, Supachai Panitchpakdi, enthusiastically proposed the rescheduling of tariff reduction to begin earlier, to widen the scope to include unprocessed agricultural goods, the tightening of guidelines, and bringing goods from the Temporary Exclusion list into the 0–5 percentage tariff rates (Nesadurai, 2003, pp. 58-59). Arguably, Supachai's intention was to make AFTA more attractive than NAFTA and the WTO (Nagai, 2003). However, the major players within ASEAN, such as Thailand, were reluctant to discard the sensitive list.

In 1996, attempts to tackle non-tariff barriers were also included into the first pillar, the *ASEAN Framework Agreement on Mutual Recognition Agreements* (ASEAN, 1998a), aimed at providing the general principles and conditions for developing sectoral mutual recognition arrangements.<sup>27</sup> Nevertheless, regulatory barriers, such as NTBs and TBTs, continued to persist. Most regulatory barriers can still be seen in the forms of rigorous product inspections and stringent quality testing. There have been steps to tackle the problem, but they have met with little success.

The second pillar aimed to liberalise trade in services within ASEAN. This was signed in 1995, under the *ASEAN Framework Agreement on Services* (AFAS) (ASEAN, 1995a), which commits its members to further negotiate liberalisation in seven key service industries.<sup>28</sup> In practice, however, the liberalisation of some service sectors is extremely weak. Again the main players, such as Thailand, were reluctant to liberalise most of these sectors. As a commentator noted, in the case of telecom services, they were even weaker than ASEAN commitments in the GATS Annex signed in 1997 (Sally, 2004b, p. 44). The implementation of AFAS has been equally challenging, this can chiefly be attributed to the difficult negotiation process. Furthermore, there are concerns that the removal of restrictions in services will provide benefits for foreign firms, which translates to increases in competition that ASEAN governments were not prepared to undertake.

The third pillar is the ASEAN Investment Area (AIA), also signed in 1995 (ASEAN, 1998b). AIA aims to extend national treatment to ASEAN investors, thus eliminating control on investment by 2010. AIA provides national treatment for the same

<sup>&</sup>lt;sup>27</sup> Only twenty priority products groups were listed, mainly electrical and electronic items, telecommunications equipment and rubber products.

 <sup>&</sup>lt;sup>28</sup> This includes Air Transport, Business Services, Construction, Financial Services, Maritime Transport, Telecommunications and Tourism (1995).

seven priority service sectors in AFAS. In practice, the seven priority service sectors covered under AIA can be loosely perceived as GATS-plus. Nevertheless, the implementation process appears to be problematic; as in AFAS, governments are prepared to extend national treatment to ASEAN investors, however, they still wish to retain investment restrictions against inter-regional partners. Furthermore, there are extensive comments from observers expressing concerns about the slow pace of AIA and the long delays. As Sally argues, the problem with the AIA is long drawn-out timetable and being out of step with the accelerated timetable for liberalisation for AFTA (2004a, p. 30).

Country	1996	1997	1998	1999	2000	2001	2002	2003
Brunei Darussalam	2.46	2.29	1.91	1.74	1.39	1.39	1.39	1.39
Indonesia	11.63	10.61	8.84	7.91	5.81	5.70	5.00	4.25
Malaysia	5.93	5.14	4.42	3.67	2.90	2.83	2.83	2.83
Philippines	9.17	8.33	7.16	6.53	5.42	4.90	4.89	3.73
Singapore	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Thailand	14.10	12.69	10.15	9.28	7.00	6.99	5.78 <sup>3</sup>	4.63
ASEAN	7.76	7.00	5.79	5.19	3.97	3.88	3.47	2.95

Table 2: Average CEPT Tariff Rate

Both Singapore and Thailand have always been key players in ASEAN. However, the major players, apart from Singapore, have been reluctant to expand the list at a more encouraging rate. For example, as shown in Table 2, Thailand's basic tariff rates, the Common Effective Preferential Tariff (CEPT), is the highest amongst the ASEAN-6 members (Chirathivat & Mallikamas, 2004). Nevertheless, there has been notable progress in ASEAN, these are considered substantial developments for non-OECD countries. The AFAS and AIA may mirror WTO projects, but they have the intention to evolve beyond its WTO commitments; when that will be remains unknown. As most critics have pointed out, all three pillars have a lengthy timetable, there has been close to no progress on plans to expand the coverage of its limited list.

#### 3.2.2 APEC: The Grand Trans-Regional Project

One of the most impressive trade agreements is the Trans-Pacific PTA between the Americas and the Pacific nations, namely the APEC. As in ASEAN, Singapore and Thailand were amongst the 12 founding members,<sup>29</sup> which later became a 21- member<sup>30</sup> club expanding to almost every country that borders the Pacific Ocean. The original proposals for APEC came from Australia in 1988, as a response to the deadlock in the Uruguay Round. There were high hopes that the Asian tigers would push the Asian Pacific region to being new powerhouse of the global arena. However, like ASEAN, APEC was weak and ineffective, limiting its current role to monitoring PTAs.

In its early days, there was little interest in APEC, especially once the Uruguay Round began to gain momentum in 1990. In 1994, APEC leaders called for continued reduction of trade and investment barriers, envisioning an "Asia-Pacific Community" that promotes cooperation. As a result, the leaders established goals for reaching free trade and investment by 2010 for developed economies, and 2020 for developing economies, dubbed the "Bogor Goals" (APEC, 1994). The goals are voluntary and nonbinding actions aimed at 15 policy issues.<sup>31</sup> In 1995, Individual Action Plans were outlined for undertaking the steps to achieve the Bogor Goals, as well as a Collective Action Plan to develop common policy positions on key issues.<sup>32</sup>

Unfortunately, cracks began to emerge between the Anglo-American members, which sought aggressive free trade and investment liberalisation, against the proeconomic integration group, led by Japan. Bitter division continued when the pro-trade and liberalisation members persisted with a dogmatic agenda, while the other faction was still in disarray after the 1997 financial crisis. This included Thailand; whereas Singapore, which escaped the full blow of crisis, did not signal which faction it sided with because the city state tried to balance its own interests and the unity of its Asian neighbours.

Nevertheless, APEC slowly regained momentum, but in a different direction. In 1999 New Zealand, with the assistance of APEC, brokered a political deal with Indonesia on the East Timor conflict. This set a precedent for political, instead of economic, issues

<sup>&</sup>lt;sup>29</sup> The founding members are: Australia, Brunei Darussalam, Canada, Indonesia, Japan, South Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, United Sates of America.

<sup>&</sup>lt;sup>30</sup> States that have joined later are: China (1991), Mexico, Papua New Guinea (1993), Chile (1994), Peru, Russia, and Vietnam (1998).

<sup>&</sup>lt;sup>31</sup> This included tariffs, non-tariff barriers, services, investment, standards and conformance, customs procedures, intellectual property rights, competition policy, government procurement, regulatory review, WTO obligations, dispute settlement mediation, mobility of business people, and information gathering and analysis.

<sup>&</sup>lt;sup>32</sup> Every member submits annually an Individual Action Plan, which is a record of actions taken to meet its stated goals for free and open trade and investment. The members set their own timelines and goals on the 15 issues, and undertake these actions on a voluntary and non-binding basis. The Collective Action Plans are collective actions of all APEC Member Economies in the 15 issue areas outlined in the Individual Action Plans. (http://www.apec-iap.org/)

to dominate the APEC meetings. There were attempts to revive economic issues back to the focal point of the APEC by achieving the Bogor goals and revitalising their WTO commitments by negotiating WTO-plus agreements alongside APEC's trade and investment liberalisation policies. However, little progress was achieved on the economic front.

After the failure of the APEC meeting on voluntary sectoral liberalisation, several key members, such as the US and Australia, lost their enthusiasm for APEC, and began to consider bilateral PTA. As a result, smaller APEC economies that relied heavily on trade began to change their trade policy orientation. Singapore's first bilateral trade agreement with New Zealand began on the fringe of the APEC Summit. As a result, several APEC members, including Australia, Chile, Thailand, Mexico and the US have embraced the bilateral strategy, as part of the new geo-political strategy.

Consequently, APEC is currently being dismissed as a weak regional PTA. It has no institutional structure or binding legal agreements and sets ambitious goals for free trade and investment that most of its members have no intention of meeting. Interestingly, most of its members appear now to be engaging in bilateral PTAs, most of which have generally emerged from APEC summits; making APEC an ideal forum for starting bilateral PTAs. As a result, currently, APEC aims to justify peer pressure amongst its own members to ensure bilateral PTAs comply with WTO requirements and the WTO-plus coincide with APEC objectives. This includes the *Best Practice Guidelines for FTAs* developed in 2004 (APEC, 2004).

It can be argued that grand regional PTAs have hardly changed Singapore and Thailand's trade polices. In ASEAN, both states are active founding members and have pushed for liberalisation; although Thailand appears to be more reluctant than the other original members. Nevertheless, they have been the instigators of the three pillars for ASEAN economic integration. Within APEC, the two states have played a less prominent role, and allied themselves, for economic and political reasons, against further trade and investment liberalisers. Nevertheless, despite ASEAN and APEC's ambitious timetable for trade and investment liberalisation, both grand regional projects have stagnated and achieved limited liberalisation. Consequently, both Singapore and Thailand have opted to engage in bilateral PTAs outside their grand regional projects instead. As most scholars (Dent, 2003a; Desker, 2004; Lloyd, 2002) believe, one of the motivations behind the bilateral PTA bandwagon in the Asia was a result of the limitation in both the multilateral trading system and regional projects.

# 3.3 Singapore: Spearheading PTAs

Unlike most of its Southeast Asian neighbours, Singapore has always supported trade liberalisation. For exporters, unless one is involved in alcohol, chewing gum, tobacco, and certain services, one would hardly find problems trading with Singapore. Nevertheless, the entrepôt city-state must constantly find ways to gain markets abroad. As one Singaporean trade negotiator summed it up:

"Trade is the life and blood of Singapore".

The consequence of limited evolution in the multilateral system and on the intra-regional front persuaded the city-state to become one of the early advocates of bilateral PTAs. Without going into great depths, this section aims to describe six main PTAs which Singapore has concluded thus far: from the signing of bilateral PTAs with similar economies to grander trade agreements with the United States

# 3.3.1 The Agreement between New Zealand and Singapore on a Closer Economic Partnership

Singapore's first experiment in bilateral PTAs was with New Zealand. The small sets of islands in the South Pacific Ocean appeared to be the ideal test site for Singapore. New Zealand is a small country with limited bargaining power, but at the same time New Zealand had already conducted a comprehensive agreement with Australia, providing New Zealand with practical experience to teach Singapore.

In September 1999, as the APEC Leaders' Summit was about to come to a close, the negotiations for the ANZSCEP (Agreement between New Zealand and Singapore on Closer Economic Partnership) began. After six rounds of negotiations, the text was finalised by August 2000, and was separately approved in September of the same year. It was finally signed in November 2000, making this one of the fastest ever PTAs to be completed, within less than 14 months (ANZSCEP, 2000).

The ANZSCEP is a comprehensive agreement, containing a respectable 11 parts, discussing trade in goods, services, investment, movement of persons, SPS, government procurement, intellectual property rights, and a dispute settlement mechanism. Both sides openly admitted that the benefits in terms of goods are minute. Nevertheless, substantial

gains should predominantly come from trade in services. To illustrate, New Zealand has committed to remove the registration prerequisite under residency requirements for certain Singaporean professionals. Both sides have also made arrangements for mutual recognition for professional qualifications and technical standards.

For outsiders, it maybe unsurprising for Singapore to complete an inter-regional PTA with a country of similar economic structure at such speed. Nevertheless, for Singaporeans, this is an impressive accomplishment, as this is the city-state's first comprehensive PTA, which will set the marching beat for further comprehensive PTAs with other countries.

#### 3.3.2 The Japan-Singapore for a New-Age Economic Partnership

A PTA between Japan and Singapore seemed to be the next logical move. Both sides have several similarities: they are both small and resource-limited countries; both shared experiences of past economic success owed to their developmental states models (Low, 2004). Moreover, for Japan, Singapore does not have an agricultural sector, which bodes well for the Japanese farming lobby. Another motivator is Japan's interest in regaining her dominance in the region, in order to contain China's presence in the region.

In 1999, the Singaporean Ambassador orchestrated a meeting between the Japanese and Singaporean premiers, who later approved of a joint study group on the viability of a Japan and Singapore PTA. After the positive recommendation by the Joint Study Group, negotiations were immediately launched in October 2000. After 12 rounds of extensive negotiations, over a period of 13 months, the two Prime Ministers signed the Japan-Singapore New-Age Economic Partnership Agreement (JSEPA) in January 2002 (JSEPA, 2002).

Interestingly, despite Singapore's limited natural endowments, there were certain sectors which both parties found difficult to negotiate and, at the request of the Japanese, several sectors were moved into the sensitive list. Some of these were, predictably agricultural produce, however, they also include regulation in service sectors and competition policies. Some believe the JSEPA was designed to break new ground on trade agreements (Dent, 2003a). The agreement, dubbed the 'new age' because it did not merely cover tariff reductions, but also covered the establishment of mutual recognition arrangements on rules and standards, expanded opportunities for trade in services, government procurement and the use of commercial dispute resolution mechanism. Moreover, it broke new ground in promoting paperless or e-commerce trading,

competition policy, supporting research and development in science and technology, cooperation in information and communications technology, financial services, and tourism

Much excitement was expressed when the JSEPA was completed because this was the first comprehensive PTA signed by two Asian countries. Moreover, for the citystate, it was her first major PTA victory, to complete an agreement with a superpower, giving Singapore the confidence to progress and sign further PTAs. As for the Japanese, this was part of a master plan to collect signatures of ASEAN members and create an umbrella of economic partnership agreements that encompasses the region.<sup>33</sup>

# 3.3.3 The Singapore-Australia Free Trade Agreement:

At the fringe of completing the bilateral PTA with New Zealand, Singapore decided to sign a similar agreement with New Zealand's neighbour. In 2000, again, during the APEC Leaders' Summit, the Australian and Singaporean Prime Ministers decided to launch negotiations for the Singapore-Australia Free Trade Agreement (SAFTA). After negotiating several PTAs with similarly structured economies, under a learners permit, the SAFTA was seen as Singapore's first real big test, negotiating an agreement with a resource-abundant country with greater negotiating leverage.

In almost two years, after ten rounds of formal negotiations, both sides successfully finalised the agreement. The 17-chapter agreement was signed in February 2003 (SAFTA, 2003). Similar to the ANZSCEP, the agreement goes beyond market access. In addition to tariff elimination, SAFTA guarantees increased market access for service suppliers, telecommunications, facilitating the entry for business visitors and professional services, and e-commerce trading. It also provides a more transparent and predictable trading environment by promoting fair competition policy, access to government procurement markets, intellectual property and mutual recognition agreements. Furthermore the agreement also includes cooperation in the education sectors.

Interestingly, the SAFTA is Australia's first trade agreement since the conclusion of the comprehensive trade agreement with New Zealand, almost 20 years ago. However, this agreement bears many similarities with the ANZSCEP and the JSEPA. Like

<sup>&</sup>lt;sup>33</sup> Formal talks for the ASEAN-Japan FTA already began on April 2005

Singapore's previous trade agreements, there are limited gains for trade in goods<sup>34</sup> predominantly because Australian products already enjoy duty-free entry into Singapore. As a result, most of the emphases have been concentrated on services trade and regulatory issues. This illustrates the motivation behind the SAFTA, as a political agreement and a trade agreement that aims to strengthen the existing ties between the two nations, by including trade in services.

Arguably, Singapore was able to negotiate the SAFTA in a coherent fashion, by using the ANZSCEP and the JSEPA as templates on issues that best represent Singapore's interests. The ability to defend Singapore's national interests would be put to the challenge in Singapore's subsequent negotiation, which is deemed to be Singapore's most significant and strenuous trade negotiation to date.

#### 3.3.4 The United States-Singapore Free Trade Agreement

While the SAFTA was under way, political elites in Singapore sought to negotiate an ambitious PTA with their biggest trading partner. An agreement with the USA represented a test for Singapore to demonstrate its ability to negotiate against a superpower on various levels. For the US, signing a bilateral PTA with an Asian state appears to be the *en vogue* requirement in the current global dynamic.

At the end of 2000, under the administration of US President Clinton, the negotiation for the United States-Singapore Free trade agreement (USSFTA) was officially announcement. The Clinton Administration wanted to wrap things up before the end of the political term, however, several Singaporean trade negotiators thought it was impossible to complete a proper trade agreement in such a limited time (Koh & Chang, 2004). After several rounds of negotiations, it was agreed that even a weak agreement could not be finalised in such a timeframe. As a result the negotiation was dragged into the administration of President George W. Bush. This gave more time for negotiations, allowing the administration to turn the agreement into a comprehensive trade agreement with stringent rules. Given the sudden change in direction, it took more than 11 rounds of formal trade negotiations, and after an additional informal meeting, a massive 800-page document spanning 21 chapters. The agreement was finally signed at Washington DC in May 2003, and approved by the US Congress and Senate a month later (USSFTA, 2003).

<sup>&</sup>lt;sup>34</sup> With the exception of Australian beer and stout, which will enjoy greater market access due to the SAFTA.

Initially, under the Clinton Administration, the USSFTA was modelled on the US-Jordan agreement, which also included labour standards.<sup>35</sup> However, under the Bush Administration, the trade agreement evolved into what is now regarded as a NAFTA-plus type agreement. The USSFTA covers trade in goods, allowing 78.7 per cent of Singaporean imports to enjoy immediate duty-free entry into the US. In return, Singapore will eliminate remaining tariffs, such that all US imports can enter Singapore duty-free immediately. Furthermore, the agreement also includes cooperation of customs administration, cross-border trade in services, financial services, movement of professional services, telecommunications and e-commerce, temporary entry for business persons, investment, competition, government procurement, and a dispute settlement mechanism.<sup>36</sup>

Understandably there are similar hallmarks to Singapore's previous PTAs, especially the emphasis on trade in services, telecommunications and e-commerce chapters. Also, from the US standpoint, there has been much emphasis on the intellectual property protection and investment chapters, whereas little has emerged from the relevant chapters on labour and environment standards. One of the most contentious issues of the USSFTA, was the liberalisation of financial services, which was the last issue to be hammered out. Financial services was a thorny issue because the financial crisis was still fresh in the memory of Singaporeans. Thus, a compromise was struck; in the event of an economic crisis, Singapore was allowed to take appropriate measures to overturn this agreement.

The USSFTA is an impressive PTA that goes far beyond existing trade agreements, covering extensive issues that have hardly been touched in the WTO. However, the trade agreement does not merely provide economic gains, Singapore aims to use the USSFTA as a lock-in reform for the deeply rooted protective industries. For the US, the USSFTA is the first PTA to be concluded with an Asian country. Thus, it reaffirms the US's strategic interest in the region, where the agreement could serve as a catalyst towards deeper US economic engagement in the Asian region (Koh & Chang, 2004).

<sup>&</sup>lt;sup>35</sup> In fact, labour standards were hardly a threat for Singapore.

<sup>&</sup>lt;sup>36</sup> The USSFTA includes a dispute settlement system that focuses on co-operation rather than on traditional trade sanctions, by allowing a party to pay a monetary assessment into a common fund that will be used to facilitate trade between the two parties.

# 3.3.5 The Trans-Pacific Strategic Economic Partnership Agreement:

During the APEC Ministers for Trade Meeting in 2002, it was announced that Brunei, Chile, New Zealand and Singapore would create the Trans-Pacific Strategic Economic Partnership Agreement (Trans-Pacific SEP or P4).<sup>37</sup> Officially, the main motivation for the agreement was to establish a PTA for existing APEC members, with a plan for members outside P4 to join in and fortify their APEC commitments. Moreover, the P4 is the first trade agreement that spans three different continents, which should act as a bridge between Pacific states.

After more than five rounds of negotiations, the agreement was concluded in 2005. After the parties completed the necessary domestic processes, the agreement was signed in July 2005. The P4 entered into force at the beginning of 2006, with the exception of Brunei, which will progressively implement some of the commitments with a two-year lag (Trans-Pacific SEP, 2005).

The P4 is a comprehensive agreement that covers trade in goods, SPS measures, TBTs, trade in services, government procurement, customs procedures, intellectual property, temporary entry of persons, competition policy, and dispute settlement. In addition, the agreement also includes a chapter covering cooperation in five different fields such as economics, education, primary industry, culture, and science and technology. However, the negotiations on investment and financial services remain to be concluded. Furthermore, in parallel with the negotiations of the P4, the parties have also agreed upon a Memorandum of Understanding (MOU) on Labour Cooperation and an Environment Cooperation Agreement.

The importance of the Trans-Pacific SEP agreement, aside from extending to three different continents, is that it is Singapore's first PTA with a South American country. More importantly, it builds on existing trade agreements with New Zealand, indicating Singapore's maturity to impose and expand its own version of PTAs on others.

# 3.3.6 The India-Singapore Comprehensive Economic Cooperation Agreement:

After signing several PTAs with developed countries, Singapore turned its attention towards signing PTAs with developing countries. The city-state's first major signing of a prominent developing country was with India. Initially, India was Singapore's sixteenth largest trading partner. Following India's increasing presence and interests in fellow

<sup>&</sup>lt;sup>37</sup> Prior to Brunei's participation, the agreement was known as the Pacific Three FTA.

developing countries, it seemed logical for both states to step forward and complete a trade agreement with India. Moreover, both countries share a common aspiration of containing China's presence in the Asian region, thus a trade agreement would benefit both countries economically and politically.

Originally India began negotiations on the Framework Agreement to Enhance ASEAN-India Trade and Economic Co-operation. However, little progress was made, resulting in a break up of the group into separate PTA negotiations with India, this included Singapore and Thailand. In 2002 Singapore and India established a Joint Study Group to explore the benefits of the India-Singapore Comprehensive Economic Cooperation Agreement (CECA). In the following year, the Declaration of Intent was signed by both parties, which signalled the start of the negotiations for the CECA. Following a marathon of 13 formal rounds of negotiations that spanned over 18 months, both sides successfully concluded the 16-chapter agreement, later signed in June 2005 (CECA, 2005).

The landmark agreement encompasses trade in goods, trade in services, investment protections and other features. Mutual recognition agreements will eliminate duplicative testing and certification of products in specific sectors. A chapter on the movement of natural persons was also included. There are also several chapters that encourage and facilitate bilateral cooperation in several sectors, such as e-commerce, intellectual property right protection, education, science and technology and media cooperation. Furthermore, the CECA also encompassed a review of the existing Avoidance of Double Taxation Agreement between India and Singapore.

## 3.3.7 Singapore's major PTAs:

All of Singapore's major PTAs, mentioned above, have been included in the diagram below, which illustrates the timeframe of the city-state's negotiated PTAs, including the negotiating period until the signing date.

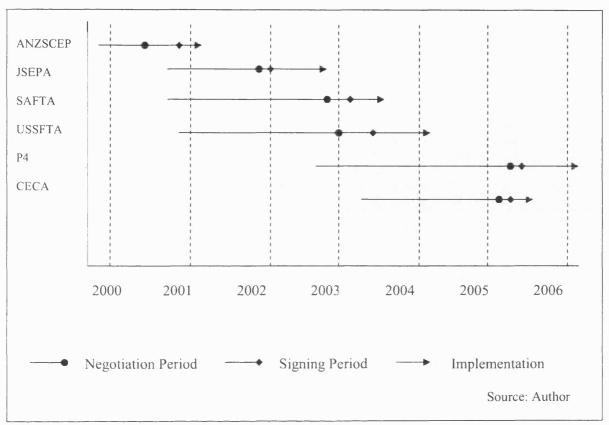


Figure 9: Singapore's Major PTAs

Other countries have signed PTAs with the city-state, such as the Singapore-Jordan FTA (SJFTA), which is Asia's first trade agreement with a country from the Middle East. Likewise, the ESFTA between Singapore and EFTA states is the first PTA between an Asian state and Europe. Other intra-regional PTAs include the Korean-Singapore FTA (KSFTA). There are also other trade agreements which are currently in the negotiating process. It is no simple task to keep track of this growing list. Officially, Singapore is negotiating PTAs with; the EU, five Middle Eastern countries, four countries from the Americas, and five others under the flag of ASEAN. However, only the ones mentioned in detail earlier will be employed in the analysis because they are strong comprehensive PTAs. So far the PTAs Singapore has undertaken exemplify the competence in completing comprehensive PTAs, and how Singapore has learnt and adopted lessons from different trade negotiations.

Some interesting comments can be generated from Singapore's PTAs. Aside from negotiating most of these trade agreements in record time, which should be no surprise for Singapore, there are two interesting observations. Firstly, in most of Singapore's PTAs the benefits for trade in goods seem limited, but this is because several countries virtually trade duty free with the entrepôt state. As a result, several PTAs go beyond market access. Consequently, most of the PTAs include chapters on trade in services, education, movement of natural persons, paperless trading, telecommunications, and e-commerce, all of which appear to be trademarks of a typical Singaporean PTA.

Secondly, most of Singapore's PTAs are the first such trade agreement between an Asian country with another continent. Nevertheless, almost all of Singapore's trade agreements are seen as a backdoor for signing future trade agreements with other ASEAN members. A prime example is Japan, which has concluded PTAs not only with Singapore, but immediately afterwards Japan has also signed economic partnership agreements with Malaysia, the Philippines, and Thailand. This exemplifies Japan's plan of creating a regional ASEAN-Japan Economic Partnership Agreement.

Several ASEAN countries have expressed concerns over Singapore's bilateral trade agreements, some fear a "noodle bowl", a complex web of agreements within the Asian region, hindering the city-state's ASEAN commitments. Nevertheless, Singapore argues that it has always welcomed other ASEAN partners to join when they are ready to forge PTAs with Singapore's existing trade agreements. However, most ASEAN members would negotiate a completely new agreement; significantly different from the Singaporean template, which emphasises trade in services and limits agricultural trade. Moreover, emphasis on regulatory issues will be problematic for several developing countries with limited institutional capabilities. Nevertheless, other ASEAN members, such as Thailand, have been able to complete trade agreements with the same countries as the Singapore. Naturally, the agreements are not identical, however, both countries were able to complete trade agreements that goes beyond shallow integration of tariff barriers. Has Thailand learnt and adopted similar institutions to tackle regulatory barriers? Let us observe Thailand's PTAs and compare them with Singapore's PTAs.

# 3.4 Thailand: Active or Passive Bandwagon?

While the rest of ASEAN were stunned by Singapore's activities on the bilateral front, Thailand slowly became the second ASEAN country to ride the PTA bandwagon. It is difficult to say exactly when Thailand seriously began its bilateral PTA strategy. However, some scholars reported Thailand's interests since the early 1990s (Dent, 2006b, p. 121), before heading the WTO, Supachai Panitchpakdi was in change of Thailand's trade policy. At that period, Singapore had already initiated study groups for PTAs with Japan and Australia. In response, Thailand initiated PTA talks with Australia, Chile, the Czech Republic, Croatia, and South Korea (Nagai, 2003). However, it was only under the Thaksin Administration, in 2001, that Thailand truly engaging in PTAs (Talerngsri & Vonkhorporn, 2005).

This section will illustrate that Thailand, like Singapore, has been an active bandwagon country. The Kingdom has always contacted other states to form PTAs, rather than passively joining the bandwagon. Despite a two-year gap behind Singapore, Thailand managed to complete a couple of comprehensive trade agreements with larger economies with greater leverage power. This should have assisted the kingdom's experience and institutional capacity to engage in comprehensive agreements.

Thailand's first tutorial in bilateral PTAs was supposed to be with the Kingdom of Bahrain. Bahrain was a small, open economy with relatively no complications, and Thailand aimed to use the agreement as a stepping stone into Gulf Cooperation Council countries. A framework agreement was finalised before the end of 2002, and the Early Harvest Programme was completed in 2004. However, after five rounds of formal negotiations the programme was halted. Nevertheless, there are other Framework Agreements awaiting metamorphosis into full comprehensive PTAs.

# 3.4.1 The Thailand-Australia Free Trade Agreement:

Due to the difficulties in the CEP with Bahrain, Thailand engaged in a comprehensive PTA with Australia. In comparison with other ASEAN countries, Thailand was a minor trading partner for Australia. Moreover, a significant amount of trade barriers existed between them. Nevertheless, both parties have never entered in any major trading disputes,<sup>38</sup> and they have both been active members of the Cairns Group. Consequently, they realised the potential for trade, and a preferential trade arrangement might remedy the symptoms of insignificant trade.

In 2001, Australia and Thailand announced their intention to form a PTA. A joint scoping study was established, which took a considerable 12 months before formal negotiations were able to commence. The Thailand-Australia Free Trade Agreement (TAFTA) was successfully concluded in October 2003. The impressive 19-chapter agreement was finally signed in July 2004, making this Australia's third PTA, and

<sup>&</sup>lt;sup>38</sup> With the exception of disputes on Australia's strict quarantine rules.

second with an ASEAN country. The TAFTA is Thailand's first comprehensive PTA, and it is her first with a developed country (TAFTA, 2005).

In comparison with Singapore, the absolute contrast laid in the chapters on services. Initially, the negotiations ran smoothly, however, during the end of the negotiations, several outstanding issues stood out. The finalised version of the massive agreement focused on market access,<sup>39</sup> suggesting limited disagreements on trade in goods. However, most of the sticking points were under trade in services and investment. In stark contrast to Singapore, which had a position in services, Thailand was not certain of its position in services trade. Nevertheless, after a formal meeting at the head of state level, both states were able to iron out some limited concessions in service-related trade. Similar to Singapore, considerable liberalisations were made on the presence of natural persons, however there are limited concessions on commercial presence.

In other areas, TAFTA aims to build cooperation and exchange of knowledge to enhance a more transparent and predictable environment for trade. The most notable cooperation is customs procedure, both parties aim to create a technologically advanced customs procedure. This also includes the establishment of a committee to oversee and resolve any difficulties that may arise relating to SPS and food standards measures as well. Similar cooperation programmes were also established for intellectual property rights, and competition polices.

Overall, from Thailand's perspective, the agreement should support Thai agriculture and manufacturing exports to Australia. As one Thai trade negotiator argued:

The types of fruit and vegetables that Thailand grows in our mainly tropical climate cannot be found in Australia. At the same time, Australia possesses much produce that Thailand are unable to produce. A similar story can also be told with manufacturing products.

In the long term, it is believed that Australia will use Thailand's strategic position as a hub into Laos, Cambodia and Vietnam.

<sup>&</sup>lt;sup>39</sup> The agreement contains tariff elimination of more than 5000 items, or 83 per cent of Australia's imports from Thailand, including fruit, vegetables and automobiles. In return, Thailand will wipe out tariffs on 50 per cent of the goods imported from Australia, including fuels and chemical products.

#### 3.4.2 The Closer Economic Partnership Agreement between New Zealand and Thailand:

In March 2001 New Zealand and Thailand proposed to form a trade agreement, but it was only in 2003, when leaders from both sides formally announced their intent in creating a PTA.<sup>40</sup> New Zealand was a small country, which should pose little complication, it seemed natural to sign a trade deal with the small and remote islands. Following the announcement of the Joint Study group, negotiations began, after which the agreement was concluded before the end of 2004, in record time. The 18-chapters CEP between New Zealand and Thailand was later signed in Thailand on April 2005. In parallel with the CEP, both parties also negotiated a separate bilateral agreement on labour and environment, which lays out the shared understandings and established mechanisms for ongoing cooperation and dialogue on these issues. A fourth document on the Cooperative Arrangement between the Customs Department of Thailand and the New Zealand Customs Service was signed at the WCO Council meeting in Brussels in June 2005 (New Zealand and Thailand, 2005).<sup>41</sup>

In comparison with the TAFTA, the ANZSCEP is a very limited agreement. The CEP provides a comprehensive coverage of trade in goods by slashing import tariffs to zero on 85 per cent of Thai goods imported into New Zealand and 50 per cent of New Zealand's exports to Thailand. In addition to the removal of tariffs, the CEP also addressed SPS measures, standards and conformance and customs procedures.

One of the most significant standing issues under trade in goods was the dairy industry. Thai dairy farmers voiced their concerns about the fierce competition they faced once tariffs on New Zealand's dairy products were eliminated. Ultimately, no concession or financial assistance was made to alleviate this contentious issue. Instead, a cooperation to assist Thailand's dairy industry was launched. This was one of the first cries from minority groups which would later be the building blocs to establish a proper structural adjustment programme for the whole economy.

Most interestingly, both sides were mutually committed to further liberalise trade in services beyond their GATS obligations. However, formal discussion on this matter will only begin within the next three years. The reasoning behind this, according to a Thai official, was attributed to the limited concession Thailand offered during the

<sup>&</sup>lt;sup>40</sup> With the intention of completing the trade agreement by 2004, in time for the subsequent APEC Leaders' Meeting. <sup>41</sup> The Customs Co-operative Arrangement between the two administrations was signed by the Thai

Director General of Customs Department and the Comptroller of the New Zealand Customs Service.

negotiations As a result, New Zealand's trade negotiators were not interested in signing a limited CEP. Moreover, New Zealand trade negotiators were concerned that a service-weak TAFTA and CEP could potentially become a benchmark for weak PTAs with her future trading partners, providing other Asian states an excuse to sign weak service agreements. Consequently, New Zealand left the door open for future negations on services, in the hope that Thailand might mature and develop the negotiating position and institutional structures to liberalise trade in services.

Similar to the ANZSCEP, the agreement also includes cooperation on intellectual property rights and competition policy. The cooperation on government procurement should create a stable environment for transparent trade, as well as the cooperation to enhance trade facilitation by improving their customs procedures, as mentioned above.

Interestingly, the CEP and TAFTA share similarities with the Singaporean version, this includes the idea of enhancing APEC objects while maintaining their WTO commitments. Unsurprisingly, the PTAs accomplished with Australia and New Zealand do not serve only economic importance but they also have strategic significance. Both the CEP and TAFTA reflect Australia and New Zealand's commitment to engage more intensively with Southeast Asia as a whole. Like other countries they aim to bridge their region with a grand ASEAN-CEP agreement. Hitherto, the concept of an ASEAN-Australia or an ASEAN-New Zealand PTA has always been rejected by ASEAN hardliners. However, as of late, the doves appear to gaining momentum and other ASEAN members are willing to join the flock of doves. As observed from the speeches by the Australian, New Zealand and Thai governments, they believe their PTAs will serve as a building bloc for achieving a comprehensive and ambitious regional ASEAN-Australia-New Zealand FTA initiative.

#### 3.4.3 The Japan-Thailand Economic Partnership Agreement:

The proclamation of the ASEAN-China FTA forced Japan to spread her wings and jump onboard the PTA bandwagon notoriously late. In November 2001, Thailand proposed the creation of a bilateral PTA between Japan and Thailand. Negotiations between the two constitutional monarchies began following the recommendation of the Task Force, in early 2004. The negotiations were concluded after nine rounds of formal negotiations in August 2005. However, the political turmoil in Thailand caused significant delays in the signing. Nevertheless, despite the military coup and the change of government, the Japan-Thailand Economic Partnership Agreement (JTEPA) was finally signed in April 2007 (JTEPA, 2007), making the JTEPA Thailand's third comprehensive PTA and Japan's fourth.

The 15-chapter JTEPA scraps tariffs on 97 per cent of Japanese exports to Thailand and 92 per cent of Thai exports to Japan within 10 years. Aside from trade in goods and investment, there are also extensive pages on services, especially on the temporary movement of persons. The bilateral agreement also promotes transparency and the predictability of trade. Cooperation programmes, such as education, human resources, development of science and technology, energy and the environment were also included.

Before the JTEPA was signed, as expected, Thailand encountered enormous difficulties gaining access to the Japanese agricultural market. Much resistance came from the Japanese farming lobby. Ultimately, several agricultural products, both processed and unprocessed, were liberalised by both countries, with some notable exceptions, such as rice.<sup>42</sup> More significantly, in relation to agricultural produce, the JTEPA will set a precedent in being Japan's first trade agreement that contains SPS measures.

Another contentious issue relates to steel and the automobile industry, which were only concluded at the very last moment. Since various countries poured substantial Foreign Direct Investment (FDI) into the Thai automobile industry, Thailand has realised the potential of adopting favourable policies for this industry. As a result, Thailand was keen to exchange automobile cooperation and investment for the liberalisation of its exceptionally high-tariff automobile industry. This did not go down well with domestic steel and multinational automotive industry lobbyists. Ultimately, Japan's willingness to partially open up its agricultural sector meant Thailand gave concessions in its steel and automobile industry. A compromise was found that permitted Japan to export 3000cc cars at a preferential rate. This compromise, only involving large luxury cars, was deemed acceptable for other third parties who had a stake in the Thai automobile industry. Furthermore, as part of the compromise, there are several cooperation and technical assistance provisions for the development of Thailand's automobile industry.<sup>43</sup> The programme will allow Thai small and medium enterprises to produce more high-technology products and increase their competitive edge in the world. Furthermore, Japan

<sup>&</sup>lt;sup>42</sup> Exceptions in agricultural products include: rice and any product made from rice, agricultural products that contain high components of sugar and flour, and agricultural distributed by the Japanese government.
<sup>43</sup> As part of JTEPA, four Japanese car manufacturers (Toyota, Honda, Nissan and Denso) will also provide assistance in other areas, for example, Nissan will transfer technological expertise in stamping, die finishing, mechanical assembly finishing and mechanical and electrical maintenance will provide the transfer of recognised automobile technology; while Honda will focus on training in design and machining.

also pledged to provide 60 billion Baht<sup>44</sup> as financial assistance into the automobile industry, as well as Thailand's tourism and ICT industry.

In comparison to the Singaporean counterpart, the JSEPA, there are several differences. The JTEPA emphasis is more on trade in goods, especially in agricultural trade. The most striking difference is the inclusion of SPS measures, which is a first for Japan. Furthermore, JTEPA also includes financial and technical assistance, which is the first such agreement Thailand has secured. However, the areas of similarity between JSEPA and JTEPA lie under the chapters on trade in services. The movement of persons is considered similar, but not in the detail that will be discussed in subsequent chapters.

Consequently the JTEPA is a comprehensive trade agreement, merely five chapters deal with trade in goods, and some of the remaining chapters are considered WTO-plus. Japan has been focusing its bilateral negotiations on a few countries around the Pacific; slowly but carefully Japan aims to complete an economic partnership agreement with every ASEAN member. To date Japan has concluded four trade agreements with ASEAN members. The interesting question, however, is whether Japan can complete a comprehensive PTA with the rest of ASEAN before its regional rival, China?

#### 3.4.4 Other Framework Agreements:

Aside from the three signed PTAs, there other trade agreements Thailand has waiting in the wings. One inter-regional project is with Peru, which has been under negotiation since 2003. During the APEC summit in 2005, both leaders signed an Early Harvest Programme, making it Thailand's first trade agreement with a South American country. Modest progress has been made, due to the limitation in the number of goods which both countries can trade. Furthermore, the list of sensitive products, such as Peruvian fish and Thai rice, have been growing. Other countries, which have also signed agreements with Singapore, include one with EFTA, which is still in the joint study stage. Nevertheless, there are several interesting incomplete PTAs worth exploring because they will influence Thailand's perspective on trade negotiations, which will be described below.

<sup>&</sup>lt;sup>44</sup> Approximately US\$ 1.5 billion.

# 3.4.4.1 The ASEAN-China Free Trade Agreement

During the ASEAN summit in November 2000, the Chinese Premier surprised everyone, including ASEAN countries, by proposing the creation of the ASEAN-China Free Trade Area (ACFTA). There are several motivations behind this agreement: politically, China aimed to capitalise on the growing resentment in the Asian region over limited US support (Higgot, 1998). Strategically, ASEAN believed it would be beneficial to contain China's growth by establishing a trade agreement with the rising great power (Desker, 2004). Economically, opening trade with a country with a population of over 1.4 billion is a temptation hard to resist. Moreover, China's trade with ASEAN has boomed since the second half of the 1990s, and particularly so with the original ASEAN members (Sally & Sen, 2005, pp. 95-97). As a consequence, in 2001, negotiations for this ambitious intra-regional PTA began. It is hoped that by January 2010 an ACFTA would be realised with the six original ASEAN members and it will be ready for the CLMV states by 2015.

Some progress has been made, ASEAN and China have implemented the Early Harvest Programme (EHP), which is a trial move for a tariff cutting programme on agricultural produce. Under the programme, both sides have cut tariffs on 600 agricultural imports by between 2 and 15 per cent, and agreed to abolish these tariffs completely in 2006. Thailand has taken the lead among the ASEAN members by initiating the China-Thailand Early Harvest Programme Acceleration Agreement in June 2003 (ASEAN-China, 2003). Exactly 12 months later, Singapore also joined the accelerated agreement that saw the three countries eliminating tariffs on all fruit and vegetables. The rationale for liberalising this sector is because all parties believe they can complement, rather than compete with each other. ASEAN members export tropical fruits and vegetables to China and import temperate-climate ones from China. As of 2005, the EHP has now been expanded to all ASEAN members.

At present, the negotiations for ACFTA are divided into four Negotiating Committees: Trade in Goods, Trade in Services, Trade in Investment, and Dispute Settlement. Landmark agreements on Trade in Goods (ASEAN-China, 2004b) and Dispute Settlement (ASEAN-China, 2004a) were concluded and signed in November 2004. The Trade in Goods Agreement was implemented in July 2005,<sup>45</sup> under which concessions will be granted only to China, Brunei, Indonesia, Malaysia, Myanmar,

<sup>&</sup>lt;sup>45</sup> The implementation date was postponed by less than three weeks because China cited technical difficulties in their implementation process.

Thailand, and Singapore. Unfortunately, negotiations on Trade in Services and Investment are in gridlock, but observers believe some positive progress has been made.

One might expect this intra-regional PTA to tackle market access alone, especially since only the issues on trade in goods have been implemented. Nevertheless, thanks to the China-Thailand EHP Acceleration Agreement, both countries have attempted to tackle customs procedures and health and safety standards, thus showing signs that the ACFTA has the potential of blossoming into a comprehensive intraregional PTA. Further details on the ACFTA will be discussed in chapter seven.

# 3.4.4.2 The India-Thailand Comprehensive Economic Cooperation Agreement

The natural-resource rich nation of India is one of the few countries Thailand has desperately been chasing to obtain a signature in its all-star PTA list. In total Thailand has attempted to obtain India's signature from three fronts. This began with the ASEAN-India FTA, which was originally proposed by India in 2002. Thanks to India's economic reform, under its "Look East" policy, in 1991, India became more outward looking and willing to engage in further trade with her Asian neighbours. Simultaneously, the strategic aspect of the ambitious proposal was to contain China's influence in the region. However, to date, the ASEAN-India negotiation has almost come to a complete stop. During the latest trade negotiation in 2006, India presented a list of 1414 items to be excluded from tariff cuts. The items, consisting of products from textiles to vegetable oils to chewing gum, account for 44 per cent of ASEAN exports. Several ASEAN trade negotiators felt, with such an extensive list, there was little left to trade. Moreover, one of India's major concerns is the circumvention of cheaper goods from China through the ACFTA.

Secondly, due to the deadlock, India now favours a policy of signing trade agreements with separate ASEAN countries. Thus, India and Thailand have managed to sign an Early Harvest Programme in 2004. Currently, India has proposed about 1000 items in the sensitive list products, which accounts for 25 per cent of their trade. At present, however, the trade negotiations have been halted due to the Indian general election, where Indian trade negotiators are unwilling to commit to any trade agreements until a new government is formed. There are further concerns that Thailand is unwilling to continue with the negotiations if India does not discuss a phasing-out programme for its sensitive products. Moreover, in 2005, India became wary that Thailand's exports to India had doubled since the implementation of EHP, thus limiting India's interest in further liberalising the trade pact.

The third front is BIMSTEC (Bay of Bengal Initiative for Multi-sectoral Technical and Economic Cooperation), consisting of seven states: Bangladesh, Bhutan, Burma, India, Nepal, Sri Lanka and Thailand, which have merely agreed to initiate an EHP, or a trade in goods, by July 2006, with plans to conclude agreements on services and investment at the end of 2007. The proposal for BIMSTEC was an initiative by Thailand to conclude a trade agreement with India, however, in order to gain India's attention, her neighbours were required to be in the pact. The intra-regional project aims to achieve a BIMSTEC Business Travel Card and an exchange of information to control outbreaks of avian influenza. Six key sectors have been identified for cooperation: trade and investment, technology, transportation, energy, tourism, and fisheries. Currently, BIMSTEC talks have been stuck on ROO and sensitive lists, chiefly by India.

There have been, therefore, several attempts to form a preferential trade arrangement between India and Thailand, however, there appears to be little success. Under ASEAN, this appears to have come to a standstill. Similar results may also transpire with the India-Thailand FTA; if that is the case, there may be little hope for the BIMSTEC as well.

# 3.4.4.3 The Thailand-United States Free Trade Agreement:

Similar to many states in Asian, Thailand foresees enormous political and economic benefits in entering a trade agreement with the US. The US is also keen to rescue its standing in the region. Prior to the trade agreement, US investors enjoyed benefits from the 1966 Treaty of Amity and Economic Relations between the United States and Thailand. The treaty provides national treatment for Thai and US investors, with the exception of communications, transport, banking, exploitation of land or other natural resources, and domestic trade in agricultural products. However, under WTO rules, the treaty was due to expire at the end of January 2006. Consequently, Bangkok and Washington planned to establish a PTA that would supersede the treaty.

The negotiations for this comprehensive PTA began in June 2004. Interestingly, unlike Thailand's previous trade agreements, there were no official deadlines for finalising the negotiating. Previous trade agreements always saw the kingdom hastily concluding negotiations with deadlines. This reflected Thailand's awareness of the uphill challenge it faced. Nevertheless, at the time, it was generally understood that an official

deadline existed, the agreement needed to be concluded prior to the expiration date of the US Trade Promotion Authority in July 2007. Unfortunately, negotiations for the agreement have come to a complete stop. This is partially due to the political turmoil in Thailand, which made many American politicians feel uneasy about continuing to negotiate a trade agreement with an authoritarian government.

In reality, regardless of the political regime in Thailand, negotiations between the two countries were already encountering several deadlocks. Similar to other American PTAs, the most notable contentious issues included labour and environmental protection, intellectual property rights, financial regulations, and government procurement.

An example, is the controversial issue of financial regulation. The US wants Thailand to fully liberalise the heavily protected banking, insurance and securities sector. As a compromise, Thailand attempted to adopt the positive list approach in the financial negotiation; however, the US would not move away from the negative list approach. The US's insistence on liberalising Thailand's financial sector with a negative list approach has not been well received amongst Thai trade negotiators, the comment below of a Thai trade negotiator summarises Thailand's reluctance:

> Although we are aware that the FTA will benefit the financial sector by making our country stronger, efficient, and competitive. We have to acknowledge that our system is not ready to face the open market yet, let alone compete in areas of new technology, such as internet banking.

Another contentious area is intellectual property rights. Firstly, Thailand produces virtually all of its own pharmaceutical products, hence a PTA with stringent intellectual property rules will cause a significant hike in pharmaceutical prices and the cost of the health care system. Secondly, many Thai farmers feel they would lose their comparative advantage and their cultural identity if natural resources, such as rice, were genetically modified by the US which exports the patented produce back to Thailand. Consequently, there is an alliance between human rights NGOs and farmers, mobilising to prevent the inclusion of such a chapter. Thirdly, with limited institutional capacity, it is difficult to see how Thailand would enforce such stringent intellectual property rights.

Nonetheless, the US ambassador to Thailand has given assurance that the enforcement of intellectual property rights on drugs for catastrophic illness, such as HIV, will not be addressed in the bilateral agreement, unlike the multilateral level.

Nevertheless, the US ambassador also urged that trade negotiators should be allowed to discuss all 24 chapters of the trade agreement at their own pace.

# 3.4.5 Thailand a passive PTA Actor?

Officially, the Thai government has a three-pronged strategy in choosing its PTA partners. The first group of countries consists of "traditional" export markets for Thailand such as the United States and Japan. Thailand's primary objective in negotiating with these countries is to retain the present level of market access and expand access for new products. The second group of negotiating partners are the "potential" markets. These are countries with large populations but with relatively low levels of trade with Thailand, such as China and India. The third group are the "gateway" countries. They are small but can provide access for Thai products into their regions, such as Bahrain and Peru (Talerngsri & Vonkhorporn, 2005, p. 69).

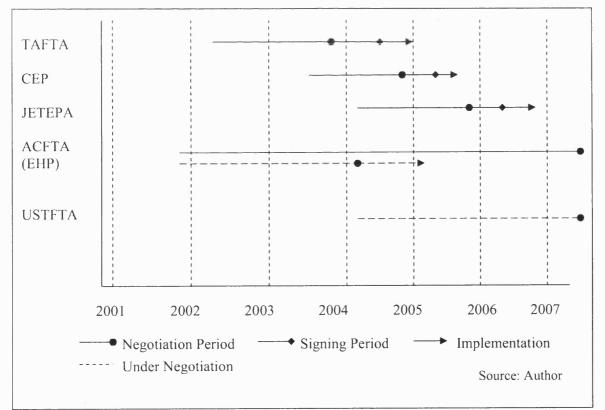


Figure 10: Thailand's PTAs

From the diagram above, two observations can be made about Thailand's PTAs. Firstly, at first glance, many observers believe Thailand is focusing only on trade in goods. This appears to be the case, considering the number of completed EHPs, which have not evolved into proper comprehensive PTAs. Similarly, Thailand has been unwilling to liberalise trade in services, as noted in the New Zealand-Thailand CEP. Even in the JTEPA, Thailand's most comprehensive trade agreement, there is a significant imbalance in the concessions for trade in services. Consequently, Thailand does not have a strong position for trade in services, with the exception of service mode 4.<sup>46</sup> Nevertheless, Thailand's primary attention in market access has also influenced other regulatory areas as well, such as health and safety standards, and other means of facilitating trade. This will become apparent in the subsequent chapters.

Secondly, Thailand may not have completed an impressive amount of PTAs, however, in comparison with the rest of Southeast Asia, Thailand currently is second only to Singapore. Thailand may have jumped on the PTA bandwagon because of Singapore, however, Thailand was not a passive passenger. If examined carefully, Thailand constantly sought new ventures, actively approaching their trade partners. In addition, Thailand did not sign PTAs for the sake of completing the agreement, it did not rush to conclude a trade agreement with USA in order to make a political statement. Similarly, Thailand was the only ASEAN country not to jump on board the framework agreement of the ASEAN-Korea FTA in 2005.<sup>47</sup> Interestingly, Thailand believes the framework agreement would not lead to any economic gain, and only political objectives would be realised. One of the key deciding factors was the exclusion of significant economic goods, such as Thai rice, indicating how Thailand does not seek to jump on board any trade agreement if it does not best represent its national interest. It appears, for Thailand, after concluding several PTAs the kingdom is aware of its strengths and weaknesses. Can it be argued that comprehensive PTAs have raised Thailand's awareness in trade policy making? This question will be answered later in this thesis. Nevertheless, it can be argued that Thailand is enthusiastically and yet cautiously pursing its PTAs by being an active participant of the PTA bandwagon.

Consequently, it can be argued that Thailand's path into PTAs has been limited. Nevertheless, Thailand has been enthusiastic in its PTA policies, with trade agreements including some non-traditional trade provisions, and some of them run parallel with Singapore's PTAs, providing a field for discussion and comparison in the subsequent chapters.

<sup>&</sup>lt;sup>46</sup> Mode 4 will be defined in chapter 6

<sup>&</sup>lt;sup>47</sup> The agreement includes a list of around 4000 items, with a target of reaching zero tariff by 2009.

#### 3.5 The future

Interestingly, Singapore and Thailand's trade agreements have been motivated by several similar reasons. Some are aimed at securing existing market access, such as those with Australia and New Zealand. Others have been stimulated by the desire to expand into new markets, such as Bahrain, Chile, and China. Some trade agreements were created as a means of containing China's rising influence in the region, those with India and the US are such examples. However, most of the inter-regional PTAs are seen as a steppingstone for the wider ASEAN initiative. Several trading partners have publicly expressed their desire to fuse their bilateral PTAs into a regional ASEAN PTA. The ACFTA is an impressive project, in which Thailand has been a prime mover. Others also include India, Japan, Korea, and the CER countries. Both Singapore and Thailand are aware they are the bridges linking ASEAN with the outside world. As a result they must act now in order to reap the benefits. As the then minister responsible for trade for Singapore, George Yeo, argued: "As an economic community, ASEAN must play the global game skilfully. As a region, we are of strategic importance to the US, Japan, China, Australia and Europe" (in Desker, 2004, p. 14). In a later speech, on the rising prominence and rivalry of China and India, the same Minister predicted that: "Southeast Asia becomes a major intermediary between China and India" (in Desker, 2004, p. 14). The next question, is whether Singapore, Thailand, and the rest of the ASEAN members have the institutional capacity to initiate all the regulatory nature of comprehensive PTAs? Where would they obtain the inspiration for tackling regulatory issues? Have inter-regional PTAs played any role?

# 3.6 Conclusion

Arguably both Singapore and Thailand are the main instigators of PTAs in the Asian region. Their limited experience in intra-regional PTAs are constrained by the two grand regional projects, ASEAN and APEC, which have failed to materialise into a comprehensive trade agreement. As a result, coupled with the deadlock at the multilateral level, both countries have undertaken the inter-regional PTA route (Desker, 2004). Despite the difference in size, level of economic development, resource endowment, and

technological capabilities, and institutional capacity, Singapore and Thailand have managed to complete several similar PTAs.

The main purpose of this chapter is to provide a comparison between Singapore and Thailand's PTAs. The overlapping of trade partners provides some opportunities to compare their similarities and differences. Without entering into the substance of the trade agreements, one of the significant dissimilarities between their PTAs is speed. Due to Singapore's head start, and liberal approach, the city-state has spearheaded the signing of several PTAs. Some of Singapore's PTAs, such as the ESFTA, took less than 12 months to negotiate. Thailand's quickest, on the other hand, was the New Zealand-Thailand CEP, which took 12 months to negotiate, but barely covered trade in services.

Generally Singapore has entered into negotiations on all fronts, with some defensive positions on certain service sectors. As a consequence most of Singapore's PTAs, especially after signing the JSEPA and the USSFTA, deal mainly with education, movement of natural persons, and telecommunications, all of which bears trademark of Singaporean PTAs. Thailand, on the other hand, has concentrated negotiations on the area in which it has a comparative advantage, on agricultural trade. Unfortunately, Thailand's offensive in the agricultural sector is considered unattractive in certain countries. Consequently, this has forced Thailand to concentrate on the elimination of health and safety standards in its agricultural negotiations. The kingdom's trade interests, however, are not limited to trade in goods.

Despite the differences, there are areas of similarities in Singapore and Thailand's PTAs. Firstly, both Singapore and Thailand have learned and gain experiences from their PTAs, which have allowed both countries to complete PTAs in greater speed and wider coverage. In other words, inter-regional PTAs have enhanced Singapore and Thailand's negotiating capacity. Secondly, both Singapore and Thailand tend to incorporate means and mechanisms for facilitating trade. This sometimes comes as an exchange of knowledge and cooperation to enhance customs procedures. Singapore has constantly sought to improve its technological systems to facilitate trade; whereas Thailand has aimed to create a more predictable environment for agricultural trade. There might be a difference in the type of goods and services, but both countries seek to enhance the predictability in the flow of trade. Thirdly, both countries have included an extensive chapter on the movement of persons. Singapore, with its highly educated population, believes its qualified professionals are able to compete abroad, if they there were less restrictions. In Thailand, there are attempts to accomplish similar agreements for

professionals, but mainly for semi-skilled professionals. These similarities will be outlined in further detail in the subsequent chapters.

Nevertheless, the differences and similarities lead us to ask several interrelated questions. Why has Thailand been ill-equipped in its service negotiations compared with Singapore? Why do both countries appear to be enthusiastic to engage with only mode 4 services? Can we attribute this solely to the economic logic of natural resources and endowment, or is it more systematic and rooted in the domestic institutions of these two states? Perhaps it is time we should open the black box of the state and observe what lies within the domestic institutional structures of Singapore and Thailand's international trade policy making.

# 4 Chapter IV

# **Comparative Macro Domestic Structures**

The toughest trade negotiations are not external ones [between countries], but internal ones. A Singaporean Chief Trade Negotiator

#### 4.1 Introduction

The preceding chapter illustrated the large number of PTAs Singapore and Thailand have accomplished in a short period of time. More importantly, the number is still rising. This, however, leads to a series of curious questions: why have these countries decided to engage in PTAs? In the literature, much of the scholarly work discusses the signing of agreements, however, much of the analysis fails to examine how PTAs influence the domestic factors after the signing of the trade agreement. Would the analysis at the domestic level provide alternative explanations to why Singapore and Thailand have engaged in PTAs? What are the structural processes in trade policy making for both countries? More importantly, have PTAs bought about any changes to Singapore and Thailand's institutional trade capacity? All of these questions should provide us with a clearer picture of how domestic agents and agencies are able to influence international trade policy.

As a consequence this chapter aims to provide a comprehensive macro comparative analysis of international trade policy making in the two case study countries. In other words, most of the analysis will be done by observing Singapore and Thailand's overall trade policy making, placing emphasis on the ministries responsible for trade. This may prove to be interesting because, during Singapore and Thailand's engagement with PTAs, both countries underwent major bureaucratic restructuring. In an attempt to provide some answer for the thesis, the chapter will analyse the changes in domestic institutional capacity according to the analytical framework – the negotiating capacity, coordination, consultation, procedural, and trade policy changes. In order to create a timeline narrative, the observation will be conducted in parallel with their involvement with inter-regional PTAs.

Consequently, this chapter will aim to show the changes that have occurred before and after the implementation of PTAs. Furthermore, the chapter will argue that domestic institutional changes occurred not entirely due to the governments in the case study countries, but mainly due to the rapid and comprehensive nature of inter-regional PTAs. This may not be completely clear in the macro picture, however, there are some interesting points to observe. Nevertheless, the main aim of the chapter is to illustrate how PTAs influenced the case study countries' domestic institutional trade capacity.

In order to understand Singapore and Thailand's attitude to international trade policy making, the chapter will begin with the historical backgrounds that may have shaped and influenced their orientation towards global trade policies. The second section illustrates the governmental and non-governmental agents involved in international trade. Within this section, an examination of the structure, decision making process, interaction and coordination between agents will be examined. The final section concludes with some comparative insights on how PTAs may influence domestic macro institutional trade capacity.

#### 4.2 Domestic Changes towards International Trade Policy

Before commencing with Singapore and Thailand's institutional trade policy making structure, it would be best to understand the historical and social changes in the two case study countries. These historical events may be embedded in their culture and society, influencing their perception towards international trade. Consequently, this section presents a comparative study on the social background, followed by political changes, civil society movements, and finally ending with a comparison of their economic policies.

# 4.2.1 Public Perception of Foreign Affairs

Initially, both Singapore and Thailand have different perceptions of and exposure to international affairs; nevertheless, recent changes have forced some convergence towards a common position. In Thailand, traditionally, the general public were commonly uninterested in foreign affairs, including international trade. Foreign relations were perceived as too technical for the normal layman, and best left in the hands of government officials. More importantly, the general public regard themselves as being unaffected by foreign policy decisions. This, however, changed after the financial crisis,

which elevated public awareness of how international affairs can affect their daily lives (Rathanamongkolmas, 2001, p. 332).

The aftermath of the financial crisis brought several changes to the Thai economy, as well as the political structure. The public viewed the crisis being caused by cronyism and corruption in the financial sector, and a failure of the government's regulatory mechanisms to monitor the operations of banks and financial firms. Some Thais believed they have experienced bad governance, at first hand. To resolve the crisis, the Thai public believed substantial reforms in both public and private sectors were needed (Bunbongkarn, 1999, p. 63).

Despite Singapore's close economic interdependence with its neighbours, the city-state was not susceptible to the Asian financial crisis pandemic. Surprisingly, Singapore's worst recession since its independence, came afterwards, in 2001, when, during the general slump in the global economy, Singapore produced negative growth figures. The severe decline brought by the negative impacts of the 9/11 attacks on the airline industry, recession in the US economy, and weaker regional growth, and the outbreak of Severe Acute Respiratory Syndrome (SARS) also caused negative affects to the region.

Despite being negatively affected by forces beyond Singapore's control, it is generally accepted that Singapore has limited options for its trade polices. Unlike Thailand, the small city-state cannot turn its back on the global economy, its economic performance is utterly dependent on the global economy. Singapore's trade to GDP ratio is approximately three to one, making the city-state one of the most trade dependent economies in the world (Desker, 2005, p. 341). Consequently, their susceptibility to the global economic situation has forced the Singaporean public to be constantly aware of international affairs.

Overall, Singapore may have limited interest in global political affairs, since the city-state is unable to wield much influence over the international arena. However, being a small soft power, its strength lies in its foreign economic polices, based on its reputation and credibility to influence global debates (Low, 2004).

In sum, Singapore and Thailand's role in the global political arena is very limited, both being small players. Their citizens are aware of their dependence on the global economic environment. Nevertheless, both countries appear to place confidence and trust in foreign affairs at the hands of their government.

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# 4.2.2 Political Dimensions

If Singapore and Thailand place much faith of international affairs in the hands of their governments, it is best to understand the background of their political leaders.

### 4.2.2.1 Political Dimension: The Thaksin Effect

One of the greatest changes to Thai politics was the emergence and downfall of Thaksin Shinawatra, who was prime minister for two terms from February 2001 until September 2006. When Thaksin first came to power, he won an unprecedented 57 per cent of seats in the lower house of parliament for his party, Thai Rak Thai (TRT)<sup>48</sup> (Pongsudhirak, 2003, p. 279).

Given Thaksin's private-sector experience, coupled with his high electoral mandate, many hoped he would be able to press ahead with serious reforms (McCargo, 2002, p. 123). Even since Thaksin took office, he has expressed persistent frustration at the bureaucratic system; as a result, one of his first acts was the restructuring of the bureaucratic system. At the beginning of the new fiscal year, in 2002, the Bureaucratic Restructuring Act and the Ministerial Restructuring Act were passed. These two crucial pieces of legislation represented a significant turning point in Thailand's institutional landscape.<sup>49</sup> They streamlined the structurally outdated bureaucracy, creating several new ministries, and a host of departments and agencies were reshuffled to accommodate the extensive restructuring of the bureaucracy (Pongsudhirak, 2003). These restructuring programmes will become the platform for understanding the changes in Thailand's trade policy.

# 4.2.2.2 Political Dimension: PAP's Dominance

Unlike Thailand, there have hardly been any changes in the Singaporean government, this is mainly because the small entrepôt state has been ruled by one party since its independence. Thus, it may be appropriate to observe how this party came to power.

Before self-government, Singapore had a large population of immigrant workers from China and India, creating a large multi-racial population in a small island. Formerly part of the then Federation of Malaysia, Singapore's separation from the Federation was a traumatic event. At the time, very few envisioned Singapore would survive as a separate

<sup>&</sup>lt;sup>48</sup> Together his coalition won an outright majority of 70 per cent of seats in the lower house of parliament <sup>49</sup> One commentator believes this legislation was the first contemporary bureaucratic reform for more than a century (Mutebi, 2003)

political entity because it lacked natural resources. Furthermore, Singapore had to build a nation out of an ethnically diverse, immigrant population. Thus, a political entity was required to control domestic dissent and promote stability to attract much needed foreign investment and coherent economic polices.

Consequently, the People's Action Party (PAP) emerged, to manage the city state. Interestingly, when PAP came into power, their leaders were heavily influenced by Fabian ideas. As a result they tried to deploy social democratic policies, however, the harsh realities of limited industries available for nationalisation, and limited resources for self-sustainable development, forced PAP to change its policies drastically. The government, therefore, had to take the initiative in setting up new development agencies and enterprises. Over the last quarter of the twentieth century, the government, on its own or in partnership with private interests, became heavily involved in the production of goods and services. Currently, there are nearly 500 government-linked companies (GLCs) involved in a wide range of manufacturing and service activities, employing over one-fifth of the island's labour force.<sup>50</sup> The special relationship between the state and the business community sometimes brings complications in Singapore's PTAs. However, it must be understood that the public-private partnership was not a result of ideological inclination but instead a pragmatic response to changing conditions of the city state (Fong, 1987).

Unlike Thailand, Singapore has PAP as the sole political entity that can guide the city state's economic and trade policy. However, as the subsequent section will show, PAP has also brought some domestic changes which will become crucial in Singapore's trade policy.

# 4.2.3 Civil Society

One of the few positive consequences of the financial crisis was how it helped propel the new Thai Constitution through parliament earlier than expected (Jumbala, 1998). The new Constitution of 1997, also know as "the peoples' constitution"<sup>51</sup>, established several

<sup>&</sup>lt;sup>50</sup> Including steel mills, textiles, electronics, oil refining, hotels, shipbuilding and repairing, shipping, financial services, air transport, and property development.

<sup>&</sup>lt;sup>51</sup>Coined by Uthai Pimjaichon, Chairman of the Constitution Drafting Assembly.

major reforms, such as erecting several independent bodies acting as impartial referees on behalf of the public<sup>52</sup>, and paving the way for people to exercise their civil rights.<sup>53</sup>

Another benefit of the financial crisis was that it taught the Thai public that civil problems cannot be resolved without the participation of the people. As a consequence, demands from civil society, such as a more participatory form of democracy, were incorporated into the constitution (Jumbala, 1998). Embedded within the new 1997 constitution are guarantees for the right of communities and local people to protect the environment and to participate in making decisions on the use of the natural resources in their community. Thus, the Thaksin administration, unlike its predecessor, had to deal with the unprecedented rise in civil society movements (McCargo, 2002, p. 124), primarily because the constitution provided a structure that accommodates these movements, which are gaining ever stronger momentum.<sup>54</sup>

Singapore's civil society movement, on the other hand, took a completely different path. Before independence, civil societies were mainly formed by indigenous groups, providing social services and welfare equalling the colonial government. During the move towards merdeka, the call for independence, political and civil society movement gained momentum. Unfortunately, the rising dominance of PAP suddenly bought about a change in dynamics. PAP's initial spread of social democratic projects diminished the needs for civil society. As time progressed, and as PAP switched emphasis towards the importance of political and economic survival for nation building, civil society began to dwindle. During the period, most civil society organisations were legally circumscribed; others such as the trade unions formed a cooperative relationship with the PAP government, and they have been supportive of trade liberalisation, as it recognises how Singapore benefits from the expansion of international trade.<sup>55</sup> Nevertheless, the majority of Singapore civil movements are rendered immobile, it is generally understood that PAP keeps a tight lid on civil society (Tay, 1998, pp. 246-249).

The history of civil society movements in both the case study countries could not be more different. Singapore kicked-off with some form of civil society, however, due to

<sup>&</sup>lt;sup>52</sup>This includes, for example, the National Counter-Corruption Commission, the Anti-Money Laundering Commission, as well as the muscular Election Commission, which has the main objective of deterring fraudulent candidates from entering politics.

<sup>&</sup>lt;sup>53</sup> Such as giving the Thai public the right to vote in the Senate elections for the first time.

<sup>&</sup>lt;sup>54</sup> The rise of civil society has derailed the negotiations for the TUSFTA, and they have been a key force in removing Thaksin from power. <sup>55</sup> The National Trade Union Congress of Singapore only opposes the inclusion of labour standards on trade

agendas (Desker, 2005, p. 343).

political and economic exigencies, civil society groups were merged into the government. Alternatively, Thailand did not have a true civil society movement until the birth of the 1997 constitution, which built the infrastructure and confidence for such societies to mobilise. However, despite accommodation from infrastructure, civil society is still a novel concept for Thai politics. Nevertheless, the difference in civil society movements will lead to significant divergent in their trade policy formulations.

### 4.2.4 Economic Policies

With the background of their historical and social past, it is best to understand Singapore and Thailand's economic policies and why they have pursued bilateral PTA strategies.

### 4.2.4.1 Economic Policies: The Dual Track Approach

The centrepiece of the Thaksin administration's economic strategy was the "dual track" strategy. Due to the financial crisis, the government sought economic policies that would enhance economic development by strengthening the domestic economy and simultaneously facilitating international trade and investment. To accomplish this goal, on the domestic front, the Thaksin administration needed to stimulate domestic consumption through a combination of low interest rates and easy credit conditions that would assist the grassroots economy. Consequently the government was shifting away from a Keynesian fiscal stimulus towards greater reliance on monetary management policies.

Simultaneously, there were fears that the dual track may drag the country away from export-led growth policies. As noted from the former premier's speech on domestic economic policies in 2001:

"The East Asian Economic Model had not addressed many of the country's fundamental problems...we find it necessary to strengthen ourselves internally so that we can stand on our own two feet"

(in Nagai, 2003).

However, dual track strategy continued to attach importance to foreign direct investment and exports, placing much emphasis on mercantilist policies of trade surplus. Nonetheless, Thaksin reassured investors that Thailand was not returning into a protective state. Moreover, Thaksin also attempted to improve the competitiveness of Thai companies. Another notable lesson the financial crisis taught the Thai elites was how uncompetitive domestic companies had become; a symptom the Thaksin administration was eager to cure. The economic team believed that, through greater liberalisation, Thai firms must become more competitive. This is confirmed in most of the administration's speeches relating to economic policies, which have highlighted the need for domestic firms to raise their competitiveness in order to face the inevitable future of economic liberalisation.

How and when would Thailand engage in greater liberalisation policies? Few details were revealed, however, it was believed that its proactive position towards bilateral trade agreements would be key. Initially the Thaksin administration was reluctant to adopt bilateral PTA polices (Nagai, 2003).<sup>56</sup> However, after the signing of the USSFTA, a sudden change of heart took place. Moreover, the rise in global oil prices in 2005 helped fast-track the idea of engaging in bilateral PTAs.

Since engaging in PTAs, two notable export strategies have become an integral part of Thailand's PTA strategy. The first scheme is the unplanned "Detroit of the East", with several commentators observing the agglomeration of multinational automobile companies pouring FDI into Thailand, transforming the kingdom into a regional hub for the automobile industry. Currently Thailand is the world's second largest manufacturer of one-ton pickup trucks.<sup>57</sup> As a result, most of Thailand's PTAs, especially the JTEPA, place much emphasis on the automobile industry. This will require a restructuring of ROO in Thailand's trade agreements. The second project, backed by the government, is the "Kitchen of the World", this scheme aims to promote Thai produce, cuisine, and chefs abroad. The strategy does not merely accelerate Thailand's plan to be a major food exporter, but also promotes the export of several domestic grassroots products abroad, which also requires the development of food safety and hygiene standards.

### 4.2.4.2 Economic Policies: Towards a Service Hub

Singapore may be a pro-trade society, with virtually no tariffs, but most of Singapore's service sectors are linked with the government, which has been slow to liberalise. Since the rise of China, the city state has suddenly realised the limitations in her

<sup>&</sup>lt;sup>56</sup> Actually the original plans for adopting PTA strategies were laid down by the previous administration, but they were equally reluctant.

<sup>&</sup>lt;sup>57</sup> The world's largest exporter of pickup trucks is the USA.

competitiveness, especially when compared with resource-abundant countries. Consequently, Singapore has had little choice but to re-brand itself and focus in the service sector, in order to rival other service hubs in the region, such as Hong Kong.

As a result, around the turn of the new millennium, sudden changes were introduced by the Singaporean government, aimed at facilitating Singapore's move to become a service hub for the region. One of these areas, for example, is the financial sector, which the PAP government claims to have had a long term plan to liberalise, since 1997. However, similar to Thailand, there are no clear dates for such grand strategies. Nevertheless, as the subsequent chapters will show, Singapore's financial services have begun to liberalise, but only after engaging in PTAs.

Another predicament the entrepôt state needs to ponder is the limited export destination. Even if Singapore could become more open and competitive, it cannot gain more market access until further multilateral negotiations are concluded. The deadlock at the multilateral trade level forced Singapore to accept bilateral PTAs as an alternative to further the its trade ambitions. Nevertheless, Singapore believes it has adopted a multiprong approach in pursuing trade liberalisation through multilateral, regional and bilateral trade agreements (Liang, 2005). Each level is not exclusive of the other, there is no discrimination amongst the different levels, and Singapore can approach all different levels when its trading partners are ready to move at Singapore's pace.

In short, the crucial similarity in Singapore and Thailand's economic polices is their desire to achieve more exports. Furthermore, both states desire to reform their economies: Thailand has a strategy of transforming its key domestic industries to become more efficient and competitive. In contrast, Singapore's survival has pushed the city state to become more efficient in its service sectors. Apparently, adopting PTAs has been a crucial part of Singapore and Thailand's economic and growth policies. However, the question is how much reform has occurred to the economy and the domestic mechanism, and how much can be attributed to PTAs?

### 4.3 Trade Policy Formulation

Armed with the historical and social background knowledge of the two case study countries, this section will outline how PTAs c

an influence the domestic mechanism. In order to understand how institutional capacity at the macro level has evolved, one must observe the changes in the system. Consequently, this section will begin by introducing Thailand and Singapore's international trade policy making structures coupled with an outline of the key players involved in international trade policy making, from ministries to non-profit making societies. The section aims to examine how the players interact in order to obtain a coherent trade policy, thus an observation of the negotiating team will also be required. Overall, this section aims to highlight the emergence of new agencies or changing roles of government and non-governmental players in the trade policy making, brought about by PTAs.

# 4.3.1 Thailand's Policy Making Structure in International Trade

Since 1932, Thailand has been a constitutional monarchy with a bicameral parliamentary system, however, neither legislative chamber fully participates in the trade policy making process. Consequently, the executive branch is free to negotiate and bring international, and bilateral, treaties into effect. In other words, the prime minister can ratify the signed international trade treaties, without parliament's consent nor is there any obligation to hold public hearings. Thus, trade policy making in Thailand is a centralised affair, only a handful of ministries and a select few policy-makers are truly involved in international trade policy making. Recently there have been demands to stop such opaque procedures. Since the TUSFTA negotiations, several scholars believe that PTA negotiations contravenes Article 224 of the Constitution, which provides that parliament and the monarch's consent are needed when entering peace, armistices and other treaties, especially any agreement that alters Thailand's territorial or state jurisdiction.

Consequently, under an amendment of the 2007 Constitution, article 190 states that any international agreement related to trade and investment and with an important impact on the country's economic security must be approved by parliament.<sup>58</sup> Thus, recent bilateral PTA negotiations have raised public awareness on the matter, such that a more transparent process in Thai trade policy making has emerged.

Departing from the legislative procedures, as mentioned above, the Thaksin administration introduced the Bureaucratic Restructuring and the Ministerial Restructuring Acts in 2002. The reforms were focused on correcting the weakness in the bureaucratic system which was perceived to be responsible for the fragile economic system.

<sup>&</sup>lt;sup>58</sup> However, there are still problems with article 190 under the military government. The JETPA was signed without parliament's endorsement, thus NGOs are seeking ways of nullifying the agreement.

Despite reforms, the overall structure of Thailand's international trade, summarised in Figure 11 below, has hardly changed, apart from cosmetic changes of the names of organisations and committees. The main ministries responsible for formulating and implementing issues relating to trade and investment policies are the Ministries of Commerce (MOC), Industry, Finance (MOF), and Agriculture and Cooperatives (MOAC). Due to the comprehensive nature of the recent bilateral PTAs, authority on trade policy making was extended to other ministries, such as Foreign Affairs (MFA) Public Health (MOPH), Information Technology and Communications (MICT), to name a few.

Overall, the top decision making level is the Cabinet and the Committee on International Economic Relations Policy (CIERP), the key policy making committee on Thailand's economic-related policies, chaired by the member responsible for economic affairs. All matters relating to international economic polices must be considered by CIERP before seeking final approval from the premier and the Cabinet. Furthermore, due to the recent proliferation of PTAs, new committees are emerging purely for the purpose of PTAs. The Committee on FTA Strategy and Negotiations, composed of similar members to CIERP, was established in an effort to provide a clear and consistent direction on Thailand's PTA position before disseminating to the relevant ministries (Talerngsri & Vonkhorporn, 2005, pp. 71-72).

However, the actual decision making process still rests in the hands of the politicians. Interestingly, most of Thailand's PTA obligations have been administrative obligations. The reasoning is because negotiations are undertaken by civil servants, who are unenthusiastic at negotiating issues beyond their domain; legislative changes are perceived to be under the political domain. To illustrate, during the negotiation of the TUSFTA, contentious issues on public health were hardly discussed by the regular trade negotiators, it was left in the hands of the politicians such as the Deputy Minster for Commerce and the Minster for Public Health to negotiate, who had to join the negotiating team at a later stage.

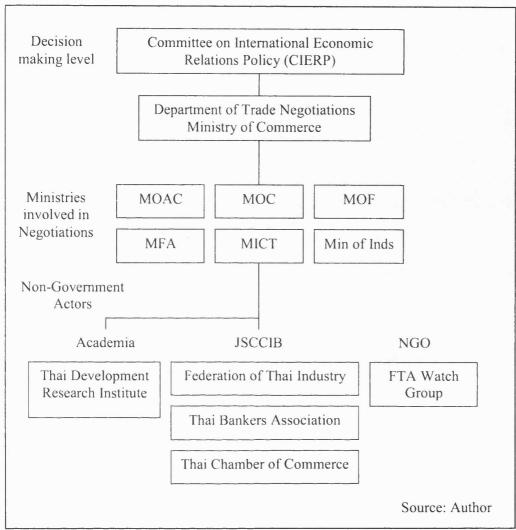


Figure 11: Thailand's decision making structure in international trade

Departing from the decision making level, the Department of Trade Negotiations, under MOC, acts as the secretariat to CIERP, and coordinates PTA policies with other ministries. This makes the MOC the lead agency in international trade policy. Interestingly, this ministry has undergone some internal restructuring over recent years. Prior to the bureaucratic reform, the Department of Business Economics was responsible for plurilateral and multilateral trade negotiations, whereas the division responsible for bilateral trade negotiations was under the Department of Foreign Trade. Due to the reform acts, in 2002, the two departments were merged into the Department of Trade Negotiations. In order to trim down the overlapping duties, the department was formalised to oversee both bilateral and multilateral trade negotiations. The rationale for merging the departments was a key move by the Thaksin administration to further emphasise international trade negotiations, especially bilateral negotiations; thus shifting to a multiple level strategy. Clearly PTAs were not directly involved in the MOC's restructuring.

Another key ministry that underwent internal restructuring is the Ministry of Agriculture and Cooperatives. An old saying in Thailand is: "Agriculture is the backbone of our [the Thai] nation". True to this saying MOAC has also played an important role in Thailand's trade policy formulation.

Several departments in MOAC underwent massive internal restructuring, include newly formed agencies for monitoring and certifying food safety, however, these agencies will be discussed in chapter five. This chapter will focus on agencies traditionally responsible for trade.

A key department within MOAC is the Department of Agricultural Economics. Due to PTAs, the department has become the main communication point on agricultural trade-related issues, both within MOAC and between ministries. Consequently, there has been massive reallocation of staff to the Department of Agricultural Economics, in order to accumulate greater specialisation, especially on issues not traditionally related to agricultural trade, such as scientific knowledge. In order to understand specific PTAs, more staff were required on the grounds of country specialists.<sup>59</sup>

Moreover, the Department of Agricultural Economics interacts with local farmer on trade-related issues as well. Traditionally, once a trade negotiation was completed, such as during the Uruguay Round, MOAC would instruct farmers what needs to be achieved. Under the PTA era, MOAC admits they have limited information on agricultural production, and rely on farmers advice instead. Consequently, the Department of Agricultural Economics consults with stakeholders on what farmers, and the nation, can accomplish. Thus, the intensity and speed of bilateral negotiations have transformed the farmer-government relationship from a top-down to a bottom-up approach.

The Ministry of Finance is another key player in Thailand's international trade policy making, such as setting tariff rates. The key department overseeing international

<sup>&</sup>lt;sup>59</sup> In fact, this phenomenon is not unique to MOAC, several other ministries have also assigned a team or individuals to study and follow up on specific PTAs. This includes the Ministry of Industry, and the Ministry of Education. Furthermore, these same ministries have also assigned at least one department which acts as the central coordinator of various PTA-related issues. This would not be too onerous for ministries already involved with trade, but for ministries not traditionally involved with trade, a completely new department had to be created.

trade policy issues is the Fiscal Policy Office. Recently, MOF conducted tariff restructuring in several key industries, for example, the tariff rates for 1900 key electrical products were revised in November 2005. As a Thai trade negotiator commented:

This is in line with the policy to transform Thailand into a regional electronic manufacturing centre, and to improve medium-sized manufacturers' competitiveness, especially for the automobile industry... It will also complement free-trade agreements, whereby import tariffs will eventually be cut to zero per cent.

The idea for restructuring tariff rates has been long thought out. On a number of occasions, the government has vocally urged key industries to become more competitive. As a consequence, the new tariff policies should reduce the cost of components from abroad, identifying key sectors in which the government desires to enhance competitiveness. These changes can be attributed to Thailand's increasing involvement with PTAs. The rapid speed and multiple negotiating partners have forced MOF to re-examine the tariff schedule on a number of occasions, thus allowing it to bring the reforms in quicker. Similar tariff restructuring can also be seen in the automobile and processed food industries, in line with the "Detroit of the East" and "Kitchen of the World" programmes.

Another notable change in the Thai organisational structure is the establishment of the International Strategic Trade Agency (ISTA). As a result of PTAs, several Thai policy makers discovered the challenges of following up on existing PTAs. As expressed by a high-ranking civil servant:

There have been several instances when we ask ourselves who has the information on a particular FTA, or who is responsible for the follow up of a particular FTA? ... Most of the time, there will be a silence followed by several phone calls chasing this unknown person. Ultimately, we realised that such a person does not exist, nobody is responsible for following on these issues.

Former permanent secretary of MOC (JTEPA conference in 2005)

As a result the ISTA was established in October 2005, the agency plays the key role as a communicating and coordinating unit on international trade affairs, as set out in Figure 12.

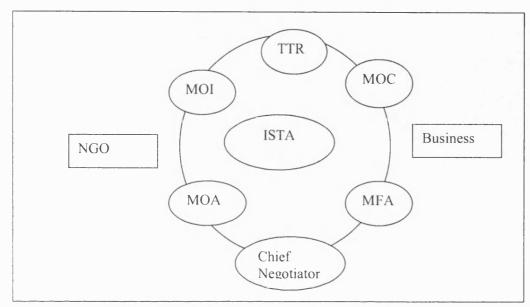


Figure 12: Organisational chart of International Strategic Trade Agency (ISTA)

Consequently, ITSA will have three main tasks. Firstly, it will be an information gathering agency on PTA-related issues. Secondly, the centre will summarise trade obstacles, including NTBs, and seek ways to solve the problems. Thirdly, ITSA will provide Thai firms with advice in doing business overseas. Thus, it will provide benefits for both government agencies and the general public. Consequently, overall, the ISTA will become a communicator to the general public, ensuring awareness of international trade policies.

Currently, this promising and much needed agency is under the umbrella of MOC, however, due to the exponential rise of PTAs, there are plans to transfer ISTA to a more prominent role under the Prime Minister's Office, providing it with a more assertive coordination and implementation authority in international trade-related issues. This illustrates how new agencies, created as a result of PTAs, can improve institutional trade capacity.

Aside from government agencies, there is also consultation support from academics and business groups who are involved in the decision making process. Civil movements do not play any direct role, but they are becoming a familiar face in international trade negotiations. The roles of academics as technical consultants is not a new phenomenon in Thai trade policy making. However, since the PTA era there has been a rise in the number of academic consultancies, which have generally been attributed to the escalating number of comprehensive PTAs. To illustrate, in the ACFTA, academic consultants were hired to examine macro issues such as the impact of the agreement on exports, imports, inflation, general employment levels, and other socio-economic indicators. However, after implementing the EHP between China and Thailand, the government realised it had overlooked micro issues, such as the garlic industry, adversely affected by the EHP. Consequently, there is greater willingness to hire consultants both at the macro and micro level. Aside from academic institutions, other independent academic bodies include the Thai Development Research Institute (TDRI), which conducts policy assessments and research on social economic development; virtually all of TDRI's independent reports on PTAs are disseminated to the public.

In the private sector, the government formally and informally consults about trade-related matters with three main organisations: the Thai Chamber of Commerce, the Federation of Thai Industries, and the Thai Bankers' Association. Together they represent the Joint Standing Committee on Commerce, Industry, and Banking (JSCCIB)<sup>60</sup>, aimed at facilitating the private sector's participation in Thailand's trade negotiations. To illustrate, during trade negotiations JSCCIB were invited on several occasions, at their own expense, to join the negotiations in a supportive role.<sup>61</sup>

Opponents of JSCCIB believe the organisation does not include a sufficiently wide representation of businesses organisations in Thailand, as a result it does not represent the entire economy. However, JSCCIB would argue that several business groups were initially disinterested in international trade negotiations, believing themselves to be immune from distant matters. To illustrate, previously, several business organisations would sending junior members of their organisation to meetings and conferences on international trade matters. However, in the era of comprehensive PTAs

<sup>&</sup>lt;sup>60</sup> Originally formulated in 1999, called the WTO Committee, aimed at facilitating Thailand's position in the multilateral level.

<sup>&</sup>lt;sup>61</sup> Interestingly, the AFTA negotiation highlights an interesting mechanism called the parallel negotiations. This involves two negotiating rooms: one is the negotiations between the two governments; the second for the business groups. In certain circumstances, when the topic is not too sensitive, crossovers between the two rooms are permitted in order to obtain a broader picture. Thus, the information can also bring a clearer picture to the negotiations.

and greater competition, more seasoned members of the business community are being sent to such conferences. Moreover, as a JSCCIB member proclaims:

> The government listens to us because JSCCIB is one of the largest business organisations, although JSCCIB does not encompass everyone, but JSCCIB is able to generate large revenues. JSCCIB wants a committee that can make decisions, not one where there are too many members, such that a decision will never be made.

Consequentially, PTAs have most certainly increased the participation of businesses in trade negotiations. Perhaps other business organisations should be included in order to provide more detailed micro data, as well as an opportunity to safeguard their interests. However, the limited involvement of non-JSCCIB groups can be attributed to the weak abilities to mobilise and generate enough revenue to catch the attention of the government. Nevertheless, several Thai trade negotiators have acknowledged the need for inputs from other businesses, but it remains a mystery how their voices will be heard.

The final group that has gained prominence in international trade making, due to constitutional change, is the mobilisation of non-profit making civil society groups, most notably the rise of the FTA-Watch Group. The organisation was conceived during the 2003 APEC Summit in Bangkok, when it was clear that PTAs would become part of the Thaksin administration's economic policy. The main concern for FTA-Watch is how comprehensive PTAs, encompassing various trade related issues, will directly affect Thailand's sovereign rights. Interestingly, FTA-Watch is a very diverse and well informed group, although possibly overstretched. Nevertheless, FTA-Watch has positioned itself as informers for the middle class and the mouth piece for the rural poor, becoming a vocal critic of government policies towards PTAs.

FTA-Watch has always expressed willingness to participate in the negotiations, or at least become acknowledged like the JSCCIB. There are concerns amongst their members that the government prefers to convince them, rather than consult with them. The difficulties between the government and NGOs still remain, but there have been attempts to reconcile the quarrel. For example, during the JTEPA negotiations, the government invited FTA-Watch to accompany the delegation to Japan. FTA-Watch declined, seeing little point in accompany the trade team if they were not allowed to participate, or at least to provide support. They did not welcome the idea of being invited for cosmetic purposes. Nevertheless, the presence of NGOs can be appreciated, as two Thai trade negotiators commented:

> When the public come out to protest, it helps the negotiators understand what the public think and want from the trade agreement.

> Thailand is a developing country, and everything is currently developing, including civil servants, and NGOs. We are not in a position to assist each other at full capacity yet, but one day we should. At least for certain, NGOs acts as alert systems in case the government has gone overboard, it is good to have such a system.

Overall, the involvement of civil society was not initially welcomed, and the relationship is still not smooth. However, their participation marks a change from the old system. The process of deep integration encourages domestic policy reform, which inspires more open and democratic processes in countries where policy making has traditionally been top-down. The best example is the way NGOs have pressured the government to draft a Trade Negotiation Bill which requires the government to disclose details of pacts as well as strengths and weaknesses for public consideration.

#### 4.3.2 Singapore's Policy Making Structure in International Trade

Singapore is a republic with a unicameral parliamentary system. Procedurally, before any international treaty becomes incorporated into domestic law, the cabinet must first approve the legislation. Furthermore, any legislation that entails changes in Singapore's rights must be endorsed by parliament before becoming domestic law. However, since PAP controls the parliament, the cabinet is at the apex of the city state's decision making process. Moreover, the cabinet can veto any international treaty.

In Singapore, unlike Thailand, no major constitutional changes have taken place, however, in 2002 there were significant modifications in Singapore's institutional and bureaucratic systems, especially in key ministries and departments involved in international trade affairs. Interestingly, most of these transformations took place after Singapore's first PTA negotiation, in 2000. Nevertheless, several government officials believe these transformations were not a direct result of Singapore's enthusiasm towards PTAs, instead they reflected the changing climate of the global trading system. The overall structure in Singapore's decision making process on international trade affairs are summarised in Figure 13 below. At the head sits the cabinet. The decision to initiate PTA negotiations are filtered and managed by the ministry responsible for trade, which submits recommendations to the cabinet for approval. Alternatively, politicians also propose a list of potential PTA partners. In fact, most of Singapore's PTAs were initiated by the prime minister during several APEC Summits.

Moving away from the decision making process, Singapore's main government agencies responsible for international trade policy making are: the Ministries of Trade and Industry (MTI), Finance (MOF), Natural Development (MND), and Law. Moreover, ministries are supported by Statutory Boards, semi-independent government agencies overseen by a cabinet minister, but given autonomy and flexibility to perform operational functions separate from regular government departments. More importantly, statutory boards regularly interact with non-governmental agencies; thus, providing a link between the government and the private sector.

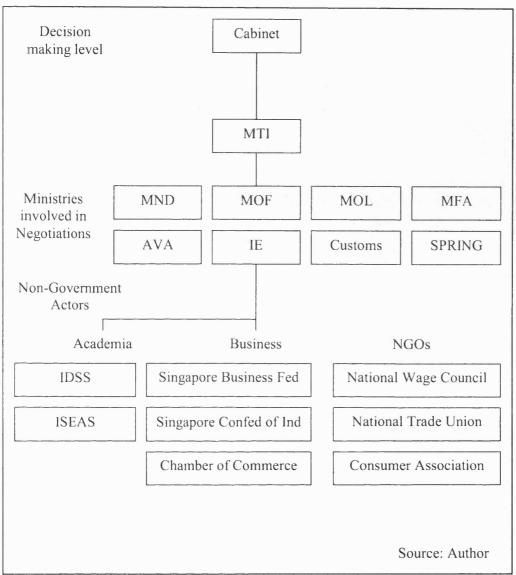


Figure 13: Singapore's decision making structure in international trade

The Ministry of Trade and Industry (MTI) is the key ministry responsible for trade and investment-related issues. MTI also coordinates various ministries to participate in the preliminary and actual negotiations. Prior to the prominent rise of bilateral PTAs, multinational trade negotiations were in the hands of a statutory board, formerly known as the Singapore Trade and Development Board. However, in April 2002, two massive internal restructurings occurred: Firstly, two new trade divisions were created, Trade Division Directorate A and B, creating a matrix system, where the former deals with overseas country-specific trade issues, and the latter deals with specific horizontal trade policy, such as tariffs, ROO, SPS etc. Matters relating to the WTO were moved back into MTI, under Trade Directorate B. Consequently, virtually all personnel

in Trade Directorate B had to be recruited, most were commercial lawyers who were assigned to deal with deeper integration provisions. Moreover, he establishment of Trade Directorate B demonstrates Singapore's emphasis on comprehensive trade issues.

The second restructuring was that MTI's statutory board,<sup>62</sup> the Singapore Trade and Development Board was transformed into International Enterprise (IE) Singapore. IE Singapore had a mandate to help Singaporean companies export and internationalise successfully. Furthermore, IE Singapore also become an active player in Singapore's bilateral PTA negotiations. Another significant statutory board, under MTI, is the powerful Economic Development Board (EDB), responsible for planning and implementing industrial and service strategies. Interestingly, most of the restructuring within MTI, especially the statutory boards, can been seen as a refocusing of priorities and bringing the WTO back into the heart of international policy making in Singapore.

Other Singaporean governmental agencies underwent structural changes during the 2002 bureaucratic restructuring programme. However, interestingly, most of the restructuring occurred with governmental institutions involved with regulatory issues, reaffirming Singapore's programme to become a regulatory hub for the region. For example, the Standards, Productivity and Innovation Board (SPRING), a statutory board under the MTI, formerly responsible for improving industrial competitiveness, formulating and implementing standards, has now become a standards regulator, free from certain overlapping issues such as testing procedures. Other ministries have also undergone structural changes. The Ministry of Information, Communications and the Arts, and the Ministry of Transport have also relinquished their authority to the new statutory boards of the Infocomm Development Authority and the Land Transport Authority, respectively.

Regarding non-governmental agencies, similar to Thailand, Singapore has always engaged the services of academic consultants to study the feasibility of trade agreements. However, some differences can be immediately observed between Singapore and Thailand's private sectors. The Singaporean government regularly consults with the business community through statutory boards. Moreover, due to the unique special relationship between the government and the private sector, companies tend to fall in line with PAP's policies. However, most of these companies are predominantly in the service

<sup>&</sup>lt;sup>62</sup> Currently, MTI oversees nine different statutory boards.

sector, if Singapore desires to become a regional service hub, major restructuring will be required.

The government, though MTI, regularly consults with the Singapore Confederation of Industries, and the Singapore Business Federation (SBF). Under the Singapore Business Federation Act 2002, SBF was established as part of the wider restructuring programme by the PAP government to enhance Singapore's trade capacity. SBF encompasses all the largest companies in Singapore, including all the Chambers of Commerce in Singapore, and it is responsible for promoting business related matters to the government.

Recently, the Singaporean government realised how ill-informed the business community was on matters relating to signed PTAs. Most businesses were unaware which countries had signed PTAs with Singapore, let alone the benefits they would gain. This posed serious problems because the members of the business community are the ones who make these agreements work. As a result, MTI recently established the "FTA Optimisation Unit"; its main duties are to educate the business community about recently concluded agreements, and how they may benefit from them. Consequently, this illustrates how PTAs have brought better communication between the government and the businesses community.

With respect to non-profit making civil societies, unlike Thailand, there are no NGOs which concentrate their energy on international trade issues. As mentioned earlier, Singapore does not foster an environment for strong civil society movement. Most major civil society organisations, such as the National Trade Union Congress, have already formed cooperative links with the PAP government. Other NGOs, such as the Consumer Association, rarely touch Singapore's international affairs. Overall, when deemed appropriate, the Singaporean government welcomes consultation from the National Wage Council, the National Trade Union Congress and the Consumers Association of Singapore.

### 4.3.3 The Trade Negotiating Teams: Coordination Process

One way of observing how coordination has changed is by observing the trade negotiating team. Unlike the general trade policy making structure, the negotiating team illustrates an alternative approach of inter-ministerial coordination. Furthermore, in reality the negotiating team undertakes the decision making in real time, not the political masters at home. In Thailand, ever since the Uruguay Round, MOC has carried the heavy burden of negotiating Thailand's trade position on most fronts. There may be limited participation from other ministries, with the notable exceptions of MOAC and MOF. Thailand's chief negotiators have always requested MOAC's contribution, since Thailand was a member of the Cairns Group. In fact Thailand's chief negotiator during the Uruguay Round aimed to create an ensemble of negotiators from various ministries into the negotiating team,<sup>63</sup> an interesting trait that still holds today. However, a large delegation hardly counts unless they fully participate in the negotiations. For example, on agricultural issues, the Permanent Secretary of MOAC represented Thailand during the Round, but only participated during the final moments, resulting in limited input. Overall, most non-MOC delegation were there to participate not negotiate, they merely offered consultative advice. The limitation can be attributed to technical difficulties and limited interest in multilateral trade negotiations.

The composition of the negotiating team from Singapore, on the other hand, has hardly changed. During the Uruguay Round, Singapore had already shown interest in emphasising trade rules. Thus, the composition of Singapore's trade negotiating team has encompassed several agencies outside MTI. Unlike Thailand, the Singaporean delegation included non-MTI staff who participated and led the negotiations on the respective topics. For example, the chief negotiator was from MTI, who negotiated on trade-related investment measures (TRIMS), whereas the negotiations for the rules on anti-dumping, safeguards, subsidies, countervailing duty measures and dispute settlement were led by academics (Liang, 2005, p. 59).

After the Uruguay Round, Thailand's trade negotiating team at the WTO did not reduce in number, various ministries still provided consultative inputs. However, their participation diminished, mostly sending junior bureaucrats who did not hold direct control over the ministry's policy. This effectively dumped most of the negotiating work on MOC. The negotiating team no longer had direct control and discretion to negotiate regulatory barriers to trade issues beyond MOC's scope. Consequently, Thailand seemed disinterested in non-market access issues.

Nowadays, in the era of PTAs, MOC still retains authority as the principal agency responsible for trade negotiations. However, the rise in PTAs coupled with the deepening on trade issues, has overwhelmed MOC's workload. Accordingly, several trade

<sup>&</sup>lt;sup>63</sup> This success is documented in the photograph taken during the round, where the entire Thai delegation appears have been one of the largest delegations present.

negotiating issues have been outsourced to other ministries, including the position of chief negotiator. Some of the lead negotiators are still from MOC, such as PTAs with Australia, China, New Zealand; However, some were led by MFA, including PTAs with Japan and USA; and others by the Thai Trade Representative, the PTA with Peru. In contrast, Singapore's chief negotiators have never been restricted to MTI personnel: some negotiators came from MTI, such as in the negotiations with India; others were led by MFA, such as the negotiations with the USA; whereas others were led by academics and retired civil servants, such as in the PTA with South Korea.

In Thailand, outsourcing has not been confined to the chief negotiators. The deepening of trade issues demands greater participation from various government agencies which hold direct control over non-traditional trade policies. The complexities of current trade negotiations can be observed in appendix B and C, these provide individuals with the opportunity to learn about and maintain direct control over trade issues under their jurisdiction. For example, previously, the Ministry of Education (MOE) had never entered any international trade negotiations, and MOE was merely invited to provide consultation and formulate a trade position. Nowadays, MOE leads the subcommittee negotiations on Education and Human Resources in JTEPA. Moreover, thanks to the complexities of comprehensive bilateral trade negotiations, several seasoned civil servants are now involved with the negotiation table.

In Singapore, the format of the trade negotiating team has always encompassed experts from various government agencies. The same system still holds in bilateral PTA negotiations, as shown in appendix D. The negotiating team consists of newly established agencies. For example, SPS negotiations used to be headed by the Ministry of National Development, but is now led by the Agri-Food and Veterinary Authority (AVA), which consists of individuals from Ministry of National Development as well as specialists from other agencies. Consequently, even new governmental agencies still need to regroup in order to discover their own grounds under the new regime of comprehensive PTAs.

One interesting point of comparison on trade negotiating teams is that, unlike Thailand, the number of ministries involved in Singapore's negotiating team is much less. Primarily this is because MTI still retains control over most of the negotiations and the subcommittees, while other governmental agencies merely provide a supportive role; thus reaffirming the centralisation of Singapore's trade policy making.

A common point to report is that, as a result of comprehensive PTAs, there has been a change in both the Singaporean and Thai trade negotiating teams. Previously, the main bulk of their trade negotiators were located at the Geneva mission, and other ministries only participated when invited. Given the slow nature of multilateral negotiations, when proper negotiations are held, most of the negotiators from previous rounds might have moved elsewhere. However, since the rise of comprehensive PTAs, trade negotiators from both countries believe there is currently a regular pool of experts from various agencies working together towards a common goal. Given the speed and intense nature of PTAs, trade negotiators regularly meet,<sup>64</sup> and form a better understanding of each department's views on trade policy. The pool of experts also forms a working relationship which allows them to communicate with each other and they can easily be called upon for assistance. In Singapore, there is an FTA Fund, aimed at lubricating inter-agency work and any means of enhancing inter-departmental relationship (Ong, 2004, p. 39), cementing the bonds of various government agencies and their coordination. More importantly, both Singaporean and Thai negotiators believe that, since the same individuals are involved in future negotiations, it creates a pattern of consistency for future trade negotiations. This provides an example of how PTAs provide support in the coordination of the domestic structure.

### 4.4 Conclusion: The Comparison

This chapter outlined the 'macro' domestic institutional structures in Singapore and Thailand. The chapter began with a narrative on the historical background which helps explain contemporary developments. Singapore has always been conscious of international trade, as trade has been linked with the struggle for survival. This struggle inspired PAP to establish several well-oiled domestic institutional agencies and processes for international trade-related issues. On the contrary, Thailand was initially unconcerned with international affairs. The Kingdom never felt the need to compete internationally, and believed its agricultural sector was competitive enough. However, as the economy became more dependent on foreign direct investment, Thailand needed to integrate with the global economy. Unfortunately, international affairs and trade negotiations were considered distant topics for the general public, the business community also felt that

<sup>&</sup>lt;sup>64</sup> An interesting example would the USSFTA, which lasted two and a half years, however, there were 11 rounds of formal negotiations, suggesting there must have been, at least, one meeting every two months, in order to formulate a trade strategy.

multilateral trade negotiations would not affect their businesses, and the media were equally ignorant. As a Thai trade negotiator recalled, during the Uruguay Round a Thai reporter asked: "Why was the Uruguay Round held around Uruguay, why was it not held in Uruguay itself?"

However, an abrupt change took place. The financial crisis unexpectedly improved the public's awareness of international affairs, and Singapore's economy also plummeted after the crisis. Due to Singapore and Thailand's developmental state ethos coupled with a strong bureaucracy, they aimed to catch up with the industrialised economies by establishing high economic growth and structural change in the productive system (Low, 2001, p. 413). Consequently, both governments initiated several restructuring projects. Thailand saw the emergence of the Thaksin administration, which introduced immense bureaucratic reforms. Similarly, Singapore's PAP government saw the need to redirect the economy into a service hub in the Asian region. More importantly, these developments led towards their PTA policies.

Furthermore, bilateral PTAs have now become an integral part of Singapore and Thailand's economic policies. Singapore is still spearheading bilateral PTAs with new markets. In Thailand, even after the removal of the Thaksin administration, the military junta still continues with the PTA policies, which they initially regarded as a justifiable reason to remove Mr Thaksin. The interim prime minister of the military junta even personally led the Thai delegation to negotiate the India-Thailand PTA in June 2007.

After the historical background comes the analysis. This chapter aims to illustrate how inter-regional PTAs have influenced the case study countries' domestic institutional trade capacity at the macro level. This will be conducted with the assistance of the timeline diagram below, which shows the negotiation, the signing, and implementation date of Singapore and Thailand's PTAs. These dates will be compared to the key macro institutional developments; thus providing a visual timeline comparison. However, one of the drawbacks of this method is the difficulty of identifying when the actual idea of institutional development was conceived. Consequently, it is difficult to say with complete certainty whether PTAs were the direct cause of recent institutional developments.

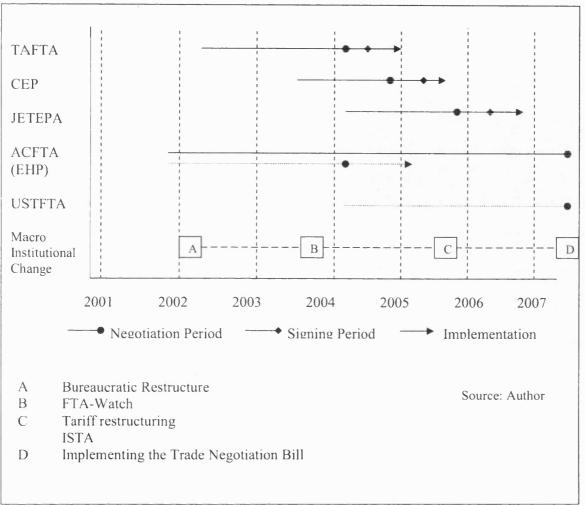


Figure 14: Thailand's Macro Timeline Comparison

In the case of Thailand, most domestic institutional developments occurred before the negotiations of the TAFTA. However, other macro institutional developments, such as the tariff restructuring, the idea of the ISTA and the Trade Negotiation Bill, all came into the picture after signing PTAs. This indicates most of the changes occurred not only because of the Thaksin administration, but PTAs may also have some contribution.

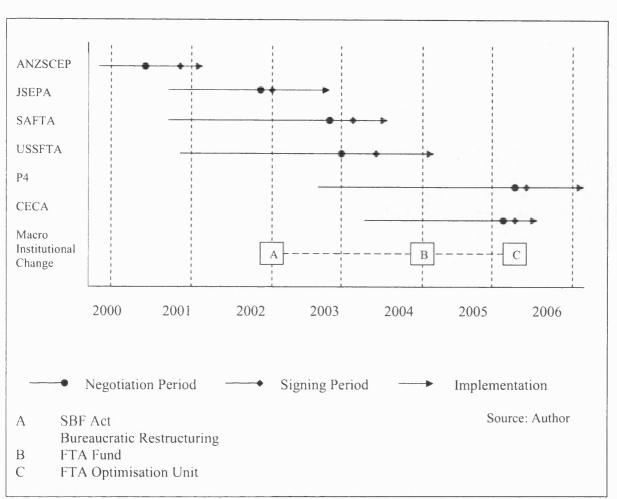


Figure 15: Singapore's Macro Timeline Comparison

In Singapore, on the other hand, due to the closeness of the time period, there are difficulties in distinguishing the causations. Most of the key developments, such as the bureaucratic restructuring and the establishment of the SBF, were conducted after the signing of the ANZSCEP, and several Singaporean trade negotiators argued that these changes were already laid out prior Singapore's engagement with PTAs. Nevertheless, it is questionable whether additional developments were accelerated due to PTAs. The ANZSCEP may have acted as a testing ground for policy makers to observe how new agencies would function. Nonetheless, other domestic developments, such as the FTA Fund and the FTA Optimisation Unit, were established after PTAs.

The timeline diagrams only inform about the establishment of institutional developments. However, to discuss how PTAs influenced the case study countries' domestic institutional trade capacity, an examination of the local institutional

development will be assessed under the lens of the institutional trade capacity framework. The findings are summarised in Table 3 below.

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Area of Impact	Singapore	Thailand
1		
Negotiating Capacity		
	Recruiting new personnel for Trade Directorate B and the negotiating team. Pooling of trade experts	Outsourcing and giving powers to the correct authority. However, inexperience has led political masters to deal with sensitive issues of the negotiations. Pooling of trade experts
Coordination Within ministries	No change	Creating new departments to coordinate within the ministry
		But could be too demanding and overstretches the new department.
Between ministries	FTA Fund established to assist inter-ministry coordination	ISTA assist the coordination.
NGO Consultation		
Academic institutions	No change	Demanding more micro information
Business society	Government requires more information from businesses.	Government requires more information from businesses
	SBF plays more role	More participation from businesses.
	FTA Optimisation Unit disseminates information	ISTA helps disseminate information
Non Profit agencies	No change.	Become a voice for the poor, and provide an alternative perspective for negotiators. However, they could derail future trade liberalisation.

Implementation		
Judicial and legal system	None	Possibility of introducing the Trade Negotiation Bill
Procedural and establishing new agencies.	Restructuring statutory boards, such as AVA. But can put strain on the new agency.	Establishing ISTA for wider PTA strategy Rapid speed of PTAs has allowed the government to re-examine every tariff schedule. However, this could also mean too much re- examination and focussing too much on one area.
Creating New Trade Strategy		
	The USSFTA has accelerated the liberalisation of financial services.	
	Singapore is now keen to adopt the negative list approach in future trade negotiations.	

Table 3: Institutional Trade Capacity Framework and Macro Institutions

Beginning with the composition of the trade negotiating team, as mentioned above, it is disputable whether Singapore's bureaucratic restructuring programme occurred as a result of PTAs. Nevertheless, some developments have been significant, especially the creation of Trade Directorate B, directly involved with regulatory barriers to trade. In Thailand, comprehensive PTAs instigated the outsourcing of trade negotiators, including the chef negotiators, which allows the appropriate government official with the correct authority to negotiate. More importantly, for both countries, the frequency of PTAs contributed to creating a pool of experts on various trade related issues. However, there are concerns that outsourcing could lead to backward forces by delegating important issues to agencies with limited experience.

Regarding coordination, in Singapore no new departments were created to oversee coordination within ministries. In Thailand there has been an increase in workload for existing departments to become the principal coordinator on PTA matters. Moreover, those departments have also become the main contact point between ministries as well. This could lead to backward force, placing strains and burden on these departments, especially when they conduct more trade agreements.

Nevertheless, there is now a pool of trade experts from various governmental agencies, this brings in greater involvement and awareness amongst bureaucrats from ministers previously not directly involved in trade policies. Some bureaucrats from non-trade ministries believe greater coordination and awareness has been enhanced not only during the pre-negotiating stage, but throughout the whole negotiation process. However, the "coordination" is a broad word with various meanings, there is definitely an increase in communications, and perhaps more understanding of each other's position. However, it is debatable whether new negotiators are fully aware of Thailand's position in international trade. As a Thai trade negotiator commented:

"At the beginning of every trade negotiation, there is always confusion, however, the more we meet, things become calmer and clearer... but perhaps only a select few truly understand Thailand's position".

The positive impact of coordination is not confined to Thai negotiators. In Singapore, some trade negotiators believe there is greater coordination amongst government agencies. Singaporean negotiators believe that the more PTAs Singapore negotiates and the more frequently the meetings take place, the smoother the meetings will become for Singaporean trade negotiators. As one Singaporean trade negotiator admits from experience:

> There is a misperception that Singaporean ministries think alike and obey the same orders. It is not easy to coordinate the efforts of 21 negotiating groups, especially with members drawn from different ministries and agencies. However, as we continued to negotiate on complex issues that require coordination from other ministries, such as intellectual property rights, we come up with more tools that facilitates a better networked government, which did not exist before.

Consequently, trade negotiators from both countries acknowledged that negotiating bilateral PTAs have clarified their position and raised awareness in their negotiating capabilities. Moreover, they find it easier to accept such provisions in future trade agreements (Talerngsri & Vonkhorporn, 2005, p. 73).

With respect to non-governmental actors, the roles of academics have always been prominent in Singaporean trade policy. However, PTAs have forced Thai policy makers to demand both macro- and micro-level studies on future PTAs. This is considered very important because Thai policy makers have rarely considered the impact of PTAs on marginal parts of society.

The role of business groups, on the other hand, has improved significantly. During PTA negotiations the Singaporean government realised the insufficient amount of information they had on the business community. This encouraged the PAP government to communicate, not merely with the business elites, but the wider business community, resulting in the creation of the SBF in 2002. Similarly, the Thai government also acknowledges the limited information on their local domestic businesses.

Furthermore, both the Singaporean and Thai governments realised how uninformed local businesses were on the benefits of the signed trade agreements. As a result Singapore established the FTA Optimisation Unit and Thailand set up the ISTA for disseminating information to local businesses and the general public. Thus, illustrating cases of forward forces, the creation of new disseminating agencies will become keys for local businesses to obtain further information on future trade agreements. Moreover, constant communication with local businesses will prove to be important for understanding businesses' needs of making PTAs work.

On consultation with civil societies, there has been limited change in Singapore. On the other hand, Thailand has witnessed the emergence of FTA-Watch, which has become the main anti-PTA movement in the Kingdom. Trade negotiators believe this can bring both negative and positive impacts to the negotiations. NGOs are slowing being welcomed as familiar faces in the negotiation process, and they regularly provide revealing information to the negotiators. However, whether trade negotiators choose to listen is another matter. The backward force that could emerge is the possibility of the growth of an anti-free trade movement, as seen during the TUSFTA negotiations, which were completely derailed.

On implementation, there has been no change in the Singaporean judicial and legal system. Similarly, in Thailand, no substantive changes have occurred. This is partly because most trade negotiators are unwilling to commit their countries to any legislative changes at the macro level. However, there has been one interesting change, which can be seen as a forward force, the possible introduction of the Trade Negotiation Bill, which was pushed by Thai NGOs. Once this bill is passed, it should provide greater transparency for future Thai trade negotiations.

With respect to procedural implementation, new agencies were created to assist the Singaporean government, such as SPRING Singapore and AVA, but again, it is disputable whether PTAs directly caused the establishment of these institutions. In contrast, PTAs appear to have directly assisted the establishment of the ISTA in Thailand. As mentioned earlier, the positive spillover effects of creating such an agency will benefit both inter-ministerial coordination and the dissemination of information to business as well. Thus, the ISTA is also an example of forward force which should have beneficial effects for future trade negotiations.

Moreover, the intensive negotiations in PTAs have assisted Thailand to reexamine tariff schedules more frequently, as a result being able to realign tariff restructuring with current economic policies. Without the influence of PTAs, it could have taken considerable time before changes to tariff schedules could take place. However, this is perhaps not a case for forward force because it does not accumulate to spillover effects. It does, however, provide a case for backward forces because it illustrates that MOF have to readjust their tariff lines often, and that may lead to confusion and over burdening of the government agencies involved.

Finally, on creating new trade strategies, it is extremely difficult to argue that PTAs have influenced Singapore and Thailand in pursuing new economic strategies to become a regional service hub and the "Detroit of the East", respectively. These policies were announced before Singapore and Thailand engaged in PTA negotiations. Thus, PTAs have limited influence on these areas.

Moreover, there are two additional interesting cases of forward forces to report. Firstly, prior to the USSFTA, the Singapore had plans to liberalise financial services, but without any firm dates. Since the USSFTA included financial liberalisation, the city state was forced to accelerate this reform. This is an example of forward force because once Singapore liberated its financial services, other trade partners can require similar benefits, and Singapore's institutions will be ready to accommodate such requests.

Secondly, before engaging in PTAs, Singapore had always adopted the positive list approach in the services trade, however, after negotiating its two biggest PTAs with

Australia and the US, Singapore suddenly realised the benefit of the negative list approach. From that moment on, Singaporean trade negotiators have always requested the negative list approach from potential trade partners, thus, allowing the possibility for future liberalisation on non-excluded sectors. This may merely illustrate a change in trade policy position, however, the movement to more liberalising policy -where future trading partners can also benefit- is considered an institutional improvement towards more liberalising policies.

To sum up, some form of evolutionary pattern appears to be emerging in the composition and the way trade negotiations are handled in Singapore and Thailand. It is possible to argue that some form of government capacity has been enhanced in both Southeast Asian states, where PTAs may have played some form of helping hand. Singapore had a head start on comprehensive trade issues, whereas Thailand is attempting to catch up with the city state; nevertheless, Thailand is not far behind.

However, the issue of outsourcing and establishing a new agencies has raised some question marks. Interestingly, outsourcing appears to be a logical course of action, however, it takes time for several departments to master the art of negotiation. By allowing new or alternative agencies that are unaccustomed to international trade negotiations to be responsible for important tasks could pose problems. PTAs may have accelerated Thailand's adoption of outsourcing, however, does outsourcing lead to increased government capacity? What about micro issues? These questions will be illustrated in the two horizontal case studies.

# 5 Chapter V

# Comparative Micro Structures: Facilitating Trade

In other fields of Economics, the poor performance of a major [economic] theory leads to ... new theories that can accommodate anomalies. Yet in international economics, such important facts as "the case of missing trade"... have gone unnoticed. "Case of Missing Trade and Other Mysteries" (Trefler, 1995)

# 5.1 Introduction

The preceding chapter illustrated the changes Singapore and Thailand have undertaken in their general macro trade policy making structure, which could be attributed to interregional PTAs. This chapter will follow a similar route but from a different perspective. Rodrik (2000) argued for a need to distinguish between institutions that operate at the macro-economic level and those at the micro-economic level. Consequently this will allow a closer examination of a particular horizontal trade policy, bring forth regulatory aspect of trade, as well as governmental agencies which were traditionally uninvolved with trade policy making in the process. This chapter, as a result, will focus on the first micro level, namely facilitating trade.

Given a choice, after structural reform policies aimed at reducing tariff barriers, trade facilitation is one of the key areas most countries are willing to liberalise afterwards. It is generally proclaimed that facilitating trade would bring the most benefit at the least cost for global trade because such barriers do not generate any tariff revenue or economic gain, and the liberalisation would provide benefits reaching both the consumer and producers within and outside the borders. However, complex customs procedures have been a significant hindrance to the movement of goods across borders because they involve interaction of customs authorities from different countries and exchange of information. Consequently, some commentators believe it is easier to pursue this at the bilateral rather than the multilateral level. The stated objective for trade facilitation in most PTAs also requires the liberalisation of trade in goods, through closer customs cooperation and mutual recognition of standards and conformity assessment. This suggests facilitating trade generally requires strong institutional structure and cooperation to provide the desired results (World Bank, 2005). Consequently, it is

assumed that when countries sign comprehensive PTAs they should also undertake institutional restructuring in order to accommodate further trade facilitation.

This chapter will focus on domestic institutional changes in facilitating trade. However, the chapter will adopt a wider definition for facilitating trade, which encompasses customs procedures, ROO, TBT and SPS.

Moreover, this chapter will provide a timeline narrative of domestic institutional changes in Singapore and Thailand. More importantly, the chapter will aim to argue that inter-regional PTAs have provided inspiration for the evolution of domestic institutions involved with facilitating trade. Some of the changes may have occurred more in Thailand than in Singapore. Nevertheless, Singapore has undertaken some additional improvements due to her PTAs as well.

Accordingly, the outline of the chapter will begin with the definition of trade facilitation and its significance. The second section will discuss the PTAs Singapore and Thailand have signed which contain provisions on trade facilitating measures. The third section will discuss the changes in domestic institutions, which can be attributed to the signed trade agreements. The chapter will finally conclude with some comparative comments under the lens of the institutional trade capacity framework.

### 5.2 Facilitating Trade

The reduction in global tariff barriers, implemented during various rounds of trade negotiations, led both academics and practitioners to notice the emergence of procedural trade barriers. These transaction costs supplement the cost to both business and consumers, and they are obstacles to effective market access. As a consequence, there has been interest in eliminating these barriers. Moreover, various studies on the subject support the enormous benefit in liberalising trade facilitation (Desker & Liang, 2003, p. 2). For example, an OECD study suggested that developing countries stand to gain two-thirds of world welfare benefits from trade facilitation (OECD, 2005a, p. 3)

Interestingly, there is no standard definition for trade facilitating, different organisations have different interpretations. Traditionally, in a narrow sense, trade facilitation simply addresses the logistics of moving goods through ports or efficiently moving documentation associated with cross-border trade. However, due to varying reasons, this simplistic definition must be expanded. This will be followed by the relevance of facilitating trade under varying definitions.

### 5.2.1 Defining Facilitating Trade:

At the multilateral level, trade facilitation has always been a subject of concern. Rules relating to trade facilitation can be found in various articles of GATT, such as Article V (Freedom of Transit), Article VII (Value of Customs Purposes), Article VIII (Fees and Formalities Connected with Importation and Exportation), Article IX (Marks of Origin), Article X (Publication and Administration of Trade Regulations). In addition there are also specific WTO agreements such as Custom Valuation, Pre-Shipment Inspection, ROO, TBT, SPS Measures, and Import Licensing Procedures. All of the above agreements can be seen as means to simplify trade procedures that could facilitate the movement of goods, but they were scattered all over GATT.

Trade Facilitation was first explicitly mentioned in 1996 during the Singapore Ministerial Conference. Consequently, the WTO now defines Trade Facilitation as "the simplification and harmonisation of international trade procedures" covering the "activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade" (WTO, 2002; Par 27, Art V, VIII, X).

However, as public awareness of trade facilitation has changed, so has the nature of trade facilitation. During the past decade the definition has been broadened to include transparency, professionalism of customs and regulatory environments. Accordingly, the modern definition of trade facilitation needs to draw from a broader perspective.

In the light of the contemporary changes, this chapter defines trade facilitation as "facilitating trade", in order to broaden the definition to include the simplification of trade procedures in the form of customs cooperation, mutual recognition of standards, and streamlining regulatory procedures. Consequently, in this chapter, facilitating trade incorporates reforming customs administrations through technological changes; and streamlining domestic regulatory procedures to accommodate trade, including SPS and TBT measures.

## 5.2.2 Why Facilitate Trade?

Traditionally, goods crossing borders are required to comply with varying forms of customs procedures. The increase in traffic and needless procedures has strained the bureaucratic officials involved. Unnecessary, complicated paperwork can overstretch and

overburden officials, which can lead to inefficient or unsatisfactory border procedures; becoming costly for governments, business, and consumers.

Inefficient border procedures can lead to governments losing revenue. When governments fail to determine the origin of products, for example, some goods will simply slip thought the net without paying the appropriate tariffs. Simultaneously, the business community is increasingly aware of the cost associated with goods failing to cross borders properly. Examples could be the cost in supplying information and documents to the relevant government agencies. Due to bureaucratic paperwork and procedural delays from government agencies, these unpredicted costs could result in opportunity cost to companies. The lack of predictability in regulatory procedures can lead to a non-level playing field.

Generally, everyone gains from making the process of trade easier. Improved transparency of administrative and regulatory requirements leads to greater predictability. Governments gain because an efficient border procedure enables them to process more goods and improve control of smuggling, which could lead to an increase in government revenue. Countries that have carried out reforms in this area have achieved a substantial increase in customs revenue, despite the reduction in duties brought by trade liberalisation (World Bank, 2005). Businesses also gain by delivering goods more quickly to their customers at the appropriate cost. Consumers gain too because they are not paying the costs of lengthy border delays (OECD, 2005a).

Despite the benefits associated with increasing the facilitation of trade, there are some drawbacks. Firstly, reforming the facilitation of trade will require new legislation or amendments to existing laws. Secondly, some facilitation of trade measures require setting up new units, such as a risk management team or regulatory testing agency. Thirdly, once the new institutions are in place, additional staff are required to operate them. Investing in new technology may help to improve efficiency and effectiveness, however the recruitment and training of new experts is the most costly and lengthy process.

Generally, however, most developing countries do not have the appropriate funding to improve the facilitation of trade procedures. As a result, governments rarely undertake trade facilitation by itself, unless it is part of a wider reform. However, although customs reforms are complicated to implement, for countries with poor customs procedures even modest improvements will bring considerable relative gains. Some studies on developing countries reveal that the benefits exceed the costs. Some countries may even find an increase in customs revenue by 150% and a reduction in customs procedures to 24 hours, on average (OECD, 2005a, p. 5) Similarly, an APEC study concluded that the estimated gains from a facilitating trade programme would almost double the expected gains from tariff liberalisation (Wilson, Mann, Woo, Assanie, & Choi, 2002, p. 76).

Overall, despite the costs associated with facilitating trade, there appears to be benefit in implementing them, especially for developing countries. Accordingly, this chapter will pursue the definition of facilitating trade mentioned above, and focus on the following issues:

Customs Procedures includes the monitoring of goods entering a country, they are the first inspectors of foreign goods. However, there are concerns that sometimes there are several technical problems for inspecting the goods, which could delay the entry of goods, resulting in adverse effects for both consumers and producers. Thus, some trade agreements have aimed to find means of streamlining the entry of goods. This includes the introduction of electronic devices and other means of cooperation between customs officials.

Rules of Origin (ROO) are a means of establishing that the product was produced in the preferential trade partner country. Unfortunately, in the age of globalisation, a product is no longer produced in a single country, such that the origin of the product is relatively easy to establish. Customs officials must determine that the product has been subject to minimal processing from a non-qualifying country. However, in reality there is no simple standard rule of origin. There are a number of different rules, each having different implications. Three main methods are: (i) Change in Tariff Heading (CTH),<sup>65</sup> (ii) a minimum amount of national or regional Value Added (VA),<sup>66</sup> or (iii) a specific Technical Requirement (TR)<sup>67</sup> (Brenton, 2003b; Garay & De Lombaerde, 2006)

Technical Barriers to Trade: In general, countries have the right to establish protection for humans, animal or plant life, health and the environment. Countries may take measures necessary to ensure those levels of protection are met, through testing and certification procedures. TBTs are agreements aimed to ensure that technical procedures and standards do not create unnecessary obstacles to trade. Thus, most agreements

<sup>&</sup>lt;sup>65</sup> A change in tariff heading is a change in the manufacturing process compared to the foreign input and materials used in their production. For example, a CTH at the level of the first four digits of the Harmonized System of Tariff Nomenclature constitutes the basis for the system of preferential ROO.

<sup>&</sup>lt;sup>66</sup> VC sets out the maximum percentage of foreign content from third parties permissible to be considered as originating in the PTA.

<sup>&</sup>lt;sup>67</sup> A specific manufacturing process or inputs required to benefit from the PTA.

encourage members either to use a transparent method, or to adopting international standards so goods may flow freely between partner countries.

Sanitary and Phyto-sanitary measures: When consumers are being supplied with food from other countries, there are certain health and safety standards the government must consider for the citizens. However, trading partners are concerned whether those strict health and safety regulations are an excuse for protecting domestic producers. SPS measures will set out the rules ensuring trade is not hindered by these food health and safety standards. It allows countries to set their own standards, but they should be based on science. Thus they should be applied only to the extent necessary to protect human, animal or plant life or health, and they should not arbitrarily discriminate against the flow of agricultural produce between partner countries.

Therefore, contemporary issues have broadened the definition of facilitating trade beyond the confines of customs procedures, to include regulatory barriers in trade. As a result, they shift the prominence of politics into international trade policy making, since it is only politics which decides regulation and standardisation. Moreover, most of the cost connected to facilitating trade appears to be an institutional matter, such as creating new agencies and new legal documents, and seeking qualified expert assistance. As a result, the focus of facilitating trade efforts lies inside the border of domestic politics and institutional structure, where capacity building can play an important role (Wilson, Mann, & Otsuki, 2003, p. 4). In order to observe these changes, we should explore some examples of trade agreements with provisions on facilitating trade.

### 5.3 PTAs with Facilitating Trade Provisions

As mentioned above, due to the costs, governments rarely take unilateral facilitating trade improvements, and multilateral negotiations have become stagnant. Nevertheless, some countries have attempted to resolve this problem in their bilateral PTAs by improving the speed and efficiency of customs clearance of goods by streamlining and simplifying existing procedures.

This section aims to highlight the trade facilitating provisions Singapore and Thailand have signed in their inter-regional PTAs, followed by observation of their domestic institutional changes. The section will begin with Singapore's PTAs, which may appear to have little need of improving facilitating trade provisions, being an entrepôt state. Nonetheless, several novel provisions have emerged. In contrast, Thailand is not as developed as Singapore in facilitating trade, however, Thailand has also included some non-traditional trade facilitating provisions in its PTAs.

It must also be understood that most of the provisions on facilitating trade do not have a wide coverage; however, due to this limitation in the coverage these agreements appear to be weak.

### 5.3.1 Singapore's PTAs:

In terms of goods, unless one is an exporter of alcohol, cigarettes or chewing gum, there should not be any problems in exporting to Singapore. Nevertheless, Singaporean law still contains several stringent rules to protect consumers under health and safety reasons. Consequently, the city state was required to introduce novel rules to ensure the smooth flow of goods for its preferential trading partners.

# 5.3.1.1 Customs and Electronic Systems

One novel feature in Singapore's customs procedures is the inclusion of electronic customs and trading ystems. Despite the creation of new technologies, international trade is still heavily paper-based and countries still rely on postal and courier services for the transfer of documentation. However, most PTA partners desire to improve the speed and efficiency of customs clearance of goods. Thus, Singapore has been working towards introducing paperless trading for faster customs clearance, thereby facilitating the flow of bilateral merchandise trade, under TradeNet. This should also introduce measures clearly verifying that the ROO correctly complies with the preferential tariff treatment.

Consequently, Singapore included electronic systems with trading partners in order to reduce the burden of customs procedures. The Electronic Trade Document Exchange System (ETDES) allows electronic transfer of all trade-related information and documents between traders. The document exchange assists traders by depositing all the necessary information and documents to a particular trade transaction, this information will then be electronically channelled to the relevant parties. Moreover, the system also safeguards the confidentiality of the information exchanged, thus assisting Singaporean customs to streamline procedures in an efficient way.

Unfortunately, the deadlock at the multilateral level has prevented the spread of this technology to all countries.<sup>68</sup> Nevertheless, Singapore's PTAs have successfully pushed TradeNet to Singapore's trading partners. Moreover, the city state has been able to broaden the acceptance of new technologies in the international arena. Most of Singapore's PTA partners, such as Australia, India, Japan, and the US, have duplicated the system; providing an opportunity to push this WTO-plus agenda, as a 'best practice' (Woolcock, 2003, p. 338) system for facilitating trade at a multilateral level.

Moreover, there is also greater interaction and exchange of information between Singaporean customs authorities and their bilateral trading counterparts. Officials believe it is easier to pursue this at a bilateral level than at the multilateral level. Thus, besides liberalisation of trade in goods, facilitating trade flows through closer customs cooperation is also a stated objective in Singapore's PTAs (Sen, 2006, p. 572).

### 5.3.1.2 ROO

Moving to the more technical details of ROO, Singapore's PTAs with Australia and New Zealand use the regional VA, whereas others, such as the US, Japan, EFTA, Jordan and India apply a mix of TR as well as local VA rules to determine preferential treatment for a product. For example, the CECA between India and Singapore takes into account Singapore's unique production pattern, coupled with India's fear of circumvention of cheap products from China under the EHP. Consequently, under Annex 3A of the CECA, the trade agreement adopts three phasing-in periods, before fully adopting the CTH with four-digit codes.

One of the complicated preferential ROO agreements is the P4, the trans-regional agreement woven between four different countries –Brunei, Chile, New Zealand and Singapore. Under the P4, in terms of customs procedures, some goods require the use of CTH, with a four-digit code, whereas some goods use the regional VA rule. The complication in adopting different rules is a result of creating a PTA that encompasses three different continents, each familiar with a different method.

The USSFTA also presents a complicated custom agreement. During the negotiations, much of the problems stemmed from the difference in their customs systems. The difference is understandable given the dissimilarity in size and government structure. Nevertheless both trading partners have similar customs philosophies, such as

<sup>&</sup>lt;sup>68</sup> Nevertheless, Singapore has provided some technical assistance by implementing similar TradeNet systems with partner countries, such as Mauritius, Ghana and Saudi Arabia (ASEAN, 1995b).

applying risk management and transparent perspective to customs. Ultimately, both sides encountered problems agreeing on a customs procedure, which resulting in the USSFTA using a CTH for most goods; however, for electronic products the VA rule of 30 to 60 per cent was applied.<sup>69</sup>

Moreover, the USSFTA also imposes TR criteria in the textile industry. Under the chapter on textiles and apparel, the USSFTA permits the immediate elimination of tariffs for products that meet the "yarn forward rule of origin". In order to enjoy tariff reduction, the yarn used to produce fabric must be formed either by US or Singaporean originated yarn, with certain exceptions. As a consequence, Singapore was required to established an additional system to monitor the import, production and export of textiles and apparel goods, so that only eligible goods will benefit from the PTA.<sup>70</sup> Moreover, Singapore's textile industry needs to work with US yarn suppliers, and restructure their manufacturing operations to benefit from the USSFTA (Low, 2003, p. 12).

Overall, Singapore's preferential ROO is a complicated affair, in some trade agreements the ROO section could run up to almost 300 pages. Some of Singapore's bilateral PTAs range from general VA criteria of 30 to 60 per cent to detailed product-specific TR rules.<sup>71</sup> The rationale for preferring a ROO range from general value added criteria, or regional value content, of between 30 to 60 per cent is due to Singapore's familiarity with the system, which it has always used since AFTA. More importantly, Singaporean negotiators have constantly pushed hard for this template because the city state has virtually no natural resources and must fight for low percentages. Interestingly, most commentators regard a ROO of 40 per cent single country or 40 per cent cumulative regional value content for products to qualify for tariff concession as an acceptable average threshold for ROO (Brenton, 2003a; WTO, 2002).

 <sup>&</sup>lt;sup>69</sup> The ROO heading is so complicated, under the USSFTA, that virtually every product has at least one corresponding change in tariff heading.
 <sup>70</sup> The US has also expressed its commitment and willingness to introduce more liberal rules of origin for

 <sup>&</sup>lt;sup>70</sup> The US has also expressed its commitment and willingness to introduce more liberal rules of origin for textiles in USSFTA once further liberalisation on rules of origin are achieved at the multilateral level.
 <sup>71</sup> To illustrate, under SAFTA, products must be wholly produced in Australia, or a value content ranging

<sup>&</sup>lt;sup>71</sup> To illustrate, under SAFTA, products must be wholly produced in Australia, or a value content ranging from 30% for selected products including electrical and electronic equipment and precisions instruments to 50% for most products. Under the PTA with EFTA, utilises the CTH at the 4-digit level. For some products the VA rule ranging from 40% to 80% is required to qualify for preferential tariff treatment.

#### 5.3.1.3 TBT and SPS

Regarding regulatory standards, Singapore has stringent rules on goods entering the city state. However there have been developments to streamline these health and safety requirements under her PTAs.

The SAFTA was one of the first agreements that permitted more variety of goods to enter Singapore freely. Previously, electrical and electronic equipment manufactured in Australia could not be sold in Singapore unless Singapore's statutory board approved the products. During the negotiations, Singapore was encouraged to recognise Australia's standards and conformity assessment procedures. Consequently, the SAFTA resulted in a MRA on conformity assessment activities in three sectors: medicinal products, electrical and electronic equipment, and telecommunications equipment. The MRA on conformity assessment is seen as a framework for Australia and Singapore working towards harmonisation of their mandatory requirements consistent with international standards and guidelines. Specifically, the MRA enables the assessment of products to be performed in Australia prior to export, equivalently the agreement also ensures the product conforms to standards and legal requirements in Singapore; thereby reducing the risks, time delays and costs associated regulatory approvals in the importer country.

Singapore has also extended MRAs with other trading partners although this still remains limited. An interesting example of Singapore's MRA commitments on goods is with India. In the CECA there are two sectoral MRA in the annexes for trade in electrical and electronic products, and telecommunication equipment. The MRA allows the testing and certification standards to be done at the source country. They do not have to be further tested or re-certified on arrival in the importer's market. The rationale for Singapore to except this MRA was mainly due to India's vast number of certifying agencies. Singapore's electrical products exported to India would face various levels of inspection from the Indian bureaucracy, including Indian customs officers, officials at the state level, and there are possibilities of encountering officials at the councils level as well. Thus, it was logical for Singapore to negotiate a MRA that cuts down the number of bureaucratic channels.

Moreover, the CECA also includes health and safety measures for agricultural trade, which is shown in the food sectoral annex of the CECA. In order to increase the sources of food supply to the resource-limited Singapore, the agreement facilitates the import of egg products, dairy products and packaged drinking water from India.

Singapore's other preferential SPS provisions include the trade agreement with Australia, which streamlines compliance and inspection arrangements for approved products. For example, the sectoral annex on horticultural goods resulted in Singapore accepting Australia's phytosanitary certificates, treatment certificates and test reports. It is now easier to import orchids and foliage from Singapore, as they will no longer be subject to mandatory fumigation upon entry into Australia, provided no actionable pests are detected. The streamlining of SPS measures is particularly important for many Australian exporters because Singapore is a major market for Australian meat and other food products. This is equally important for Singapore, as it prepares to become the world largest exporter for horticultural products and ornamental fish and aquarium plants. Interestingly, the sectoral annex on food standards of the SAFTA requires Singapore to accept Australia's food standards as determined by the Food Standards Australia New Zealand (FSANZ). Furthermore, Australia and Singapore's standards agencies are to further negotiate conformity assessment arrangements for food products which will lead to further MRA for conformity assessment certificates.

Interestingly, despite Singapore's interest in regulating health and safety on food produce, and concluding PTAs beyond her WTO commitments, Singapore's other trade agreements do not contain any SPS arrangements. For example, Singapore's PTAs with Japan and Korea merely reaffirm their multilateral commitments, understandably because agriculture is still a sensitive sector in these countries. Surprisingly, the USSFTA is another agreement which hardly discuss SPS measures; it is briefly discussed in the environment chapter, which merely reaffirms commitments to their own domestic laws.

#### 5.3.2 Thailand's PTAs:

Thailand is a country with substantially high tariffs and quantitative protection, above the average of the ASEAN-6 members (Chirathivat & Mallikamas, 2004). Consequently, most of Thailand's PTAs have mainly focused on the reduction of tariff measures. Like most small developing countries, Thailand only has a limited number of standards and quality protections. As a result, most of Thailand's trade agreements have limited emphasis on standards. Nevertheless, the lack of standards in the domestic sphere does not imply that there are no provisions on facilitating trade.

#### 5.3.2.1 Customs and Electronic Systems

Thailand's customs are considered weaker than Singapore. The Thai negotiation team were, initially, concerned they were unable to commit to the negotiated preferential ROO provisions with Australia and New Zealand. However, all parties found means of providing technical assistance as well as providing greater cooperation amongst customs officers to assist each other. Thus, Thailand's PTAs with Australia and New Zealand include provisions on cooperative arrangements. Consequently, a MOU between Customs Departments was created to ensure cooperation and formation of an ad hoc review committee of the Customs Department which endeavours to simplify existing customs procedures, information sharing between counterparts, and allowing the predictable flow of goods between countries. In addition, under normal circumstances the relevant customs administrations will immediately release any goods imported which are accompanied by a certificate of origin. However, when the customs administration doubts the validity of a certificate, it may require the payment of a security until an investigation is conducted.

With respect to electronic system trading, through the cooperation of its trade partners, Thailand has slowly improved its customs process by adopting new technological improvements and procedures such as the electronic data interchange (EDI) system. Similar to Singapore, such a system was already adopted without any assistance from PTAs. As a member of the World Customs Organisation, Thailand has constantly updated its customs procedures to the latest requirements of the organisation. However, Thailand was forced to act faster as a result of PTAs. It could be argued that Australia may have been enthusiastic in adopting electronic systems, given their experience with such systems with Singapore. Consequently, EDI is now currently being widely used in almost all of Thailand's customs activities. More importantly, it has also assisted Thailand's customs procedures.

#### 5.3.2.2 ROO

Thailand does not have specific laws, judicial decisions or administrative rulings relating to non-preferential ROO. However, Thailand's PTA partners are subject to the signed PTA provisions on ROO. To date the most complex ROO agreements for Thailand are the TAFTA and JTEPA. JTEPA uses the product specific coverage by using the CTH. One of the similarities of Thailand's trade agreements with both Australia and New Zealand is the combination of the CTH and regional VA for specific products, especially for textiles and footwear.<sup>72</sup> Compared with Singapore, Australia and New Zealand's willingness to allow both methods can be seen as allowing more flexibility for Thailand. This is understandable since most of Thailand's products can be locally produced, unlike Singapore. Interestingly, compared with the WTO, Thailand's commitments under its PTAs are wider than its multilateral commitments.

# 5.3.2.3 TBT and SPS

With respect to health and safety issues in food produce, both Australia and Thailand are major agricultural exporters, but with different environmental factors, especially for the control of pest and diseases. The TAFTA between Thailand and Australia includes several pages on SPS measures. Annex 6 of the TAFTA lists current SPS and certification priorities for both countries. However, overall the TAFTA mainly affirms that their decisions affecting quarantine and food safety will continue to be made on the basis of scientific assessments, as required by international obligations. Furthermore, the agreement promotes the creation of an Expert Group on SPS Measures and Food Standards, which will meet at least once a year to facilitate consultation and cooperation between Australia and Thailand on quarantine operation and other regulatory processes affecting agriculture and the food trade.

An example of where the TAFTA deals with facilitating trade and SPS provisions is the case of exporting Thai durians<sup>73</sup> to Australia. Previously 98 per cent of Thai durians had to be screened for worms before they could enter the Australian market, this is normally done by opening the fruit at the customs. However, the TAFTA has streamlined the screening process down to a more acceptable level by breeching only 50 per cent of the fruits before they are sold, thus providing a relatively rapid process as well as minimising the damage to the Thai produce.

Furthermore, under the TAFTA, if a Thai product, such as chicken, which has followed the correct procedures, finds difficulties in entering the Australian market within 12 months due to technical barriers, the Australian government must find alternative channels for Thailand to export its poultry products into Australia.

In the PTA between New Zealand and Thailand, under chapter six, both countries agreed to establish a Joint SPS Committee to cooperate and review the process and measures for trade in food products. Under the Side Letter on Product Priority for SPS

<sup>&</sup>lt;sup>72</sup> Furthermore, the TAFTA also agrees to clear low-risk goods quickly.

<sup>&</sup>lt;sup>73</sup> A type of fruit indigenous to Southeast Asia.

market access, New Zealand will undertake the process of pest risk analysis and develop an Import Health Standard under its biosecurity regime for some Thai fruits.<sup>74</sup> Thailand, on the other hand, has adopted measures to facilitate the importation of New Zealand's potatoes and dairy products.

# 5.4 Institutional Developments

The preceding section highlighted elements of trade agreements that contained provisions on facilitating trade. However, some of the provisions also coincided with some interesting developments at the domestic level. Some provisions on SPS require setting up government agencies with particular specialisations, in both negotiations and implementation. This section will illustrate the domestic institutional changes, and link those changes with the developments in the signed agreements.

# 5.4.1 Singapore: Improving Regulation

As mentioned in the previous chapter, Singapore has undergone some organisational changes in the international trade policy making structure, such as the internal restructuring in MTI. One of the most notable institutional changes was the emergence of SPRING Singapore,<sup>75</sup> established in April 2002, responsible for developing and establishing national standards. It is also the national authority on consumer product safety and it is responsible for accrediting conformity assessment. SPRING Singapore also administers mandatory technical regulations as part of the Consumer Protection (Safety Requirements) Registration Scheme.<sup>76</sup> Since it came into existence, the list under the scheme has increased from 31 to 45 categories of electrical, electronic and gas home appliances and accessories.

Furthermore, the Standardisation Department, under SPRING Singapore, coordinates the National Standards Council, which is normally a voluntary committee under the guidance of industry-led businesses. The Council, which includes

<sup>&</sup>lt;sup>74</sup> These include longans, lychees, mangosteen, ginger and durian.

<sup>&</sup>lt;sup>75</sup> This statutory board under MTI, headed by a Chairman of a Board of Directors representing industry, trade unions, government, and professionals.

<sup>&</sup>lt;sup>76</sup> Administered under the Consumer Protection (Safety Requirements); under the scheme, goods on the controlled list must be registered with SPRING Singapore before they may be advertised, traded or displayed for sale in Singapore.

representation from the private and public sectors, formulates and establishes strategies on Singapore's Standardisation Programme in ten identified areas.<sup>77</sup>

Moreover, SPRING Singapore has also become an important member of Singapore's negotiating team. The mentioned statutory board, under MTI, represents Singapore, and sometimes heads the negotiating team, on regulatory negotiations; as well as carrying the implementation process forwards. To illustrate, the negotiations on standards for electrical equipment under the MRA on conformity assessment providing for mutual recognition with Australia, and various other MRAs, were mainly accomplished by SPRING Singapore. This illustrates the significance of this organisation under the period of PTA.

With respect to health and safety on food produce, SPS measures were previously carried out by the Primary Production Department in the MND. Since 2000, SPS measures have been implemented by the Agri-Food and Veterinary Authority (AVA). In 2002, AVA also incorporated the Food Control Division, from the Ministry of the Environment, paving the way for AVA to be responsible for regulating the safety of fresh as well as processed foods; thus allowing AVA to facilitate the supply of stable, safe and wholesome meat and meat products, fish and fish products, fresh fruits, and vegetables in Singapore.<sup>78</sup> Moreover, AVA aims to facilitate trade in primary products and is responsible for inspecting all imported, and domestically produced, primary produce, livestock and processed foods.

When interviewing Singaporean officials on the rational of creating AVA, they mostly cited the need to regulate the importation of food, in order to safeguard the health and safety of food for the Singaporean public. However, some trade officials indicated that the need to create the department was motivated by the city state's trading partners, such as Australia, the EU and the US, who have similar agencies to regulate and implement trade on SPS measures. As a consequence, they believe it is in Singapore's interest to establish a comparable regulating body.

Similar to SPRING Singapore, AVA sometimes plays an integral part in the Singaporean negotiating team, especially in terms of SPS regulation. AVA was the main player during the negotiation on the sectoral annex on food standards with Australia, as

<sup>&</sup>lt;sup>77</sup> This includes: electrical and electronic standards; building and construction standards; information technology standards; services standards; chemical standards; medical technology; general engineering and safety standards; quality management standards; environmental management; and food standards.
<sup>78</sup> AVA administers the Animal and Birds Act, Control of Plants Act, Wholesome Meat and Fish Act, Sale

of Food Act, Endangered Species (Import and Export) Act, Wild Animals and Birds Act, the Fisheries Act, and the Feeding Stuffs Act.

well as the negotiation on the conformity assessment arrangements for food products, with New Zealand and Australia. This built up the prominence of the statutory board as a significant player in terms of negotiation and trade policy making.

Another important government agency is Customs Singapore, which has not undergone any significant changes. Nevertheless, Customs Singapore regularly participates in both multilateral and bilateral trade negotiations. However, Customs Singapore has demonstrated the benefits of developing an effective system of facilitating trade measures by pioneering e-Trade. As a trade negotiators told me:

> "By creating a paperless trade facilitating system, it has streamlined workflow, improve efficiency and productivity".

Through TradeNet, information can be used as clearance procedures and the revenue for the customs office collected by automatically deducting from the traders' bank account, and without the need for traders to compile documents for other government agencies. Consequently, TradeNet has facilitated and simplified the flow of goods into Singapore. More importantly, the system also facilitates the communication between Singapore's customs department and other government agencies. Consequently, some trade negotiators believe the implementation of TradeNet illustrates how Singapore has successfully leveraged on IT to speed up the application and approval of trade documentation (Desker & Liang, 2003).

#### 5.4.2 Thailand: Outsourcing Players

Similarly, Thailand underwent several restructuring programmes, which allowed governmental agencies to become involved with international policy making, thus permitting more players in the negotiating room with direct decision making powers.

Beginning with MOF, and the rising prominence of the Customs Department. Previously, matters relating to ROO were negotiated by MOC, and the Customs Department merely implemented polices and acted as a tax collector. However, some trade negotiators believed PTAs had overstretched MOC, making it rational to relieve MOC of this technical burden. Moreover, some trade negotiators realised that ROO would become a dominant issue in future trade negotiations which deserves a governmental body directly overseeing technical matters of negotiating and implementing ROO. The most logical choice was the Thai Customs Department, which already represents Thailand at the World Customs Organisation (WCO),<sup>79</sup> thus providing them with multilateral negotiating experience. Moreover, at the domestic level, they regularly deal with ROO in their day-to-day business. Thus, by allowing the Customs Department to take the lead in the negotiation process of preferential ROO, the Customs Department was transformed from being a silent tax collector to a decision making agency on international trade issues. As one trade negotiator expressed:

> It is better for MOC to concentrate on specific issues, and I believe it is always better to bring other people into the negotiating team.... Also, ROO is becoming more complicated and the Customs Department is no longer an archaic organisation, it has evolved and becoming more specialised on technical issues.

As a consequence of PTAs, the Customs Department established a Committee and a Subcommittee on ROO to review the progress of harmonisation, improvement, and simplification of non-preferential ROO. However, there are concerns amongst negotiators, including specialists in the Customs Department, about whether they are qualified to negotiate such a complex task. Nevertheless, other negotiators still have faith in the Customs Department and believe it is best to delegate and outsource this inevitable matter now, rather than later. Supporters believe it is a matter of climbing the steep learning curve.

Remaining with the Customs Department, unlike Singapore, Thailand is not an entrepôt with a highly developed port system. However, Thailand follows the recommendations of the WCO to accelerate customs clearance in a transparent way. As a result, in 1999, customs authorities adopted the Electronic Data Interchange (EDI) system. Since 2004, about 85 per cent of declaration forms are currently processed through the EDI system. The time required for the collection of duties and taxes as well as physical inspection averages less than an hour, compared with three to four hours through non-EDI, or manual process. Furthermore, in November 2002, the Customs Department introduced an internet-based declaration system mainly for small and medium-sized enterprises. According to the World Bank survey, the introduction of the

<sup>&</sup>lt;sup>79</sup> The Customs Department is also responsible for other international trade facilitating agreements, such as the International Convention on the Simplification and Harmonization of Customs Procedures (The Kyoto Convention).

electronic customs has reduced Thailand's processing period and lowered costs for traders, improving Thailand's standings in the World Bank's ranking (World Bank, 2007). Moreover, government officials believe the introduction of a transparent electronic system has significantly reduced bribery and corruption, thus instilling confidence in traders.

Another recent change in the Customs Department was the introduction of the Voluntary Audit Programme in 2005. Since signing PTAs, there have been concerns regarding the recent rise in trade volumes. In order to facilitate the flow of goods and increase efficiency, the department invites importers to check for any unintentional errors in the process. In return, they will enjoy the benefits of being exempted from customs penalties and surcharges. Businesses welcome such opportunities, which allow firms the opportunity to re-evaluate their compliance systems and limit the risks of customs exposure. Government officials also concur:

As the Customs Department has been putting more focus on a postaudit programme to recover potential revenue loss and monitor compliance with customs law, management should take a more proactive outlook in adapting business systems to meet requirements in order to maximise cost-saving opportunities and avoid penalties.<sup>80</sup>

Moreover, because of PTAs, the Customs Department has been actively engaging with Thailand's PTA partners, such as the ad hoc committee meetings and the vigorous negotiations under the MOUs on customs procedures. The exchange of information allows the cross-pollination between Thai Customs officials and their counterparts, which has proven to be useful, as a Thai trade official claims these meetings have helped raised awareness of unexpected complex problems.

To illustrate the merits of the ad hoc bilateral Customs Departments meetings, in February 2005, the first spark of disagreement in the TAFTA emerged over a dispute regarding some aluminium ore.<sup>81</sup> The ore in question was originally mined and wholly processed in Australia, however, the invoice of the finished product was issued from Switzerland, as a result there was a dispute whether the ore fell under ROO of the

<sup>&</sup>lt;sup>80</sup> There are, however, downsides to voluntary auditing, for example, when technical issues are unclear. "Grey areas" will be interpreted in favour of the Customs Department and importers may be convinced to settle and pay duty shortfalls.

<sup>&</sup>lt;sup>81</sup> This is a type of aluminium covered under the chapter of harmonised code 76.

TAFTA. It was only after a several rounds of consultation, especially with the assistance of the ad hoc committee between the Customs Department, and a letter from the chief trade negotiators, that the conflict was resolved. This signified the benefits of establishing the committee and how the Customs Department has evolved and become a more credible player in Thailand's PTA strategy.

On standards, Thailand's products are regulated by the Thai Industrial Standards Institute, under the Ministry of Industry.<sup>82</sup> Between 1999 and 2003, 692 Thai industrial standards were established, of which only 4.8 per cent were enacted mandatory.<sup>83</sup> Trade negotiators believe the recent increase in standards can be attributed to globalisation, rather than domestic forces. There has been greater awareness of the rise in regulatory standards from Thailand's trading partners, creating further obstacles for Thai exports. As a Thai negotiator noticed, the increase in Thai standards has increased ever since Thailand began to negotiate the EHP with China. The same negotiator noted that during China's accession into the WTO, China has carefully inserted around 390 new items into her regulatory standards list. This has also affected Thailand because the kingdom is negotiating a PTA with China, and would like these standards to be reduced in the ACFTA. Thus, overall, several globalising forces have turned Thailand into a latecomer to NTBs, by recently revamping and augmenting number of compulsory standards. Nonetheless, Thailand has aligned its general standards in priority areas with relevant international standards, such as electrical products and electronics, rubber products, machinery, food labelling, and standards and guides on conformity assessment.

The controversial issue of toxic waste has recently raised prominence due to Thailand's PTAs. In Thailand, toxic waste must be processed in accordance to international standards.<sup>84</sup> However, there have been concerns from the local public regarding Thailand's PTA, and the possible use of Thailand as a dumping ground for toxic waste. As a result of PTAs, especially the JTEPA, new rules were introduced to manage toxic waste. Waste-generating industries must now share responsibility with waste collectors for any accidents, misplaced or smuggled waste dumping, and returns of hazardous waste by waste collectors until it is handed over to waste processors. As a result, in order to build institutional infrastructure to support these requirements, the

<sup>&</sup>lt;sup>82</sup> In accordance to the Industrial Products Standards Act B.E. 2511 (1968).

<sup>&</sup>lt;sup>83</sup> Thailand's health standards are set by the Food and Drug Administration (FDA), under the Ministry of Public Health, which monitors and regulates the production, sale, and import of tobacco products, cosmetics, drugs and narcotics, medical devices, and psychotropic and volatile substances.

<sup>&</sup>lt;sup>84</sup> However, on certain issues, in order to do business with the EU, Thailand must also comply with the EU directive on Waste Electrical and Electronic Equipment.

Ministry of Industry has promoted the use of systematic waste management and assisted small operators to obtain the internationally recognised environmental standard.<sup>85</sup> Consequently, 400 small recycling operators, 15 large waste-burning operators and four major waste incinerator operators were established in 2002–2006.

On SPS measures, Thailand has signed the WTO agreement on SPS measures,<sup>86</sup> however, the kingdom has only recently realised the importance of SPS, thanks to the escalating food health and safety disputes. Recently, the EU raised health and safety measures against Thai shrimps,<sup>87</sup> which was also followed by the US, thus severely disrupting Thailand's shrimp exports. Domestically, no governmental organisation was directly responsible for foodstuffs, fertilizers, live animals, plants and seeds, they have traditionally been under MOAC and the FDA. In 2002, during the comprehensive bureaucratic reform, the National Bureau of Agricultural Commodity and Food Standards (ACFS) came into existence, under the MOAC. ACFA aims to facilitate the supply of stable, safe and wholesome meat and meat products, fish and fish products, fresh fruits, and vegetables in Thailand. More importantly, the body is authorised to formulate and implement policy on SPS regulations. Unfortunately, this fairly young agency may still require more expertise on setting food safety rules. This predicament can be observed in Thailand's lack of SPS agreements with inter-regional trading partners, especially when compared with Singapore's SPS agreement with both Australia and New Zealand. However, ACFS has risen in prominence and is becoming a regular face at the negotiating table. Moreover, this infant agency should play a more prominent role with Thailand's intra-regional PTAs, as it will be revealed in chapter 7.

Finally, in 2005, after observing Thailand's trade partners, some policy makers have recently decided to create a single network that will bring all standards together under one roof, from electrical to food standards, and reduce the overlapping standard settings. This will be under the National Standards Council, which aims to increase the competitiveness of industries both domestically and internationally, by ensuring that Thai goods can also meet international standards, as well as being equivalent to the standards of its trade partners. This news is welcomed by the Federation of Thai Industries because

<sup>&</sup>lt;sup>85</sup> Specifically, the ISO 14000 environmental standard.

<sup>&</sup>lt;sup>86</sup> Prior to PTAs, Thailand active participant of the FAO/WHO Joint Codex Alimentarius Commission, the FAO International Plant Protection Convention, the World Animal Health Organization, and the WTO SPS Committee.

<sup>&</sup>lt;sup>87</sup> Currently, this exact issue is still being discussed back and forth between Brussels and Bangkok, such that it has become permanent work for the Thai trade negotiators.

it should assist Thai exports; but at the same time, some industries may require time to adapt to the rising cost of these requirements.

# 5.5 Conclusion: Comparative Analysis

This chapter provided a narrative on Singapore and Thailand's PTAs, which facilitate the flows of trade in goods. The chapter defines facilitating trade as a means of improving customs procedure and regulatory standards, such that goods can enter the country swiftly. It must be remembered, however, that the coverage is limited to a few sectors because Singapore is an entrepôt with an efficient customs, but Thailand is merely easing the liberalisation of its protective market. However, the central theme is the removal of the regulatory barriers to trade and how this changes a country's domestic institutional trade capacity. Again, this will be assisted with the timeline diagram below, which compares developments of key PTAs with the micro institutional developments in facilitating trade.

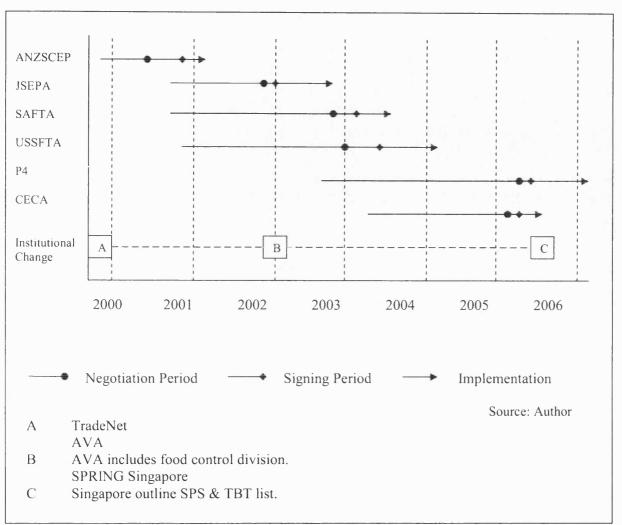


Figure 16: Singapore's Facilitating Trade Timeline

From the timeline perspective, it can be seen that most of Singapore's key institutional developments were conducted after most of her PTAs, with the exception of TradeNet and AVA. However, the electronic customs system was intended to spread globally, but PTAs assisted this spread; whereas AVA only incorporated the Food Control division, after its first PTA, transforming AVA into the system that totally controls the regulation of food and livestock. Singapore's other development only came in during CECA negotiations with India.

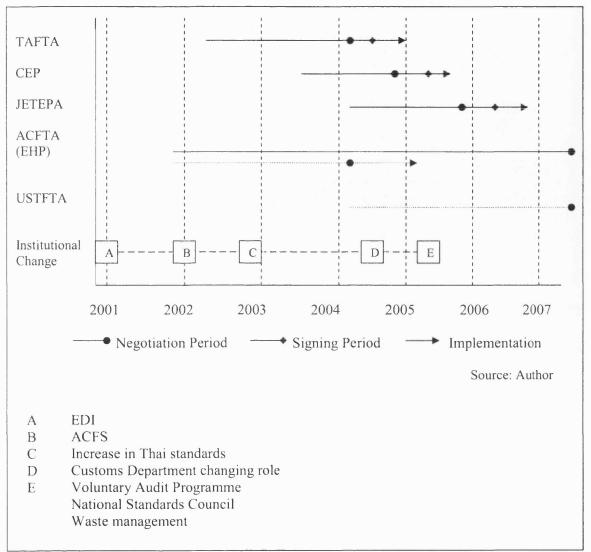


Figure 17: Thailand's Facilitating Trade Timeline

In Thailand, the electronic customs system was introduced before PTAs, and ACFS was introduced by the Thaksin administration. However, other institutional developments, such as the National Council Standards, waste management infrastructure, and developments in the Customs Department only emerged after PTAs.

Nevertheless, to observe how the new procedures introduced by PTAs have influenced domestic institutions, the institutional trade capacity framework is required in order to understand the lasting positive and negative spillover effects as well.

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Area of Impact	Singapore	Thailand
Negotiating Capacity		
	Additional recruitments into new agencies.	Outsourcing to the appropriate authority, such as ROO, ACFS.
		Customs department become more involved in negotiations. But inexperience could be negative
Coordination		· · · · · · · · · · · · · · · · · · ·
Within ministries	Limited change, but there is more coordination due to electronic system.	Creating new departments to coordinate within the ministry.
Between ministries	No change	No change
NGO Consultation		
Academic institutions	No change	No change
Business society	Business expresses concerned about NTBs outside Singapore, such as India.	Business has become involved with ROO and NTBs. This might lead to using NTBs as protectionist policies.
Non Profit agencies	No change.	Concerns on toxic waste
Implementation		
Judicial and legal system	Change in Singaporean law on customs and ROO PTAs have helped Singapore become more	Use of electronic systems have reduced corruption
	transparent on rules.	
Procedural and establishing new agencies.	New government departments were established to observe standards, such as AVA, SPRING Singapore	New procedures and systems were introduced to streamline customs, such as electronic systems, voluntary audit, internet declaration system. Creating the National Standards Council

	Singapore's regional	No change. SPS still supports the Kitchen of the World Programme.

 Table 4: Institutional Trade Capacity Framework and Facilitating Trade

Regarding the negotiating capacity, Singapore introduced new players for regulatory rule making, especially in areas which brought in new statutory boards. In Thailand, initially, the Customs Department was not directly involved in the negotiating process, however during the negotiating of the JTEPA and the TUSFTA the role of the department changed. The Customs Department did not merely became a part of the negotiating team, they also lead some of negotiations on ROO. It is uncertain whether this significant change will bring forward or backward forces. However, to date, the Thai Customs Department appears to be working effectively without any major problems, and they have played a role in defusing a probable dispute between Thailand and Australia. Accordingly, this may be an example of forward forces, exemplifying how PTAs may assist the development of this department.

With respect to coordination, most of the enhanced coordination has been conducted at the macro level, leaving little room for coordination improvements at the micro level. However, some Singaporean officials believe the introduction of the electronic system, which has allowed traders to proceed much faster with a one-stop service system, enhances the flow of information between governmental agencies.

In consultation, very little has changed in both countries. In terms of academic consultation and communication with NGOs, most of the developments were carried out at the macro level. However, in Thailand, the Constitution has laid the ground work for civil movements to be vocal and, for example, to voice concerns over the possibility of Thailand becoming a dumping site for toxic waste, thus pushing forward the infrastructure for processing toxic waste in Thailand.

On the other hand, there has been greater interaction with the business community. Previously businesses believed international trade negotiations would not affect their affairs. However, they are becoming more involved and voicing concerns on regulatory barriers to trade. Most of the business community have called for a more level playing field and demanded the Thai government to act either by negotiating the elimination of standards used by trading partners or greater uses of NTBs domestically. This illustrates that PTAs with regulatory provisions have encouraged business to become more active in international trade policy making, however, it is uncertain whether this would foster forward or backward forces.<sup>88</sup>

The greatest change has come from the implementation stage. Under the judicial and legal system changes, some domestic laws were changed in accordance to Singapore's PTAs. For example, the chapters in the USSFTA dealing with ROO have been adapted into Singaporean law. Some of the changes have not been too onerous, such as adopting the preferential list of goods under the USSFTA, to name a few.<sup>89</sup> The same can also be said with standards, but they are not deemed too intrusive.<sup>90</sup>

In addition, due to the CECA, an explicit list of goods subject to SPS and TBT measures were outlined by Singapore. According to a Singaporean trade negotiator, the Indian delegation insisted on the mentioned list. Singapore has never explicitly created such a list because virtually all of Singapore's trade partners enjoy the same rights, and any changes would have been explicitly outlined in the respective PTAs. Nevertheless, when the list was outlined, Singapore's trading partners had a clearer and better understanding of the goods which are not subject to SPS or TBT measure. Thus, according to a trade negotiator:

"this required greater work for Singapore, but it at least helped us to become more transparent, and a result, other countries found it easier to trade with Singapore".

Unlike the macro level, where Thai trade negotiators where unwilling to negotiate on legislative changes, they are compelled to negotiate such matters when it related to regulatory matters at the micro level. Consequently, Thailand has decided to change its domestic laws to accommodate ROO provisions in its preferential trade agreements, as well as its standards.

Moreover, some Thai officials believe the introduction of the electronic customs system and the voluntary auditing scheme have reduced the amount of corruption in the

<sup>&</sup>lt;sup>88</sup> Some of the smaller businesses in Thailand believe Thailand does not have a sufficient amount of NTBs. Moreover, some businessmen believe "there are no NTBs for importers, there are only NTBs within Thailand" [between the government and businesses].

 <sup>&</sup>lt;sup>89</sup> The preferential list of goods under the USSFTA is under chapter 3. The obligation to cooperate with the US in sharing information relating to circumvention is under chapter 4. Prohibiting customs duties on electronic transmission of digital products is under Chapter 14.
 <sup>90</sup> With the exception of authorising the importation and sale of chewing gum for the first time in

<sup>&</sup>lt;sup>90</sup> With the exception of authorising the importation and sale of chewing gum for the first time in Singapore. In order to implement this obligation, Singapore had to amend ten various pieces of legislation relating to the sale and supply of chewing gum (Ong, 2004)

Customs Department because the system brings in transparency, leaving little room for fraud. Thus, from the perspective of the legal system, there seems to be some positive spillover effects. However, at this time, there is little data to identify whether the legal changes will be forward or backward forces. Some of the changes in the legal system may have prepared Thailand for future liberalisation, resulting in forward forces, provided they do not contradict with future liberalisation rules.

With respect to implementing procedures and agencies, Singapore has hardly introduced anything since it is already an efficient, world class port. The introduction of TradeNet may have little to do with PTAs, but the effective spread of such a system can be attributed to PTAs. Singapore's trading partners are adopting such a system because it is effective and has been incorporated in PTAs, either legally or by setting bilateral committees to adopt such procedures.

Thailand, on the other hand, has also recently established an electronic system together with the voluntary auditing system. Similarly, Thailand has also established a bilateral committee on customs procedures with Australia and New Zealand in order to improve their customs knowledge and procedures.

In the past, Thailand was not as effective as Singapore in its customs procedures. However, according to the World Bank report, Thailand's customs procedure has been slowly improving. Nevertheless, according to the survey by the international accounting firm, Grant Thornton's (2006), red tape is not a significant problem in Thailand because most businesses have learned how to work around government processes. In fact, Thailand's poor standing in the survey was due to a lack of a skilled workforce. According to the survey, both the government sector and Thai companies need to improve recruiting and training of workers related to customs procedures. The report believes customs would be cleared more efficiently if the appropriate individuals were selected to operate the new electronic systems. This suggests that Thailand still needs to develop its institutional capacity, not only the infrastructure, but the human resources as well.

In terms of establishing governmental agencies for standards, both Singapore and Thailand have established new agencies for testing and regulating the health and safety of goods. The introduction of these new government agencies can be seen as forward forces that should strengthen the negotiating teams. The inclusion of both the AVA and ACFS will assist both countries in their health and safety standards. SPRING Singapore and the Thai Industrial Standards Institute should also play a vital role as forward forces in the future negotiations of standards.

Most trade negotiators in Singapore argue that these regulatory agencies were not a result of PTAs. However, interestingly, they were all established after Singapore's first PTA negotiation. One can make a case, arguably, that the lessons learnt from Singapore's first encounter with PTA negotiations have shaped the structure and organisation of these governmental agencies. For example, the recent inclusion of the Food Control Division in AVA can be seen as an addition to strengthen AVA's position after Singaporean policy makers attended their first PTA negotiation.

As for Thailand, some of the governmental agencies were created before its first PTA negotiations. However, in addition Thailand also introduced the National Standards Council, which aims to eliminate the overlap of Thai regulatory standards, by placing them all under one roof. However, given the infancy of this agency, we are unable observe and explain whether this will develop into a forward force that streamlines regulatory standards, or become a backward force creating more NTBs.

Have PTAs changed the two countries' strategies? Singapore already possesses a well developed trade facilitating system, with little room for improvement. Thailand, in contrast, has only began to carry out the government's strategy for improving its customs system, which also includes the strategy to adopt the latest technological trend. With respect to standards, Singapore's several new standards agencies are consistent with her strategy to become a regional hub for services. Thailand's fresh interest in standards, especially in the standards of its agricultural produce and SPS is in line with "Kitchen of the World" Programme. Thus, little connection can be made between PTAs and Singapore and Thailand's strategies on facilitating trade.

To summarise, the similarities in Singapore and Thailand's recent developments are a result of their aims to improve customs facilities with the latest state of the art technologies. However, Singapore had a significant head start; whereas Thailand has just begun to catch up. The difference is also significant in standards: Singapore's grand strategy has prompted it to construct several institutional agencies that regulate the standards of goods. Thailand has also shown interest, but possibly more on agricultural standards and some standards on toxic waste, which were called for by NGOs. More importantly, it can be argued that PTAs filled in these gaps and helped improve these institutions. However, the subsequent question is whether such institutional developments have been met in other areas aside from goods? What about trade in services?

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# 6 Chapter VI

# Comparative Micro Structures: The Temporary Movement of People

Some trade barriers can be removed by GATS, However, there are also socio-cultural barriers, such as the knowledge of foreign languages, these socio-cultural barriers cannot be reduced by the GATS. A Singaporean Chief Trade Negotiator

# 6.1 Introduction

The preceding chapter illustrated how Singapore and Thailand's facilitating trade commitments under bilateral PTAs brought domestic institutional changes. This chapter will endeavour to convey a similar narrative, however in order to widen the net of our analysis on PTAs and institutional trade capacity, this chapter will broaden the scope beyond trade in goods by exploring trade in services.

According to the GATS, the range of interactions between suppliers and consumers is broad and they are separated into four categories. The first is transactions associated with cross-border trade, where a country imports services from abroad (mode 1). The second is transactions from individuals consuming services in foreign markets (mode 2). The third is foreign suppliers establishing a commercial presence in a country (mode 3). Finally, the GATS also includes the temporary movement of people into a country for the purpose of providing services (mode 4). Recently, mode 4 has been viewed as a vital component for the other modes of service supply, from call centres (cross-border supply) to health service and tourism (consumption abroad), including commercial presence abroad. The gains from liberalisation in all of these other modes of supply depend partly on the progress of mode 4.

Recently, in their inter-regional bilateral PTAs, Singapore and Thailand's provisions on service trade have placed emphasis on the temporary movement of people and the recognition of qualifications. Traditionally, this has rarely been discussed at the regional nor the multilateral level, however, there have been several pro-active proposals by both countries on this front.

In parallel to the previous chapter, the structure of this chapter will begin by outlining the definition of the movement of labour under the GATS, which predominantly deals with the temporary movement of service providers. The subsequent section discusses the inter-regional bilateral PTAs Singapore and Thailand have signed that include provisions on the movement of people. Attention will be turned towards the institutional changes undertaken due to the bilateral PTAs. Finally, the last section concludes with a comparative analysis of Singapore and Thailand's institutional change.

#### 6.2 Liberalising the Temporary Movement of People.

Before outlining the findings of the bilateral PTAs concluded by Singapore and Thailand, we will discuss the definition of the temporary movement of people, which entails a broad variety of issues. Furthermore, this section will also discuss the relevance of mode 4, which has recently become a contentious issue in the international context because it overlaps with national security, yet there are great economic benefits for such trade liberalisation.

# 6.2.1 Defining the Liberalisation of the Temporary Movement of People:

According to the GATS (Article I.2(d)), mode 4 is defined as the supply of a service by a supplier of a member state, through the presence of natural persons of a member state in the territory of any other member on a temporary basis. However, one of the debates under mode 4 is what constitutes temporary movement. The agreement draws no clear lines beyond the exclusion of permanent migration; discretion is left in the hands of the individual states. The timeframe set out varies, for example, business visitors are generally allowed 90 days, whereas, in Japan intra-corporate transferees tend to be limited between two and five years (Carzaniga, 2003, p. 23). Nevertheless, in general, service suppliers gain entry for specific purposes, such as fulfilling a service contact, either as self-employed or as an employee.

The definition of the temporary movement of people, according to this thesis, is principally the liberalisation procedures that allow service providers to enter a foreign country. However, there are several forms of restrictions that can prohibit the mobility of service providers, other than visa entry. The liberalisation of the movement of labour can be accomplished in the following main areas, namely: in the formalities of visa entry; the regulatory requirement pertaining to qualifications; and quantitative restrictions or discrimination through internal measures, such as local language or citizenship requirements. The first issue relates to national security measures. The latter, however, are regulatory directives which seek to protect domestic producers and consumers, market failures, and other distortions. Sector specific regulations involve assessment and maintenance of standards among professionals in the receiving countries (Manning & Sidorenko, 2007, pp. 1086-1087). As a result, this chapter will broaden the scope of Mode 4 to include the recognition of qualifications into the temporary movement of people. Like all regulatory barriers, they can be resolved through trade agreements that bring greater transparency and predictability. However, given the problems of liberalisation, why is it necessary to liberalise the movement of service providers?

### 6.2.2 Why Liberalise the Temporary Movement of People?

Despite recent technological developments in various industries, natural human resources still remains an important ingredient for a wide range of industries, especially the service industries. For example, significant numbers of Indian professionals in both the healthcare sector and the software industry who are temporary exporting overseas (Manning & Sidorenko, 2007). In most cases, it is generally assumed that in developed countries, as the population ages and the average levels of training and education increases, given the current demographic shifts, developed countries will face an increasing scarcity of less skilled labourers, whereas around 700 million young people in developing countries will join the labour market (OECD, 2003c, p. 2). Given that there is no substitute for natural human resources, especially for a wide range of professional services, the demand for liberalisation and better regulation of mode 4 is likely to increase over time (Chaudhuri, Mattoo, & Self, 2004, p. 2; OECD, 2002, 2003a).

However, there are several constraints preventing the liberalisation of the temporary movement of people. One of the main concerns, for host countries, is that the temporary service supplier will attempt to relocate permanently in the host country. However, it must be understood that mode 4 of GATS was not devised to accommodate permanent migration and entry into the labour market. Some commentators believe the problem rests in the hands of the host countries in framing policies that prevent the temporary movement to become the first step to permanent residence, legally by changing visa categories.

From another perspective, developing countries are also concerned that talented individuals might consider permanently relocating to developed countries, depriving

developing countries of their much needed skills. However, again, mode 4 was designed to be free of such problems. Recent studies on the issue of brain drain have shown a steadily growing rate of return home by highly qualified workers, with the short term costs of temporary movement of skilled people offset by the benefits to their home country when they come back with enhanced skills and international contacts. As a result, it is argued that mode 4 could contribute to "brain circulation" (OECD, 2003c, p. 5). More importantly, recently there appear to be signs that the advanced developing countries are aiming to find ways to take advantage of the opportunities offered by mode 4 (Francisco, 2003). "Several developing countries, as the largest suppliers of temporary labourers, are intensely interested in the effects of such reforms on their own welfare" (Walmsley & Winters, 2003, p. 2). Moreover, the movement of workers can also create an environment for the exchange of knowledge, which could also lead to growth.

Nonetheless, some believe mode 4 could improve the organisation and infrastructure of the immigration system in the host country. For example, the increasing utilisation of mode 4 could discourage employers from illegally using undocumented foreign workers. Mode 4 may also serve as a useful pre-selection of candidates for future permanent migration. Moreover, with respect to fears of a brain drain, empirical research has shown that well designed provisions on mode 4 have little impact on increasing migration, especially for countries which have similar income levels and close proximity, because there are limited incentives for permanent migration (World Bank, 2005, p. 117).

Unfortunately, in the current climate, any attempt to facilitate the mobility of people will be confronted with concerns of national security. The liberalisation of mode 4 requires security clearance to be quick and reliable. The challenge is to find a balance between measures that facilitate the entry of foreign workers and the enforcement of immigration controls, which prevents the entry by illegal or undesirable individuals. Ultimately, the temporary movement of people must not override general immigration and security requirements.

Empirically, at present, there are no reliable figures on the movement of service providers which can be attributed to mode 4, this is mainly due to limited abilities to separate mode 4 workers from broader groups (Winters, 2003). However, some of the recent studies, such as Walmsley and Winters (2003) estimated that if a temporary visa system were introduced in developed countries that permitted the movement of up to 3 per cent of their labour force, world income would rise some \$160 billion. Moreover, 70 per cent of the global welfare gains from increased migration would be a result of the movement of unskilled workers alone. Unfortunately, progress under the GATS Mode 4 negotiations has been, at best, limited. More importantly, although mode 4 should cover service suppliers at all skill levels, the WTO commitments are limited to higher skilled specialists. As a consequence, some PTAs which go beyond the scope of the GATS might offer a more promising route.

#### 6.3 Preferential Trade Agreements

PTAs take a variety of approaches to labour mobility. Some trade agreements cover the mobility of all persons. Some offers are limited to facilitate the movement of certain kinds of trade or investment related activities, which are tied to liberalisation in modes 2 and 3. Some PTAs cover workers at all skill levels, while others are limited to the highly skilled service suppliers, whereas some PTAs merely confirm their GATS commitments (Nielson, 2003a). The difference in the degree of liberalisation in PTAs arises from various factors, including cultural and historical ties. However, the agreements signed between countries of close geographical proximity and similar economic development tend to have more liberal approaches to labour mobility as compared with agreements between geographically distant countries of differing levels of development (Nielson, 2003b).

Before we begin examining the PTAs Singapore and Thailand have concluded on deeper economic integration in the temporary movement of labour, it must be first understood that, for advanced developing countries, sending human resources to work abroad temporarily is seen as a key export ingredient. As a result, when discussing PTAs with provisions on the temporary movement of persons, this is not merely limited to regulations that permit foreign service suppliers to enter Singapore and Thailand, it also includes positive provisions that allow them to gain market access abroad. Moreover, the coverage on the temporary movement of persons is limited to some sectors, and they are mostly tied in with modes 2 and 3 of the trade agreement. Nevertheless, some of the provisions contain WTO-plus provisions, which should provide interesting implications on domestic institutional trade capacity.

#### 6.3.1 Singapore's PTAs

As mentioned earlier, Singapore is a cosmopolitan state that aspires to become a regional hub for multinational corporations. As a result, the city state has a well developed system

to facilitate the entry of service providers. More importantly, currently, foreigners account for a quarter of the population of Singapore and they mainly play a prominent role in Singapore's service industries, which accounts for two-thirds of Singapore's GDP (Manning & Sidorenko, 2007, p. 1090). Traditionally, however, Singapore has been a closed society in terms of allowing foreigners to work in certain service sectors. As a result, nowadays Singapore needs to foster the development of the service sector, but at the same time balance this need with Singapore's domestic interests in protecting certain service sectors.

Singapore's first PTA is the CEP between Singapore and New Zealand, which entails a chapter on the temporary movement of service suppliers. Unfortunately, since it was Singapore's first PTA, it merely repeats much of the language in the GATS, with some additional elements (Nielson, 2003a). The CEP facilitates entry into Singapore on a temporary basis, either as business visitors, or as senior or specialist employees working in the Singapore offices of a New Zealand firm, provided the individual has been with the firm for at least a year.

With respect to the professional qualifications, the CEP aims to facilitate trade where recognition of qualifications and professional registrations are required. The government has agreed to facilitate discussions between industry bodies, regulatory agencies, and educational institutions, to reach agreement on mutual recognition. Under part 5 of the agreement, both sides have agreed to make it progressively easier for certain service providers to gain access to the Singaporean market, such as architecture, engineering, telecommunications, finance, education and environmental services.<sup>91</sup>

The overall process of encouraging Singapore to give better access to New Zealand professional service providers is an ongoing one, with a provision in the CEP for consultations on an issue-by-issue basis.

Similarly, the seemingly complicated P4 agreement is a weak agreement, comparable to the New Zealand-Singapore CEP, because it merely confirms their commitments under the GATS Mode 4. Nevertheless, there is a commitment to review this provision after the agreement has been into force for two years. Moreover, interestingly, with service trade, the agreement allows for service suppliers to choose either to adopt the CEP or the P4 agreement.<sup>92</sup>

<sup>&</sup>lt;sup>91</sup> Further details can be found under Annex 2.2 of the CEP.

<sup>&</sup>lt;sup>92</sup> Interestingly, in the entire service agreement, the Singapore-New Zealand CEP adopts a positive list approach, whereas P4 adopts a negative list approach.

Singapore's evolution in the movement of service suppliers can be observed in the JSEPA. Several sections of the agreement contain language familiar to the GATS, such as the Article XIV on exceptions,<sup>93</sup> other similarities can also be found from the Annex, such as the definition of nationality, residence, and measures regarding entry and length of stay (Nielson, 2003a, p. 52). Nevertheless, overall, the agreement provides greater market access for certain groups, the groups that benefit will obtain the GATSplus provisions (Nielson, 2003a, pp. 51-53). The relevant provisions are under chapter 9, which allows for service suppliers to enter and operate in Singapore either as short term business visitors, or as intra-corporate transferees who are managers, executives or specialists linked to mode 3.<sup>94</sup> Individuals who are investors and independent service suppliers are allowed to stay up to eight years; however, the period may be extended indefinitely, provided they meet the domestic regulatory criteria.<sup>95</sup> This is especially true for engineers, who are allowed to bid for contracts with any company or organisation in the host country, as long as they satisfy domestic laws.

In addition, both countries have also agreed on the importance of a built-in work programme aimed towards creating a mutual recognition of professional qualifications. When completed, the trade agreement will ensure that qualified Japanese professionals will be able to practise in Singapore and vice versa.

Under SAFTA, Australian business persons and professionals can now stay in Singapore for an initial period of up to three months, compared with one month previously. Long-term business residents working for Australian companies in Singapore are granted an initial period of two years, extendable on application up to 14 years. Furthermore, accompanying spouses and dependants of long-term business residents now have a guaranteed right to work in Singapore in job categories defined as managers, specialists and office administrators.

On the other side of the coin, SAFTA also makes it easier for Australians to provide national treatment and market access to Singaporean services suppliers.<sup>96</sup> The SAFTA provides certainty for Singaporean services suppliers at the federal level, in a number of sectors, such as real estate distribution, tourism, energy, and professional services including legal, engineering, and architectural services.

<sup>&</sup>lt;sup>93</sup> Excluding XIV(d) and (e) relating to taxation.

<sup>&</sup>lt;sup>94</sup> Covered under Annex VI Part A.

<sup>&</sup>lt;sup>95</sup> Covered under Annex VI Part B.

 $<sup>^{96}</sup>$  The exceptions to this rule are listed in Annexes 4-I (A) and 4-II (A) of SAFTA.

Regarding professional recognition, there are improved commitments on residency conditions for Australian professionals. Under the SAFTA, residency requirements for Australian professionals such as architects, engineers, accountants and auditors have been removed or eased. However, in order to practise in Singapore, they are still required to register with certain regulatory bodies, depending on professions and qualifications. Similarly, Australia and Singapore will encourage their relevant professional bodies to enter into negotiations on mutual recognition of professional qualifications. The Architects Accreditation Council of Australia and the Board of Architects of Singapore,<sup>97</sup> were the first MRA to be concluded between the two nations. Under the MRA, Australian architects with ten years of post-graduate experience will be able to register and practise in Singapore, and vice versa.

Similarly, there are also benefits for the legal profession. Under Singapore's existing regulatory system, foreign law firms may set up offices in Singapore to advise clients only on the laws of their home country or international law. Foreign law firms are also allowed to enter joint ventures or establish formal alliances with Singaporean law firms. Under SAFTA, conditions on the establishment of joint ventures in Singapore involving Australian law firms have been eased. These conditions include the number of foreign lawyers permitted to work for foreign law firm in Singapore, and how many years of experience those lawyers are required to have. Moreover, the recognition of law degrees from Australian universities has increased from four institutions to eight,<sup>98</sup> thereby enhancing the attractiveness of Australian universities for Singaporean students.

With respect to the education services, under SAFTA, Singapore has provided full national treatment and market access commitments for universities, vocational and technical education. With a few limited exceptions, Australian education providers can operate virtually freely in Singapore. The SAFTA also provides a framework for both governments to encourage cooperation between Australian and Singaporean educational institutions in a number of areas, including technical education, vocational training, distance education and teacher training.

Similarly, the USSFTA also has deeper integration provisions for the movement of persons. This illustrates Singapore's ability to further develop this provision from

 <sup>&</sup>lt;sup>97</sup> BOA Singapore is the statutory authority established in Singapore to administer the Architects Act, which sets out the general qualifications and requirements for registration. It is responsible for evaluation of applications to the Register of Architects.
 <sup>98</sup> These universities are the Australian National University and an antical University and an antical University.

<sup>&</sup>lt;sup>98</sup> These universities are the Australian National University, Flinders University of South Australia, Monash University, the University of Melbourne, the University of New South Wales, the University of Queensland, the University of Sydney, and the University of Western Australia.

weaker agreements with New Zealand into more complicated agreements with Australia and now the US. In the USSFTA, under chapter 11, the benefit on the movement of service suppliers appears to tilt in favour of Singapore. With respect to the duration of stay for temporary service suppliers, the US has made two changes to its visa entry system for Singaporeans. The US will extend its E1 and E2 visa for Singaporeans.<sup>99</sup> The E1 and E2 visa holders and their spouses are eligible to extend their stay in the US indefinitely. In addition, the US will grant Singapore a special quota of 5400 visas (H1B1) per year. This category applies to professionals such as IT personnel. Unlike the H1B visa, employers of such visa holders are not required to satisfy the market test, in other words, they are not required to prove that no other local citizen are able to provide similar services. Furthermore, the visa is renewable on an annual basis with no limit. Singapore was the first country to which the US has granted such privileges in a trading agreement, with the exception of Chile, which was granted a quota of just 1400 visas (Chaudhuri et al., 2004, pp. 13-14).<sup>100</sup>

For professional services, Singapore will ease conditions on US firms creating joint ventures to practise law in Singapore, similar to the SAFTA. Furthermore, due to the USSFTA, the tightly closed Singaporean legal profession now recognises undergraduate law degrees earned from four additional US law schools for admission to the Singapore bar. This is extremely rare because the legal profession has traditionally opposed foreign lawyers entering the Singaporean legal system.

Aside from recognising legal professionals, there are other similarities with the SAFTA, the USSFTA also emphasises the liberalisation of the architectural profession. The agreement also reduces the board of director requirements for architectural and engineering firms. There are also provisions that allow phasing out of capital ownership requirements for land surveying services. Moreover, both American and Singaporean professional bodies will engage in consultations to develop mutually acceptable standards and criteria for licensing and certification of professional service providers in the architecture and engineering professions.

Overall, Singapore has included the temporary movement of persons and the recognition of qualifications in her PTAs. Singapore's liberalisation on the temporary

<sup>&</sup>lt;sup>99</sup> The E1 visa is available to traders with enterprises engaged in trade with the US. The E2 visa is available to investors who have invested or are actively in the process of investing a substantial amount of capital in the US.

<sup>&</sup>lt;sup>100</sup> In fact, several Singaporean trade negotiators speculate that without the TPA, the USTR might not have been able to pass the controversial H1B1 in the House of Representatives.

movement of labour can also be represented by a linear progression: the more PTAs Singapore signs, the more deeper integration the city state is willing to commit. This can be seen in the JSEPA, SAFTA and the USSFTA, which have been "mode 4 plus" agreements. Both the USSFTA and the JSEPA have devoted separate chapters on the issue with more detailed offers, while the EFTA-Singapore FTA and the ANZSCEP have included this in a separate article with much less specificity. Some PTAs, such as the Korean-Singapore FTA, merely replicate the GATS model.

# 6.3.2 Thailand's PTAs

Thailand, unlike Singapore, does not have a high inflow of foreigners entering the country for employment, as a result, it does not have an effective or appropriate system for dealing with foreign workers. Currently the number of foreigners working in Thailand has climbed to 40,000 people, but the numbers are still marginal. Thailand's positive interest in mode 4, on the other hand, is akin to other advanced developing countries, they perceive it as a vital export in terms of service trade and prefer not to import service suppliers. Consequently, Thailand must pick and choose her exporting service industries carefully. However, several developing countries are keen to learn from Thailand's concluded agreements because these better reflects the economic infrastructure of most developing countries.

TAFTA was Thailand's first PTA, nevertheless, this extensive trade agreement includes provisions relating to the temporary movement of persons. Under chapter 10 and Annex 8, the trade agreement contains provisions which reduce the procedural requirements for the temporary movement of Australians and Thais. To illustrate, there is a loosening in the conditions relating to visas and work permits allowing Australian business professionals to enter Thailand, for both short and long periods of stay. Accordingly, Australian service professionals, especially APEC Travel Card holders,<sup>101</sup> no longer require a work permit for stays of up to 15 days or 90 days. In addition, for Australian citizens being transferred to work in Thailand as intra-corporate transferees, Thailand will grant extended visas and work permits, from one to five years, which can be renewed annually. The agreement also increases the work permit to three years for contractual services suppliers in Thailand. This was an improvement from previous

<sup>&</sup>lt;sup>101</sup> The APEC Business Travel Card was established to facilitate the entry of business visitors, it is valid for three years and provides multiple short term business entries, with stays of up to three months. This makes the TAFTA commitments consistent with APEC, but GATS-plus.

conditions which permitted both categories to stay only for a year. The agreement also became more practical and less stringent; for example, Australians who hold work permits, are allowed to participate in business meetings anywhere in Thailand, including locations not specified in their work permits.<sup>102</sup>

TAFTA also streamlined the procedures for the temporary movement of people including a reduction in the number of documents required for Australians to obtain work permits and the renewals of work permits. More importantly, Thailand allows all Australian business visitors to utilise the one-stop visa and work permit services, which were previously restricted to major investors. In essence the one-stop service allows foreign applicants to submit their application to just one government authority, instead of three separate government bodies, namely, MFA, Ministry of Labour, and the Immigration Bureau, thus, facilitating the movement of people, as well as maintaining transparency.

With respect to the recognition of qualifications, Thailand has aggressively aimed to gain market access for its service suppliers, specifically in the restaurant and catering, and the beautician industries. Thais who want to engage in the mentioned industries, both investors and the individuals supplying the services, will enjoy similar benefits beyond other service sectors, such as the streamlining of documentation. Furthermore, under TAFTA, the Australian government now recognises certified Thai chefs, who are permitted to work in Australia for four years with an option to extend indefinitely. In addition, all service providers under the restaurant and catering industry no longer have to satisfy the labour market test, provided they have an employer in Australia coupled with the recognised certificate under this industry. Interestingly, this is not considered an MRA, but rather a unilateral agreement only recognised by the Australian government.

The JTEPA is Thailand's latest and most comprehensive bilateral trade agreement, which also contains provisions on the temporary movement of people. The agreement also streamlined several procedures for Japanese service suppliers aiming to gain access into the Thai market. Japanese business visitors are allowed to enter without any permits and all Japanese service suppliers are permitted to use the one-stop service procedure, thus facilitating the movement of people by eliminating the need for Japanese business professionals to submit documentation with three differing government agencies.

<sup>&</sup>lt;sup>102</sup> Previously, work permits had to be changed if any work was to be conducted in a location not specified in the permit.

Aside from the duration of stay in Thailand, the JTEPA also includes MRA and the recognition of qualifications from a limited number of undergraduate institutions from Thailand, such as engineering. Although it is not guaranteed that acquiring a skilled degree from a recognised institution will lead towards employment, at least it is one of the first steps towards employment in Japan, and the same for Japanese seeking employment in Thailand.

Thailand has also gained access for the unilateral recognition of some qualified professionals in the restaurant and catering industry in Japan. There are plans to expand the benefits for skilled service providers by creating a committee of professional bodies to establish mutual recognition of Thai architects and engineers. Regarding semi-skilled professionals, such as chefs and other service providers in the catering industry, provided the semi-skilled service providers have the appropriate qualification and have been offered a job in Japan, the process during immigration will become quicker, and the Japanese immigration officials have less restricted discretion. Moreover, the semi-skilled service professionals also have the option to stay indefinitely.

Overall, with respect to the temporary movement of people, the JTEPA appears to favour Thailand. The agreement merely simplifies the procedures for Japanese to temporary enter Thailand; whereas Thais also enjoy similar benefits. However, Thailand has also gained more access in some specialised services. One of the reasons why the Japanese negotiating team appear to be more generous is the current shortage of semi-skilled professionals in Japan, especially in the caring and nursing industries, which Thailand has decided not to include in the JTEPA due to technical and cultural differences.

Overall, Thailand has signed trade agreements which are, at best, consistent with the GATS. Thailand's first PTA, with New Zealand, was a trade agreement that excluded the liberalisation of service trade, but the negotiation on the temporary movement of people is scheduled to commence in 2008. The same is true of the trade agreement between Thailand and India.

#### 6.4 Domestic Institutional Changes

The preceding section illustrated provisions Singapore and Thailand undertook in their bilateral PTAs. This section will now discuss the effects those provisions had on their domestic institutions. Aside from investigating changes in the domestic institutions, this

section will also provide some analysis on why these provisions were created and what were the motivations behind some of these provisions.

#### 6.4.1 Singapore: A Highly Educated Island

In Singapore, the principal governmental agency responsible for negotiating the temporary movement of service suppliers is the Ministry of Manpower (MOM), however, due to the sensitive nature of this subject the security dimension requires the Ministry of Home Affairs to be involved. One of the statutory boards which regularly participates in the negotiations is the Immigration and Checkpoint Authority. MOM also works very closely with the negotiating team, being the focal point for issuing the appropriate paper work for foreign workers entering Singapore. The lead ministry, in both multilateral and bilateral trade, negotiations is still MTI, where the other mentioned ministries merely play a supporting role.

Since Singapore began to engage in PTAs, an additional agency has been established under MOM, the International Relations Unit. However, several government officials argue that the Unit was not created specifically in response to PTAs, rather the Unit was establish to assist MOM respond to the current international dimension; since Singapore desires to become a regional hub for services, which must accommodate the influx of diverse service personnel. Thus, it could be argued that institutional changes in Singapore might have coincided with the Singapore's ambitions and its pragmatic nature.

However, some of these changes would not have occurred without the prompting of PTAs. There now appears to be more willingness to allow foreign workers into some of Singapore's closely guarded service sectors, such as the legal and architectural profession. Previously, the legal profession in Singapore recognised less than a handful of undergraduate law degrees globally. The PTAs with Australia and USA have increased the number of foreign graduates who are eligible to practice law in Singapore. Moreover, Australian and American law firms are now permitted to enter the Singaporean legal market.

Traditionally the liberalisation of professions and the movement of people was not a pressing matter for Singaporeans. The professional bodies in Singapore have lobbied hard to maintain a closed door policy. As a Singaporean academic commented: "If it had not been due to such trade agreements, the liberalisation on professional services might not have risen so quickly... free trade agreements have paved the way for the liberalisation of professionals".

Why has there been a sudden change? During the 1980s, in order to protect these professions, there was a tightening of professional bodies. Like most ASEAN economies, professional services were shielded from foreign competition by stringent registration procedures (Manning & Sidorenko, 2007, p. 1104). Lately, however, there appears to be a shortage of key professions in Singapore, as a consequence, the Singaporean government believed it was in their interest to liberalise these professional services.<sup>103</sup>

Singapore has also opened its domestic markets to other professions by adopting MRAs for the engineering and architectural professions in the SAFTA and the JSEPA. This is considered a significant improvement, especially in the closed service sector society. As a consequence, there are several liberalisation connections between modes 3 and 4, which permit foreign companies into Singapore, at the same time allowing these companies to employ service providers from the company's home nation.

This view is not merely restricted to foreigners entering Singapore, but Singapore has also become aware of offensive positions as well. According to one of the business lobby groups, during a general meeting with various business groups, a representative from the government asked what issues the business community wanted from the PTA with India. One of the rare responses from the docile crowd was not a demand for a reduction in tariff for goods or better market access for any particular industry, instead they would like to obtain quicker and more reliable access to India during business visits. This indicates a change in perspective and the rising prominence for these contemporary issues.

Nevertheless, others believe this might lead towards a slippery slope. Individuals who wish to seek employment abroad can do so, provided they have the correct qualifications. However, what would happen to the individuals who fail to obtain the correct qualifications? They might be completely left out from the benefits of the PTAs. Although this may not be an ideal system, however, this is perhaps the best balance between the faster access and safeguarding national security.

<sup>&</sup>lt;sup>103</sup> To illustrate, in 2005, 113,300 jobs were created, although 63,500 went to Singaporeans, the number of new work permit holders soared to 43,000, the highest since 1997.

When asked why Singapore has made progress in the area of temporary movement of persons, some trade negotiators believe this issue has never been a contentious issue for Singapore. The movement of persons was never perceived to be a deal breaker, this allowed such provisions to included in their PTAs. Nevertheless, for the Singaporean negotiating team to select a profession to liberalise required great coordination between the negotiating team and non-governmental bodies as well. This interaction probably would not have occurred now if Singapore had not engaged in PTAs. For a small and centralised state, such as Singapore, it might not appear to be difficult to coordinate and formulate a position on the movement of persons. Nevertheless, the willingness to liberalise such guarded sectors demonstrates a desire to further liberalise, which can be carried forward to future trade agreements.

### 6.4.2 Thailand: Recognition for Non-Professional Workers

In Thailand, the ministries responsible for negotiating the temporary movement of persons are MOC, Ministry of Labour (MOL), Ministry of the Interior (MOI), and MFA. Previously, as in most cases, MOC assumed overall responsibility during the negotiation stage. However, recently, the negotiations on mode 4 have been outsourced to varying ministries, providing no clear indicators which ministry now has supreme authority on this matter. Different chief trade negotiators have assigned the lead negotiating role for mode 4 to different ministries. However, the latest and most ambitious comprehensive PTAs, the JTEPA and TUSFTA, have placed the burden on the MFA. Some trade negotiators believe MFA should assume responsibility because that is the authority retaining the first level of restriction, namely visa entry, thus serving as a first point of contact before workers are required to complete other quantitative restrictions. Moreover, some negotiators believe MFA has more experience and technical ability in international negotiations.

The prospect of utilising semi-skilled workers as a source of exports has recently focused Thailand's attention on the temporary movement of persons. The recent attention to the subject matter has forced bureaucrats to adopt a new form of thinking, resulting in uncertainties regarding which domestic institutions need to be enhanced. The overlapping authority between differing governmental agencies has also increased the confusion in the current system.

Nevertheless, the creation of the one-stop service, which places three differing regulatory requirements under one roof, has been the only new governmental agency

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created to facilitate the movement of persons. Another minor change was found in the Immigration Bureau, which opened a call centre to answer queries for foreign workers regarding visas and work permits; assisting the dissemination of information to the public swiftly and efficiently, and providing a better understanding of the procedures. This service was motivated by Thailand's decision to promote e-government, which illustrates that this cannot be attributed solely to PTAs. Arguably, due to the kingdom's willingness to promote the temporary movement of persons, the development of such institutions was seen as natural.

Nevertheless, one area that has significantly changed is the interaction between government agencies and non-governmental organisations. Some of Thailand's trade agreements aim to gain market access for its professional service providers. Similarly to Singapore, in order to negotiate MRAs for certain professional qualifications, the government sought consultation with and coordination of the professional bodies in Thailand. Thus, arguably PTAs have helped bridge the gap between the two entities, building a stronger institutional capacity for Thailand.

As a consequence, the Thai negotiating team has consulted with several professional bodies. Similar to Singapore, there were concerns that the liberalisation of professional services will bring about negative effects for professional operators in small and medium-sized business. However, as a member of the Architects' Council in Thailand confessed:

Given the current state of globalisation, it is inevitable to open up, but international competition must be regulated by fair agreements and rules... we must find ways to negotiate with our partners such that we will not be significantly hurt by FTAs, but at the same time turn then into a win-win situation for all.

In other words, PTAs have brought Thai professional bodies into the negotiating process. Moreover, PTAs forced professional bodies, such as the Architects' Council, to understand the dilemmas and details of liberalisation, which forced them to choose the path for the foreseeable liberalisation of their profession, such as establishing joint projects or formulating a training programme to become more competitive internationally. Interestingly, there appears to be limited reciprocity for the recognition of the qualifications. For example, Thai architects are quick to insist on having their qualifications recognised by their trading partners, however, understandably they are less willing to accept foreign architects into their own market. This form of unilateral acceptance can be seen in almost all of Thailand's PTAs, including the JTEPA. This applies to semi-skilled service providers as well. However, in the case of the JTEPA this one-sidedness can be attributed to the structure of Japanese society; the aging Japanese population is currently facing a shortage of professional carers and nurses. As a result, the Japanese delegates regularly requested Thailand and other Southeast Asian countries to include such professions in their trade agreements. Unfortunately, in the JTEPA, the nursing profession was excluded because the professional bodies of nurses showed little interested in providing health care in Japan, for various reasons including language and cultural barriers.

Nevertheless, introducing the recognition of professional qualifications is a significant development brought about by PTAs, and it has improved the willingness for domestic professional bodies to become more involved and understand the current dynamics of the global system.

Interestingly, the bond between government and non-governmental organisations would have also materialised if multilateral negotiations had materialised, however, they did not due to several reasons. One of the reasons was because the WTO never went as far as PTAs in introducing the temporary movement of labour to the negotiating table. More importantly, several key WTO members were not keen on introducing semi-skilled workers into the multilateral framework due to the possibility of them seeking permanent migration. Thus, countries such as Thailand never managed to develop the close relationship between government and professional bodies which later developed into an understanding for the inevitable liberalisation for the movement of persons.

The interesting question is why have trade negotiators decided to choose this route? As a Thai trade negotiator recalls, negotiations on service trade would normally be one of the last issues on the agenda for negotiation. This provided little room for Thailand to negotiate and exchange concessions with other industrialised countries, which were mainly interested in Thailand's service industries. Consequently, Thai trade negotiators only negotiated on the temporary movement of persons as a possible topic under the heading of services, however, it also coincided with the kingdom's contemporary economic programmes.

The recognition of Thai semi-skilled service providers was not driven solely by external forces from Thailand's trade partners. Thailand has also gone on the offensive on this issue. Domestically, the industries which have visibly gained the most from the recognition of Thai qualifications are the restaurant and catering industries. This also coincides with the government's strategy in promoting Thai cuisine. The programme aims to promote and maintain the quality of Thai food by issuing standards for the foreign-based "Thai Select"<sup>104</sup> restaurants. This will also be supplemented by sending a number of Thai chefs overseas. The quality of chefs will be guaranteed by a government agency which provides the accepted applicants with English language training, as well as professional food standards training. The agency also helps applicants to select destinations, and with their employment contracts. Initially the "Kitchen of the World" programme was seen as a means for securing a market for exporting Thai chefs and other service suppliers in the catering industry. However, some Thai officials acknowledged they were uncertain how to obtain the recognition of Thai chefs in foreign countries. Only after PTAs became en vogue, did the negotiators realise how the dilemma could be solved.<sup>105</sup> Thus, it can be argued that PTAs have played a helping hand here.

PTAs also brought another benefit, they provided opportunities for Thai authorities to review and revise existing legal provisions. Specifically, PTAs allowed Thai authorities to review the binding commitments of the APEC Travel Card Holder scheme, which was extended under the TAFTA. The APEC agreement was signed by MFA, however, the delegate failed to consult with the MOL, as a result the signed agreement contradicted Thailand's Alien Employment Act. Under Thai law, procedurally, the APEC Travel Card could not supersede the Alien Work Act. This fault was never fully debated until the negotiation of the TAFTA, which bought MOC, MOL, and MFA together, thus providing the opportunity to review and redraft domestic legislation according to the regional APEC and bilateral TAFTA agreements.

Moreover, Thailand also made changes in its procedures for the temporary entry of individuals. Generally, applicants are required to be registered with the relevant professional body in their home country. If the professional training and experience of the applicant are recognised, a temporary registration certificate is issued allowing the

 <sup>&</sup>lt;sup>104</sup> "Thai Select", created by the National Food Institute of Thailand, aims to promote confidence among customers that the quality of the food served meets the standards of real Thai cuisine from professional chefs. MOC promotes "Thai Brand", which covers a wider range of goods.
 <sup>105</sup> For example, originally, the TAFTA did not include the recognition of the catering and restaurant

<sup>&</sup>lt;sup>105</sup> For example, originally, the TAFTA did not include the recognition of the catering and restaurant industry, however, only after realising the potential of such a benefit, which came during the negotiation of the JTEPA, was it included in TAFTA.

professional to practise in the receiving country. As a rule, the foreign professional must pass the "economic need" test, which is often time consuming and creates extra cost for employers through additional advertising and administrative expenses. After this process is completed, normal immigration application procedures can begin. However, after signing PTAs, citizens of the signatory countries can enjoy the streamlining of the mentioned procedures, such as the one-stop service, <sup>106</sup> including the limitation of certain regulatory requirements used in the economic need test for foreign professionals. Overall, the government is very keen to support this initiative because it permits service suppliers entering to support the domestic industry, as well as spreading their technical know-how to local service providers, which will nurture their domestic industry.

Overall, it seems that PTAs have made more impact on Thai domestic institutions; without PTAs little progress would have occurred in this direction. Unlike Singapore, which has sufficient infrastructure facilitating the movement of foreign workers, Thailand had to build such infrastructures from scratch, this includes the streamlining of procedures, creating agencies such as a call centre, and legislative review. This illustrates how PTAs have influenced Thailand's attitude and domestic institutional capacity towards the temporary movement of persons.

#### 6.5 Conclusion: Comparative Analysis

Both Singapore and Thailand have adopted very different approaches in tackling barriers in the temporary movement of persons. This is chiefly due to the difference in their social and economic structures. Singapore is a very small state with a very highly educated population. As a result, most of Singapore's trade agreements include the recognition for skilled professionals, such as architects, engineers and lawyers. On the other hand, Thailand has a comparative advantage in semi-skilled workers. Consequently, Thailand may have made efforts to gain market access for skilled professionals, such as architects, but its main exports are semi-skilled professionals in the catering industry. However, the central theme of this chapter is the removal of the regulatory barriers to trade and how this changes a country's domestic institutional trade capacity. Again, this will be assisted

<sup>&</sup>lt;sup>106</sup> The one-stop service was so effective that it was utilised during the Tsunami crisis in 2004-5. When the bodies of foreign visitors had to be identified and claimed, the family members involved had to complete several documents from three separate government agencies: the Ministries of Interior, Foreign Affairs, and Public Health. Due to the overwhelming number of cases, MFA suggested implementing a similar one-stop service to reduce the bureaucracy. This indicates another area in which such agreements have helped domestic governmental institutions.

ANZSCEP **JSEPA** SAFTA USSFTA P4 CECA Institutional В С Change 2004 2005 2006 2000 2001 2002 2003 Implementation Negotiation Period Signing Period Source: Author Professional Bodies involvement А International Relations Unit В С Greater Business Participation

with the timeline diagram below, which compares developments of key PTAs with the micro-level institutional developments in facilitating trade.

#### Figure 18: Singapore's Movement of Persons Timeline

From the timeline perspective, it can be seen that most of Singapore's key changes occurred during 2001–2002, which coincides with Singapore's first PTAs and its bureaucratic restructuring. For example, the International Relations Unit might have been established in 2002 to accommodate the influx of foreign workers, however it seems clear that this unit was established as part of the bureaucratic restructuring in Singapore, and to facilitate the city state's escalating number of foreign workers. However, certain changes appear to have materialised as a result of PTAs, such as the involvement of professional bodies in the latter part of the SAFTA negotiations, and the greater participation from the business community providing inputs during the CECA.

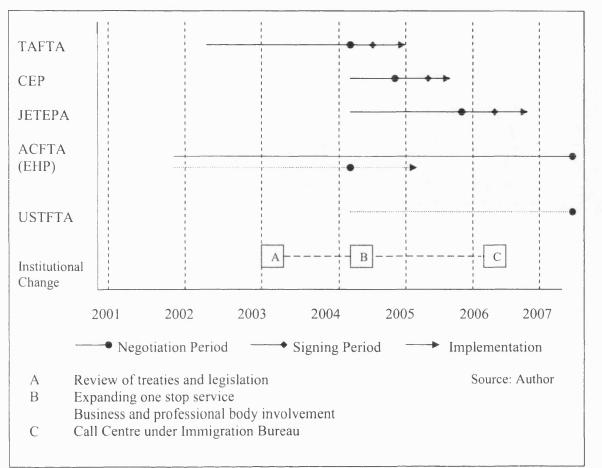


Figure 19: Thailand's Movement of Persons Timeline

In Thailand, a few new domestic institutions were introduced, this included the expansion of the one-stop service and the establishment of the call centre to facilitate entry of foreign workers. Most of these institutional developments are not novel. However, other developments, such as professional service bodies, inputs from the business community, and the possibility to review Thailand's treaties and legislation on the movement of persons can be attributed to the involvement of PTAs.

Consequently, it can be observed that from a timeline perspective, both countries have made minor contributions to domestic institutions that facilitate the movement of persons, but most of the improvements appear to have come from greater participation from the business community and the professional bodies. Let us turn our attention to the institutional trade capacity.

Area of Impact	Singapore	Thailand
		· · · · · · · · · · · · · · · · · · ·
Negotiating Capacity		
	Recruitment of lawyers into the negotiating team.	MOCoutsourcingnegotiationstootherministries, such as MFA.MRA negotiations are nowconductedbyprofessionalbodies.
Coordination		
Within ministries	No change	No change
Between ministries	No change	No change
NGO Consultation		
Academic institutions	No change	No change
Business society	Professional bodies deal	Professional bodies deal with
Busiliess society	with the negotiation for qualifications.	the negotiation for qualifications.
	The business community has pushed the faster immigration access	
Non Profit agencies	Limited involvement	Limited involvement
Implementation		
Judicial and legal system	Limited changes in domestic law. Changes include the recognition of professional qualifications abroad and changes that minimise Needs test for foreign workers.	Streamlining regulatory requirements for PTA partner citizens. Allows review of contradictory legislation.
Procedural and establishing new agencies.	International Relations Unit under MOM, but little attribution to PTAs	Extending the One-Stop Service to streamline the system for foreign workers. Call Centre under the Immigration Bureau
Creating New Trade Strategy		
	No change to Singapore's existing policy on	No change. Exporting qualified chefs and personal
	movement of natural persons.	of the catering industry under the "Kitchen of the World" programme.

Table 5: Institutional Trade Capacity Framework and Movement of Persons

Overall, when comparing institutional trade capacity, given the limited amount of change in Singapore, its institutions appear equipped to handle the influx of foreign workers; whereas Thailand has just started the implementation of such institutions, hence there have been relatively greater changes.

With respect to negotiating capacity, Singapore has already recruited lawyers to strengthen its legal position in drafting trade agreements, whereas Thailand has just begun to outsource the negotiation to a more specialised group within the government. In theory, these changes should bring forward forces, because they are preparing negotiators who will have gained experience to contribute to future negotiations.

Regarding coordination, no changes have occurred either within ministries or between ministries. Again, most of the coordination has already been enhanced at the macro level instead, thus providing little room for improvement at the micro level.

With respect to consultation, there appears to be a great deal of similarity between the two countries. Compared with previous practice at the multilateral level, both Singapore and Thailand hardly utilise their academic institutions to analyse the impact on the movement of persons. Similarly, there has been little impact from the non-profit making members of civil society. During their negotiations with the US, both countries were concerned with the US's proposal to introduce labour standards, however, there was a limited civil liberty movement in Singapore and in Thailand the trade agreement reached a full-stop.

Moreover, in Singapore, there appears to be little or no resistance from local businesses to allowing foreign workers to work temporarily in Singapore; it seems that the business community encourages such activities. This, however, does not mean there have been no resistance from the business communities. In fact there has been resistance from liberalising the movement of persons, some of it from the professional bodies, adamant about protecting their own domestic markets. Nevertheless, negotiations on the liberalisation of professions have already taken place. In the case of Singapore, the liberalisation of professional services reflects Singapore's manpower needs. In Thailand and Singapore, there appears to be awareness amongst the professional bodies that they cannot hide from the inevitable liberalisation of professional services. More importantly, this will bring forward forces: by bringing local professional bodies onboard they help create a transition period to assist local professionals to become competitive.

This illustrates a vital improvement PTAs have brought to domestic institutions, one that has positive spillover effects for future trade agreements as well. This, however,

poses an interesting question, why was this not developed under GATS? One of the possible reasons, already mentioned above, was the lack of interest in developing countries' desire to liberalise the movement of semi-skilled professionals, exemplifying how distant the GATS negotiations are from the needs of developing countries. Moreover, unlike inter-regional bilateral PTAs, developed countries cannot directly coerce every developing country to adopt provisions on service trade. When industrialised countries aim to gain access to developing countries' service industries, there is little developing countries can offer in exchange, the temporary movement of persons represents one of the possible avenues developing countries can choose to liberalise.

With respect to implementation, some significant changes were introduced into the law of both countries. Both Singapore and Thailand had to introduce changes in domestic law in permitting the recognition of certain professional qualifications, such as permitting individuals from certain Australian and American law schools to enter local law exams. Moreover, both Singapore and Thailand have streamlined procedures and documentation for citizens of the signatory countries entering for short stay periods, as well as provisions permitting them to extend their stay for a longer period. However, there cannot be a complete elimination of documentation to fully facilitate the temporary movement of people due to national security, which has become significant in recent years.

PTAs also give Singapore and Thailand the opportunity to update their legal provisions. The heavy burden of negotiations provided Thai officials with the opportunity to coordinate, communicate, review, and revise previous agreements that contradicted domestic laws. In fact both countries believe their bureaucratic agencies have been given a rare opportunity to stand back and work together as a team to revise their outdated legal provisions relating to the movement of persons and foreign workers. This clearly illustrates a positive effect of PTAs on domestic institutions because without PTAs, the old legal provisions would remain in place and it could take considerable time before they became updated. Moreover the revised version can be beneficial for other trading partners as well.

There have also been improvements on the procedural side of implementation as well. In Singapore, some of the improvements included establishing the International Relations Unit under MOM, however, as mentioned earlier, it merely coincided with Singapore's PTA era, and we cannot attribute this development solely to PTAs. In the case of Thailand, improvements include the expansion of the one-stop service. The service may have already existed before, but it was restricted to business officials. The service now accommodates other professions and can be enjoyed by all citizens of the trade agreement. As one trade official explained:

"the expected higher volume of traffic from PTAs has forced us to adopt such changes".

More importantly, the changes at the procedural implementation level can result in forward forces that would facilitate the movement of persons. Once the infrastructure is in place, it can be utilised for future liberalisation, whether in bilateral or multilateral agreements.

The introduction of PTAs with provisions on the temporary movement of people has not resulted in any changes to Singapore and Thailand's trade strategy. Again, Singapore already has a long term strategy to become a regional hub for services. Furthermore, a quarter of the cosmopolitan city-state's population are foreign, as a result there are proper institutions and procedures to control and monitor the large amount of foreigners entering Singapore. Conversely, in Thailand, the attention towards PTAs also coincided with the government's strategy to export Thai culinary expertise, in the forms of ingredients, investment in restaurants abroad, and service suppliers with recognised qualifications. Naturally, PTAs did not initiate the "Kitchen of the World" Programme, however, it did provide an alternative route towards accelerating the recognition of Thai trained chefs abroad.

In sum, among the biggest transaction costs associated with trade in services are the barriers that prohibit people from providing services in foreign countries. The problem here is the incalculable cost business bears in not allowing, or delaying, the appropriate personnel to enter a country. Without the appropriate personnel, all other modes of services may be derailed as well. Aside from enhancing service trade, the movement of persons is desirable because they could also lead towards the transfer of knowledge to local suppliers, which could stimulate growth. However, a complete liberalisation is not to be desired, due to the current global environment, a balance must be struck between facilitating the movement of people and preserving national security. Singapore and Thailand have aimed to resolve this predicament by concluding PTAs which streamlined the procedures and documentation required. This is accomplished by reducing the bureaucratic workload and institutional transaction cost in domestic institutions to better facilitate the movement of people. Concurrently, liberalisation of the movement of people is a vital ingredient for achieving regional economic integration. This will be the main subject of discussion of the next chapter.

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# 7 Chapter VII

# Building Institutional Capacity for Intra-Regional PTAs

Foreign investors rarely look at a particular ASEAN country on its own; If they want to invest in ASEAN, they must observe the entire region under one context. Former Permanent Secretary of the Thai Foreign Ministry.

# 7.1 Introduction

The previous chapters illustrated the commitments Singapore and Thailand have undertaken in their inter-regional PTAs with developed countries. Some provisions on facilitating trade and the movement of persons are WTO-plus; consequently, Singapore and Thailand have adopted some domestic institutional changes in the trade policy making structures. This chapter will continue to study the provisions in their trade agreements and how such change affects their domestic institutional capacity, by focusing on Singapore and Thailand's intra-regional PTAs.

By studying Singapore and Thailand's intra-regional PTAs, this chapter aims to demonstrate whether inter-regional PTAs with developed countries have helped Singapore and Thailand develop their domestic institutional trade capacity to undertake WTO-plus provisions in their own intra-regional PTAs. As this chapter will illustrate, Singapore and Thailand have attempted to tackle some regulatory barriers to trade in their intra-regional PTAs, some of which are different from their inter-regional agreements. More interestingly, the approaches adopted by the case study countries may be suited for developing countries, which could become seeds towards Asian regionalism.

Accordingly, the chapter will observe the intra-regional PTAs Singapore and Thailand have signed. We will begin with the ASEAN-China FTA (ACFTA) which has the potential to become Asian's largest regional PTA project. Interestingly, within the Early Harvest Programme (EHP) there exist some novel approaches in removing NTBs under facilitating trade. The second PTA to be placed under the microscope is ASEAN, which has recently undergone a mini-revival, pushing forward significant developments in the movement of persons. Thirdly, there is the Singapore-Thailand Enhanced Economic Relationship (STEER), sometimes viewed as the Two plus-X approach for ASEAN integration (Dent, 2006a). All of the above PTAs will be analysed in terms of domestic institutional developments, and how the mentioned institutions support these changes. This is followed by the conclusion, providing some comparative discussion on key variables on domestic institutional capacity, which allows such changes to materialise.

# 7.2 ASEAN-China FTA: A Case for Facilitating Trade

In 2000, during the ASEAN summit, the Chinese Premier surprised everyone by proposing the creation of the ACFTA. Like most of ASEAN agreements, the negotiations were separated into four pillars: Trade in Goods Agreement, Trade in Investment, Trade in Services, and the Dispute Settlement Committee. However, unlike most trade agreements, ACFTA have chosen not to adopt the customary "Single Undertaking Approach", instead they have embraced the "Sequential Approach", which involves concluding the pillars which can be negotiated at the most convenient moment. As a result, progress has only been made in the Agreement on Trade in Goods of the Framework Agreement on Comprehensive Economic Co-operation ASEAN and China (Trade in Goods Agreement), which was signed in November 2004, together with a chapter on arbitration panel that resolves disputes when consultation fails.<sup>107</sup> The agreement on goods consists of a normal track and a sensitive track, the new ASEAN members have an extension to 2015 and 2020 to comply with normal-track and sensitivetrack obligations, respectively. The intention of the normal track covers 90 per cent of China-ASEAN trade, which should comply with the interpretation of GATT Article XXIV to encompass substantially all trade.

In the goods agreement, products that qualify for tariff concession under the ACFTA must meet the 40 per cent cumulative regional VA rules. In other words, if a product has at least 40 per cent original value, after being processed within China or an ASEAN country, the product can enjoy the reduction in tariffs under the ACFTA. Interestingly, the motivation behind this was based on AFTA's ROO requirement. Consequently, since a majority of ASEAN members were familiar with this method, and with the natural-resource limited Singapore behind the scenes, the 40 per cent regional VA approach was adopted in ACFTA.

<sup>&</sup>lt;sup>107</sup> Which came into force in July 2005

Currently, ASEAN desires to extend the scope of the agreement to include service and investment liberalisation. However, the two pillars on Service and Investment are still under negotiation.<sup>108</sup>

Accordingly, since the ACFTA remains incomplete, most of the focus in this chapter will be placed on the accelerated Early Harvest Programme (EHP). The programme has accelerated the reduction of tariffs on certain products before the onset of the ACFTA. Moreover, the EHP reduces tariffs on selected products over three years,<sup>109</sup> covering products from Chapters 1 to 8 of the Harmonised System Code as well as a list of 130 specific manufactured goods, which can be found in Annex 2 of the Framework Agreement.

Prior to the EHP, tariff rates on agricultural produce between China and ASEAN, as a whole, were relatively high. Since Singapore fails to engage in much agricultural export trade, most of the action was in the EHP between China and Thailand. Previously, Thailand's average tariff rates on vegetables and fruits were 35.4 per cent and 32.4 per cent respectively, while China's was 11.8 per cent and 20.1 per cent (Oxfam, 2004, p. 8). Consequently, this motivated both sides to liberalise agricultural trade.<sup>110</sup> Between the start of the EHP, the value of Thailand's vegetable and fruit exports to China was just under US\$200 million, an increase of 54 per cent compared with the same period a year later. Similarly, China's export of fruit and vegetables to Thailand was US\$88 million, or an increase of 150 per cent from the same period (Oxfam, 2004, p. 8).

# 7.2.1 Customs Procedures

Since the conception of the EHP, there have been several problems with the trade agreement, which requires constant improvements. For example, Thai exporters found thorny complications in exporting agricultural produce to China, chiefly due to a wide range of recently introduced NTBs, such as stricter SPS measures and increased administrative burdens of export permits. Moreover, due to China's vast size there have been inconsistencies and misunderstandings between the centralised government and the

 <sup>&</sup>lt;sup>108</sup>ASEAN and China also signed pacts on agriculture and information communication technology, paving the way for Southeast Asian companies to gain greater access to the growing Chinese banking, information technology, real estate, health, engineering, education, transport and construction industries.
 <sup>109</sup> The scheme is 10% by 2004, to 5% by 2005 and zero tariffs on these products by 2006.

<sup>&</sup>lt;sup>110</sup> This consisted of live animals; meat and edible meat offal; fish and crustaceans, molluscs and other aquatic invertebrates; dairy produce; bird's eggs; natural honey, edible products of animal origin; live trees and other plants; cut flowers and ornamental foliage; edible vegetables and certain roots and tubers; edible fruits and nuts; peel of citrus fruits.

provisional authorities. The central government may have signed the trade agreement, but the provisional governors are the agents with virtually full control over the customs authorities in their provinces. As a consequence, some Thai traders have proclaimed that China has "opened their doors, but not their windows". There have been several occurrences where provisional customs officers failed to recognise Thai produce that qualified under the EHP, resulting in Thai agricultural produce being held in Chinese ports for weeks. As one Thai trade said:

> "Before exporting to China, Thai exporters need to look at China not as a whole country, but rather region by region, given the geographical differences in consumer behaviours and regulations in the mainland [China]".

In order to resolve this setback, the heads of the negotiating teams and the recently empowered Customs Departments met and created procedures for clearing customs more rapidly. As a result, the "Green Lane" was created to provide priority for goods from partner countries to clear customs faster. This procedure, which has not been incorporated into the signed trade agreement, has significantly facilitated the clearance of Thai produce in Chinese customs. Presently, Thai fruit and vegetables will be cleared within three days, whereas the process would have otherwise taken, at best, seven days. Chinese produce, prior to the introduction of the green lane, would take three to four days to clear, currently faces a delay of only 24 hours.

The physical presence of the green lane may have facilitated the flow of goods between China and Thailand. However, the method of reducing delay time in customs is not full proof, traders still face delays in certain provinces. In order to avoid such problems, both governments have also established a "hot line", a communication line between the governmental trade officials and the customs officers. If goods meet the health and safety standards requirements, but have been treated unfairly, the hotline can be utilised, where the counterpart must assist the facilitation of the goods in a smooth and predictable manner in accordance with the agreement.

The introduction of the trade facilitating methods between Singapore and Thailand has been so successful that it has resulted in some negative side effects for other ACFTA members. For example, Indonesia fruit exporters also face similar discriminatory obstacles. Most Indonesian fruit exports have sought the assistance of a third country, such as Thailand and Hong Kong, to bypass the discrimination from the Chinese customs. Consequently, other ASEAN members who failed to sign the EHP are attempting to circumvent Chinese Customs as well.

# 7.2.2 Health and Safely Standards

Similarly, the EHP also encountered problems relating to health and safety standards. The dispute on standards assisted Thailand and China to discover alternative approaches to resolve this predicament. Continuing with fruit and vegetables, all agricultural produce entering China must obtain import permits from the Chinese Administration of Quality Supervision, Inspection and Quarantine (AQSIQ).

Consequently, aside from delays from Chinese customs, there are also strict health and safety requirements for fruit and vegetables. To illustrate, during the initial stages of the EHP, Thailand's exports of longans, which accounts for 70 per cent of its fruit exports to China (Oxfam, 2004, p. 10), faced stringent health and safety rules regarding insecticide residue permitted in the fruit.<sup>111</sup> The mentioned regulatory rules resulted in lengthy inspectional delay that could end up taking 30 to40 days, depending on the province, resulting in Thai fruit rotting in Chinese customs offices.<sup>112</sup> A Thai trader interviewed for this thesis had the following warning for future exporters:

"Fellow traders who are thinking of exporting fruits to China, under the Early Harvest Programme, must study various factors, aside from consumer behaviours, which are different in every province, traders must also closely examine the health and safety regulations in difference province as well."

The tension created through this stringent inspection by Chinese officials resulted in formal discussion between trade officials. The end result was a MOU that facilitates Thai produce without sacrificing Chinese safety measures. Issued in May 2005, the MOU requires health and safety officials from both sides to inspect a portion of the partners' produce before it arrives on their home soil, once entered it must be free from further

<sup>&</sup>lt;sup>111</sup> According the Chinese regulation, the residue of sulphur dioxide in longan must not exceed 50ppm which is more stringent than most OECD countries.
<sup>112</sup> It must also be noted that in spite of Thai exporters' complaints about new Chinese NTBs, according to

<sup>&</sup>lt;sup>112</sup> It must also be noted that in spite of Thai exporters' complaints about new Chinese NTBs, according to the Thai Customs Department, the quantity of Thailand's longans exported to China has increased dramatically. The volume of fresh longans has doubled from 20,000 to 40,000 tonnes.

imspection at the borders.<sup>113</sup> In other words, the MOU allows Chinese officials to enter Thailand and inspect some of the produce before it is packed and shipped to China. After an inspection, Chinese officials will provide a certificate which permits Thai fruits and wegetables to enter China without further health and safely inspections. Recently, there has been a desire to limit the number of trips for Chinese officials. With the assistance from the Thai ACFS, some Thai farms were declared suitable for export without the frequent visits from AQSIQ. Chinese officials would provide a AQSIQ certificate for farms which follow the correct health and safely procedures. Currently only a handful of Thai farms can enjoy the AQSIQ certificate; and only a few types of fruit and vegetables are covered under the MOU.<sup>114</sup> Similar to Thailand's other PTAs with developed countries, the coverage is limited. Nevertheless, the aggregation will lead to a reduction of the time delay at the Chinese and Thai borders.

# 7.2.3 Industrial Standards

With respect to standards, similar problems prohibit Singaporean and Thai goods entering China freely. Standards for electrical products is an example which has yet to be resolved. According to Chinese regulations, all electrical appliances and automotive components must have the CCC mark in order to be deemed safe for the Chinese market. This requirement has caused dreadful delays for Singaporean and Thai exporters, mainly because the application process itself is very time consuming and the documents are only in Chinese. Moreover, from August 2005 the Chinese government has expanded the list of products which require the CCC mark to include solvent coating for wood ware, porcelain tiles and concrete mixtures. Currently, ACFTA members are struggling to find ways to resolve this problem. SPRING Singapore and the Thai National Standards Council aim to work with the Chinese AQSIQ to construct a solution. A probable solution is to create something similar to the MRA on conformity assessment, which was inspired by the Australia- Singapore PTA. This would enable an assessment of the manufactured products prior to export, and ensuring they conform to standards and legal requirements in China. Nevertheless, it is still a proposal and little progress has been made on this front.

<sup>&</sup>lt;sup>113</sup> Thailand was willing to accept this because it hardly had any SPS measures for prohibiting the importation of fresh fruits and vegetables. <sup>114</sup> Currently there are only five types of fruit that can enter the Chinese market freely: durian, longans,

<sup>&</sup>lt;sup>114</sup> Currently there are only five types of fruit that can enter the Chinese market freely: durian, longans, lychees, mangoes and mangosteens, however, the number will expand to 23 products; whereas Thailand provides a similar list for 31 types of Chinese produce.

#### 7.2.4 Domestic Institutional Trade Capacity

Interestingly, in both the ACFTA and the EHP standards, health and safety issues were hardly mentioned in the signed trade agreement, nor were they officially referred to as NTBs. Nevertheless, both sides were willing and determined to resolve regulatory barriers to trade. According to one trade negotiator, one of the key reasons why these barriers were not acknowledged as NTBs was because the multilateral system did not officially refer to them as NTBs. Another interesting explanation is that both parties did not want to classify certain methods as NTBs because they wanted to reserve these methods for future protectionist usage. Nevertheless, the willingness to tackle some NTBs at such an early stage is very encouraging and could be viewed as setting an example of best practice (Woolcock, 2003).

It is even more interesting to observe how the newly established regulatory agencies have become an integral part and played an active role in resolving regulatory trade problems. Agencies such as AVA and ACFS, were both in the negotiating team. Arguably these agencies have exerted forward forces by attempting to eliminate regulatory barriers to trade, whether it is the creation of the Green Lane, AQSIQ certification, or MRA on conformity assessment. Some of the solutions may not be novel; however, this could be the agencies' first attempt at tackling NTBs, without an industrialised trading partner imposing regulatory approaches. More importantly, these approaches should have lasting positive effects for future trade agreements.

Another vital group of actors which have played an integral part in tackling regulatory barriers to trade are the profit making NGOs. Their desire to penetrate the Chinese market has been a significant factor. Their active involvement, by reporting the NTBs they encounter, has played a vital role. As a Singapore negotiator urged, it is businesses that will make PTAs work. Without input from the business community prior and after negotiations, the government and negotiators would have no specific issues to negotiate.

Interestingly, much of the discussion up to now has been focused on the difficulties in exporting to China. However, the ACFTA was also designed to assist ASEAN importers who struggle with the flow of goods from China. On the domestic front, the massive flood of cheap Chinese produce has significantly lowered the price of goods, driving small-scale farmers out of the market. The interesting question is why has Thailand decided not to retaliate and erect NTBs of its own? A probable answer is the

desire to maintain the status quo. Despite suffering from Chinese imports, the business community, as a whole, are unwilling to mobilise against PTAs because they benefit from the trade agreement as well. The larger traders believe there is greater benefit for them, at the expense of the smaller farmers. Sadly, only with the aid of civil society will smaller producers be heard.

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Since the implementation of the EHP there has been extensive research by local and foreign NGOs calling for trade negotiators to be more prudent and considerate towards smaller producers, they have also called for a mechanism to protect the livelihoods of small local farmers, such as a social welfare system. Consequently, this has sparked NGOs to become more active and demanding towards trade negotiators, which has presented some positive effects, as governments have taken greater notice of NGOs. The forward force brought by NGOs has forced the Thai government to commission more feasibility studies on the effects of PTAs on small producers, and they have implemented a Structural Adjustment Fund to assist local businesses adversely affected by PTAs.

#### 7.3 ASEAN: A Case for the Temporary Movement of Persons

As discussed in chapter three, ASEAN begin its trade liberalisation in 1993, aiming to become a single market and production base for the free flow of goods, services and investments across the region, building on the three main pillars of AFTA, AIA and AFAS. ASEAN leaders aspired to accomplish a single market for the region by 2020, however, increasing competition from China and India prompted greater enthusiasm to speed up the process. In 2006, during the ASEAN Summit in Kuala Lumpur, the Malaysian Prime Minister claimed the region had little choice but to accelerate economic integration. According to the Malaysian Ministry for Trade, in 2005 FDI into ASEAN reached a record US\$38 billion, and this figure was forecast to rise if businesses could gain access to a single market of 530 million people. This prompted the Malaysian Prime Minister, Abdullah Badawi, to reiterate:

"If we do not hasten the creation of that regional single market, ASEAN may run the risk of losing its position as an important investment destination". As a consequence, economic ministers from all the ASEAN countries have laid down the nuts and bolts of an accelerated plan for an ASEAN Economic Community (AEC). They also reviewed the ongoing trade liberalisation in goods, and will push for the liberalisation of the services sector by 2015. Moreover, the economic ministers and academics believe the AEC should become a PTA-plus, as opposed to being just a regular customs union, by incorporating the free movement of factors of production, such as labour and capital (Hew et al., 2005, p. 307).

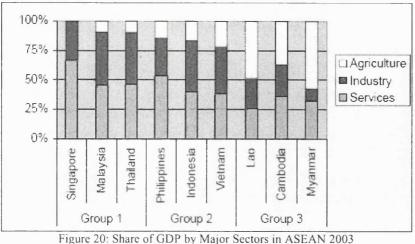
However, amongst academics and practitioners alike, there are doubts whether this goal can be achieved given the wide economic disparity, the trade disputes, and conflict of national interest amongst the ten ASEAN members. This underscores the difficulties ASEAN will confront in attempting to achieve a common market. This includes the need to harmonise a wide range of variables from trade facilitation to services and investment, including the temporary movement of persons, which will be the main focus of this section.

#### 7.3.1 Liberalising Services: Mode 4

The limitation of the AFAS stems from the little progress made in GATS. Without clear guidance from the WTO, there will traditionally be reluctance amongst ASEAN trade negotiators to define and push the liberalisation on trade in services. However, some policy makers are beginning to realise that:

"If there are no changes from the WTO, then offers from our trading partners will be small. Significant opportunities will be lost for both domestic reforms and better access to other markets."

The statement is becoming more accepted given the significant role of service trade in ASEAN economies. According to Figure 20 (Manning & Sidorenko, 2007, p. 1090), services accounted for about two-thirds of Singapore's economy, and the sector accounts for almost half of the economies of more populous ASEAN members, such as Indonesia, the Philippines and Vietnam (Manning & Sidorenko, 2007, p. 1089).



This is especially so in the area of service Mode 4, which is becoming a common position for the advanced developing countries. Generally, most developed countries are concerned that trade agreements that allow workers to move freely will lead towards permanent migration. However, others argue that this might not be the case for developing countries. Most of the workers in ASEAN are low and middle-range skilled workers who are not hired for the long periods that possibly lead towards permanent migration. Consequently, there is a possibility that an agreement could emerge for this mode of supply (Findlay, 2005, p. 189).

From the point of view of facilitating the movement of natural persons under AFAS, both Singapore and Thailand have limited concessions for business travellers from other ASEAN countries.<sup>115</sup> The AFAS schedule contains horizontal or crosssectoral commitments on Mode 4 made for intra-corporate transferees and business visitors. In other words, visa rules in Singapore and Thailand permit business travellers from certain ASEAN countries to enter the country without a visa. Similar concessions have been extended to Singapore and Thailand by other ASEAN countries like Malaysia, Brunei and Vietnam, which includes tourist visitors as well.

Thus, arguably there has been limited progress in the temporary movement of persons under AFAS. There are three closely related explanations for this. Firstly, most of the benefits for business executives have already been developed under the APEC Business Travel Card Holder scheme, where all ASEAN members benefit. ASEAN

<sup>&</sup>lt;sup>115</sup> In Singapore, there is an exception for Malaysian workers, who are exempted from paying the security deposit, which is not a significant concession given that the cost of repatriating a Malaysian worker across the border from Singapore is not large.

members consider this as major development for the temporary movement of persons and they are unwilling to liberalise further beyond this point.

Secondly, there has hardly been any development for Service Mode 4 in any inter-regional PTAs. Most of the comprehensive trade agreements, such as the SAFTA, merely confirm the commitments of the APEC Travel Card Holder scheme. As a result, there has been little impetus or incentive to push domestic governmental agencies to liberalise their intra-regional commitments further beyond the current system.

Thirdly, a new position amongst the newer ASEAN members is emerging. Some states no longer want the temporary movement of people to benefit only business executives and a few selected occupations. The newer ASEAN members prefer the facilitation on horizontal movement of persons to benefit all sectors. The demands to broaden sectors to incorporate a greater variety of occupations has not been welcomed by the older members. Consequently, negotiations on the temporary movement of persons within ASEAN has come to a halt, but much of the concentration is now focused on the other areas, such as the recognition of qualifications.

# 7.3.2 Recognition of Qualifications

More progress has been made in the recognition of qualifications in ASEAN. Several advanced developing ASEAN economies are eager to facilitate the movement of skilled and semi-skilled persons within ASEAN, because it is slowly becoming accepted as a vital part of their export in services trade.

For example, the ASEAN MRA on Nursing Services was brought up during the ASEAN Economic Ministers Meeting in August 2006, which was later signed in December that year. <sup>116</sup> Specifically, nurses registered with their home professional councils and with the appropriate work experience can gain a temporary registration certificate that allows them to practise in the receiving country. The nurses would be evaluated and placed under the supervision of the nursing council in the host country until the council grants an extension for the applicant. In other words, the MRA will permit qualified nurses from any ASEAN member country to apply for employment in other ASAEAN member states. Thus the professional body for nurses in Thailand, the Thai Nursing Council, would assess the quality of the Singaporean and other ASEAN nurses employed in Thailand.

<sup>&</sup>lt;sup>116</sup> Some ASEAN countries, such as Indonesia, have not yet established a professional council/board for nurses.

Originally, there were some concerns with this programme. As mentioned in chapter six, under the JTEPA, Japan offered to recognise the qualifications of Thai nurses if they wished to seek employment in Japan. However the Thai Nursing Council declined due to cultural barriers, and the negative impacts the programme would have on domestic hospitals. However, several policy makers dismissed the argument that scheme would lead towards such concerns. Within ASEAN, Singapore also has a shortage of nursing staff because Singaporeans are seeking employment in more high-end services. Consequently, the city state has pushed for the ASEAN MRA on Nursing Services. However, Singapore has to provide further programmes aimed at training nurses from CLMV countries to overcome non-regulatory barriers, such as language and cultural differences, which should assist the mobility of professionals in ASEAN.

Other professional qualifications have also recently been recognised in ASEAN, such as the MRA for engineers. In 2005, during the Coordinated Committee of Services, in the Working Group on Business, professional bodies for engineers, which included government officials and the Council of Thai Engineers and the Professional Engineering Board of Singapore, negotiated an MRA for ASEAN engineers. The MRA builds on the reciprocated recognition of qualified engineers from ASEAN states, individuals with a degree in engineering coupled with relevant work experience can apply for the same position in another ASEAN state. This is considered novel because professions such as engineering have traditionally been closed to foreigners. More importantly, this is an improvement beyond the regular multilateral agreements.

There are two motivational forces behind this MRA. A Thai trade official pointed out that the ASEAN MRA on engineers was a duplicate of an older PTA, specifically from the APEC MRA on engineers. The APEC version was already under negotiation, however, it never materialised due to limited support from the industrialised APEC members. Consequently, the initial blueprint from APEC was the motivational source behind the ASEAN version. Since ASEAN members already participated in the APEC negotiations, they merely continued from the blueprint and completed an intra-Southeast Asian MRA for Engineers instead.

The second motivation behind the MRA comes from the current PTAs. Both Thailand and Singapore are separately negotiating an agreement with Australia and New Zealand that will recognise qualifications for engineers. Moreover, Singapore has already completed an understanding with Japan for the recognition of engineers. Thus, Singaporean and Thai negotiators are equipped with experience and knowledge in negotiating intra-regional MRA for engineers, and this may have enhanced their understanding of what is required from such negotiations.

Other MRAs for professional qualifications are also underway. ASEAN leaders have proposed the end of 2008 as a target to complete MRAs for accountants, architects, auditors, landscape designers, and medical practitioners. Interestingly much progress has been made in the negotiations for architects, such that a completed agreement could be reached before the 2008 target. Furthermore, it must also be noted that Singapore already has an MRA with Australia for architects, and Thailand is currently negotiating the same topic with Australia. Consequently, the recognition of professional qualifications is becoming a serious subject matter amongst ASEAN members, but some of the motivation behind this can be attributed to inter-regional trade agreements.

# 7.3.3 Facilitating Trade

The facilitation of trade is a vital component in the success of the AEC. In 1997, ASEAN members signed the ASEAN Agreement on Customs, aimed to enhance customs cooperation and harmonisation of procedures. Thus ensuring consistency, transparency, and fair application of customs laws and regulation, procedures and other administrative guidelines within ASEAN member states. Moreover, in 2003, ASEAN members decided to include a customs classification system for ASEAN, referred to as the *ASEAN Harmonised System of Tariff Nomenclature* (ASEAN, 2003) fully implemented at the beginning of 2004.

These developments were established as part of the ASEAN Customs Vision 2020<sup>117</sup> (Hew et al., 2005, p. 305). Singapore and Thailand's customs departments aim to slowly introduce minor customs agreements that will eventually lead to the 2020 agreement.

# 7.3.4 Domestic Institutional Trade Capacity

There appears to be much development on the temporary movement of persons in the intra-regional ASEAN agreement. However, as appears from the previous chapters on inter-regional agreements, there have hardly been any developments in governmental agencies with respect to facilitating the movement of people. Singapore's International Relations Unit, under MOM, was established to oversee the evolution of this matter,

<sup>&</sup>lt;sup>117</sup> For further details see the Joint Press Statement on the Fifth ASEAN Director-Generals of Customs Meeting, Brunei Darussalam, 22-23 May 1997.

however, they have hardly played any vital role in the recent intra-regional developments. Similarly, Thailand's improvements in the Immigration Bureau and the one-stop service virtually played no role because it only serves as a facilitator, and they did not participate in the decision making process. Interestingly, in Thailand most of the intra-regional negotiations and decision making are centred on MOC, and have not been fully assigned to any particular ministry. As a consequence, there appears to be a parallel stagnation in the new governmental agencies involved and of further liberalisation under service mode 4.

One of the compelling explanations is the mixed feelings about further liberalising the movement of persons. This could be attributed to the fact that most ASEAN members, especially the newer members, wish to see the horizontal liberalisation of service mode 4 to include all sectors. This may have triggered the deadlock in the negotiations with the more advanced ASEAN members.

In contrast, the significance of the recognition of qualifications has rapidly risen. Previously, Singapore hardly paid any attention to the recognition of professionals, however, after signing several PTAs, it has rapidly become an accepted issue. Understandably, both governments in Singapore and Thailand realised that professional bodies were the best actors to judge whether competitors were sufficiently qualified and whether their standards meet domestic benchmarks. This places professional bodies, which have never been involved in trade issues before, right in the centre of the negotiations as well as the implementation and tracking quality assurance. The contributions from professional bodies in both Singapore and Thailand have become more open, a Singaporean trade officials suggest:

Once professional bodies begin to internalise the effects of the changing world, it is inevitable for them to initiate the liberalisation process as early as possible.

By becoming involved in the negotiating process, professional bodies can decide when the liberalisation should begin and on what terms. There are also business groups with limited desire to liberalise their professions, which can be observed from their notable absence from the process. Nonetheless the ones which have chosen to liberalise have played an important role in liberalisation and can be considered as forward forces. Some of the developments in the inter-regional PTAs have unclogged some of the unnecessary obstructions and cleared the path for domestic professional bodies to ease their protectionist stance, leading to future MRAs for engineers and nurses in their intraregional PTAs. Thus, forward forces, brought by the involvements of professional bodies are crucial due to their unique knowledge of their own profession in the economy. The involvement of professional bodies is required if there is to be any form of liberalisation of professions in both intra and inter-regional trade agreements. More importantly, it sets the scene for future liberalisation on similar fields.

Nonetheless, in order to achieve full integration, there needs to be harmonisation of domestic trade laws, which will result in changes in national legislation. Interesting in September 2006, members of ASEAN acknowledged for the first time the need to harmonise trade laws in order to achieve regional economic integration, but they also admit the complexities of achieving this ambitious goal, chiefly due to differences in legal frameworks. However, only by ironing out differences in their respective trade laws can ASEAN improve regional trade and security cooperation in the long run. The MRA on professional recognition is an example of harmonisation, and a vital ingredient for economic integration.

#### 7.4 Singapore Thailand Enhanced Economic Relationship

In 2002, ASEAN leaders agreed to explore the possibility of transforming ASEAN into an integrated AEC. However, ASEAN leaders also recognised that there is a disparity in the level of development amongst ASEAN members. As a result, they agreed to adopt the "Two plus X" approach, allowing two member countries that are ready to integrate in certain sectors to progress ahead. The first two countries eager to accelerate the economic integration process were Singapore and Thailand (Dent, 2006a; Hew, 2005).

This led Singapore and Thailand to deepen their economic cooperation by signing the Singapore-Thailand Enhanced Economic Relationship (STEER), promoting the idea of "one economy, two countries". The agreement envisages cooperation in many areas, including ways to facilitate trade, simplify customs procedures, promote investments, share resources and improve the regulatory environment for doing business.

STEER was motivated by globalisation forces and the rise of China. Furthermore, Singapore and Thailand believe such an agreement would create a positive demonstrative effect for other ASEAN states to follow suit, as argued by a Singaporean official: "STEER will not only drive greater economic cooperation between the two economies, it will also be a 'pathfinder' for greater economic cooperation within ASEAN as a whole."

It is hoped that STEER will propel ASEAN into a "one economy, ten countries" agreement. Some trade officials described the bilateral effort as "tango dance" which they hope will persuade other ASEAN members to step onto the dance floor.

However, this approach entails two problems. Firstly, if two members wish to accelerate their integration process, in practice, they would not require consensus amongst other ASEAN members. Secondly, if a third country wishes to join the lead countries, they will be bounded by the first movers' agreement, assuming the latecomers do not devise a divergent path of their own. As a result, some academics have voiced concern whether such an approach would converge or diverge ASEAN integration (Dent, 2006a; Hew & Sen, 2004).

Nonetheless, in November 2005, 12 MOUs were inked under STEER, four were government-to-government agreements, which includes investments for infrastructure, human resource developments for civil servants, facilitation of labourers, and the facilitation of agricultural produce, including a joint SPS agreement. The remaining seven were business-to-business pacts, this includes investment projects towards the development of: agricultural products, the automobile industry, finance,<sup>118</sup> tourism, logistics and transportation,<sup>119</sup> SMEs, and other joint ventures between Singaporean and Thai enterprises for investing in third countries.<sup>120</sup> Some of them have contributed towards facilitating trade and the movement of persons.

# 7.4.1 Health and Safety Standards

An example of reducing regulatory barriers in goods under STEER is the recognition of regulatory standards on export of processed food, such as processed pork products.<sup>121</sup> Under the framework of STEER, the Department of Livestock Development and AVA

<sup>&</sup>lt;sup>118</sup> Such as creating greater links between the Stock Exchange of Thailand and the Singaporean Exchange

Ltd. There are also future plans to link both stock markets together and launch a SET50 futures contract. <sup>119</sup> For example, the logistical development aims to create a freer flow for cargo and improved maritime operations within a year. <sup>120</sup> With specific focus on the Pearl River delta in China and the Greater Mekong sub-region.

<sup>&</sup>lt;sup>121</sup> Formally the agreement is known as "the MOU on the export of processed pork products between Thailand and Singapore", which mainly includes the export of pork dumplings, pork sausages, ham, pork buns and bologna sausages.

closely worked with Thailand to establish the food safety requirements and procedures for the export of heated processed pork products between the two nations.

Normally, countries wishing to export processed pork to Singapore must conform to AVA's standards and domestic legal requirements. However, under the MOU, similar to the EHP, AVA will visit processing establishments in Thailand to assess their food safety assurance programmes and sanitary standards. This method will reduce the risks, time delays and costs associated with regulatory approvals in the importer's market, and it will also minimise the risk and cost for exporters.

Both countries saw the agreement as mutually beneficial because Singapore is a food-import dependent country, while Thailand is a major food exporter. Thus, the MOU was primarily composed for this purpose, bestowing a greater onus on Thailand. Thai negotiators were willing to accept this because it was seen as a means for increasing Thai food standards for exporters. Nevertheless, the MOU on heat processed pork products is merely the beginning of a broader and deeper relationship between Singapore and Thailand on the import-export of food, an area in which both countries can work together for mutual benefits.

#### 7.4.2 Temporary Movement of Persons

Aside from the recognition of standards, there have been developments in the temporary movement of persons as well. The two Southeast Asian nations have agreed to cooperate and find means of attracting travellers. STEER's tourism promotion programme aims to attract one million tourists, especially from China, to visit ASEAN destinations. As a result, they have simplified the travelling procedures for both tourists and business travellers, by introducing a single visa entry for both Singapore and Thailand. The development means that non-ASEAN members who would normally require visas when entering Singapore or Thailand, are now permitted to continue their journey into the other country without the need to apply for a new visa. This limits the need for travellers and business persons to reapply for a visa, as well as promoting a more conducive and facilitating environment for investors.

During the signing ceremony of STEER, Thailand's then minister responsible for trade, Dr Somkid Jatusipitak, declared:

"such a joint initiative would be a showcase for other members of ASEAN and inspire them to join Singapore and Thailand for deeper integration".

The free movement of people is one of the key components for economic integration which will bring Singapore and Thailand a step closer to the AEC. Moreover, both governments have established a special team to examine and prepare the necessary details and legal requirements for creating a single visa for all ASEAN countries.

#### 7.4.3 Recognition of Skills

STEER also facilitates the movement of persons by including an agreement on jointly setting labour skills standards. The agreement paves the way for Singaporeans and Thais who desires to work in the partner country to take a job skills test in their own country, instead of completing the test in the partner country. The previous procedure was considered very cumbersome because applicants who failed the test in the partner country would be forced to return home, at their own expense. Furthermore, aside from the guaranteed travel arrangements and the eligibility to work in the partner country there are plans to allow workers who have passed the jobs skills test to be treated as a domestic worker in the partner country. For example, a Thai worker who is qualified to work in Singapore will be entitled to full welfare benefits under Singaporean law.

This agreement was created because there are currently more than 50,000 Thai workers in Singapore. Most of the workers involved are in unskilled and semi-skilled occupations. As a consequence, both Thailand and Singapore agreed to change their domestic laws and cooperate in developing occupational skill standards for their workers, especially Thai workers. The agreement thus paves the way for Thailand to increase the export of semi-skilled workers to Singapore, especially qualified cooks and spa-workers, coinciding with Thailand's "Kitchen of the World" programme. The agreement also permits some IT-oriented labour to enter Thailand and promotes technological and knowledge transfer.

Simultaneously Thailand and Singapore also created a MOU on education and cultural exchange promotion. The education agreement includes an exchange programme for language teachers at secondary and tertiary education levels. During the signing ceremony, the Singaporean diplomat Chan Heng Wing claimed:

"Singapore has always recognised that education and worker training is the key to our development, and Thailand has also recognised this fact. That is why we laid great store on cooperation in education and training."

More importantly, the MOU also encourages students and teachers under the programme to achieve a recognisable qualification that allows them to work in the partner country. This will allow Thais transferred to Singapore to be automatically qualified to work in Singapore.

# 7.4.4 Domestic Institutional Trade Capacity

The "one economy, two countries" approach towards ASEAN economic integration, propelled by Singapore and Thailand, appears to have ignited some small economic integration projects, however, they are very weak because they are non-binding MOUs, and the coverage is limited to a number of products. Nevertheless, these are the first infant steps which could become a blueprint for the wider AEC.

Nevertheless, to enable the MOUs to reach this far has required a lot of negotiation and coordination between the two economies. From the three cases above, the main players in negotiating and implementing process, aside from the ministries responsible for trade, have the new governmental agencies which have recently been empowered during the inter-regional PTA negotiations. The recently established Singaporean AVA and the Thai ACFS, for example, have been working together to formulate an agreement for processed food, as well as examining the quality and safety of the food products in the partner's country before export. This cements the claim that new agencies created from inter-regional agreements have become forward forces in both the negotiating and procedural implementation. Other government ministries, such as the Singaporean International Relations Unit, and Thailand's Immigration Bureau, have also become directly involved with the creation of the new ASEAN visa project.

Other domestic variables have also been encouraged to play a role in the integration process as well. As the Singaporean Minister for MTI suggested: the economic integration of Southeast Asia should not only be driven top-down, it should also be pushed from bottom-up. Generally politics moves slower than economics, and there are always groups opposed to change. As a result, the business sector cannot always rely on the government, ASEAN businessmen should organise themselves and play a

greater role in pressuring their political leaders to move faster. STEER is an example where the business community moves faster. Although STEER is a government led programme, the agreement tilts in favour of the business community; seven of the 12 MOUs were mainly investment and cooperation projects between the business sector. Why have local businesses welcomed this change? Singaporean businesses are keen to invest in new ventures; whereas Thailand welcomes the injection of foreign money and exchange of knowledge.

Nevertheless, more could still be achieved under STEER. Despite the ambitious development to move ahead of the other ASEAN members, the agreement, especially on the government side, remains limited. As one academic comments, the partial reason for the lag in the government MOU can be attributed to the limited willingness to deepen integration, without consent from other ASEAN members (Hew, 2005).

#### 7.5 Conclusion

The previous chapter illustrated that signing inter-regional PTAs has enhanced Singapore and Thailand's institutional trade capacity. Arguably, PTAs have provided the two Southeast Asian countries with a more structured negotiating capacity and experienced government officials and created governmental agencies which oversee the elimination of regulatory barriers to trade. This chapter has attempted to demonstrate how the newly developed institutional trade capacity, from inter-regional PTAs, serves as a platform for Singapore and Thailand to further develop their own intra-regional trade arrangements.

This will be illustrated in the institutional trade capacity framework table below. Unlike previous tables, the second column recalls some of the key institutional developments from inter-regional PTAs, whereas the third column explains the intraregional developments; thus, acting as a summary of the findings in this chapter. However, since some of the intra-regional agreements were conducted at roughly the same time as inter-regional agreements, as a consequence, some of the institutional developments had not gained enough time to project any forward or backward forces to intra-regional PTAs.

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Area of Impact	Domestic Development from Inter-regional PTAs	Developments in Intra- regional PTAs
Negotiating Capacity		· · · · · · · · · · · · · · · · · · ·
	Singapore: recruited new negotiators. Thailand: outsourced to other ministries	New negotiators and agencies participated in all intra-regional PTAs
Coordination		
Within ministries	Singapore: none Thailand: creating or assigning new departments.	No significant contributions made.
Between ministries	Singapore: FTA Fund Thailand: ISTA	No significant contributions made, but negotiators believe communications from previous trade negotiations played a more important role.
NGO Consultation		
Academic institutions	Singapore: No change Thailand: called to provide assessment on marginal parts of society.	No academic report on the impact of marginal segments of society. Mainly because the changes came in too late.
Business society	In both Singapore and Thailand, greater contributions came from the business community, and professional bodies.	ASEAN: MRA for engineers and nurses STEER: developed Singapore- Thai visa. STEER: includes cooperation between business
Non Profit agencies	Singapore: no change Thailand: FTA Watch	ACFTA saw limited movement from NGOs protesting for marginalised farmers.
Implementation		
Judicial and legal system	Several changes were bought into Singaporean and Thai laws, from ROO, and transparent means of customs procedures to allow foreign professionals to work.	<ul> <li>ACFTA: Singaporean and Thais see greater transparency in their own customs authority.</li> <li>ASEAN: as part of ASEAN Customs Vision 2020, improvements in ASEAN customs.</li> <li>STEER: development of a Singapore-Thailand visa.</li> </ul>

Procedural and establishing new agencies.	Singapore: International Relations Unit, AVA, SPRING were established Thailand: National Standards Council, one- stop-service were established.	ACFTA: creating, "green lane", AQSIQ certificated farms, Moving forward to creating a MRA on conformity assessment STEER: MRA process food.
Creating New Trade Strategy		
	No significant change	Due to success of visa programme, STEER aims to develop a single ASEAN visa. There are aims to explain STEER to other ASEAN members.

Table 6: Institutional Trade Capacity Framework on intra-regional developments

Beginning with the negotiating capacity, Singapore recruited several new trade negotiators and Thailand outsourced its negotiating power to more relevant ministries. This projected forward forces to the intra-regional developments, which includes new governmental and non-governmental agents in the negotiation process. The new governmental agencies, such as AVA and ACFS, played major roles in developing novel approaches in improving trade facilitation to China. Non-governmental agencies, such as the professional bodies, have also become involved in the ASEAN MRAs. This illustrates how important new agents have become, especially when compared with ASEAN's previous negotiations, which did not include such trade issues and most of these new agencies.

Interestingly, for Singapore, governmental agencies have recruited several new lawyers, who will become the new breed of trade negotiators. However, it is surprising to discover that most of Singapore's intra-regional trade agreements have resulted in MOUs, instead of more legal binding agreements. One of the possible reasons behind this is that Singapore's trading partners, including Thailand, were reluctant to commit with legal binding agreements. Another possible point is because Singapore and Thailand did not seek to sign binding agreements that would prevent third parties from joining. Alternatively, this may also be a cultural phenomenon for Asian countries. More of this will be discussed in the subsequent chapter. Regarding coordination, several developments resulted form inter-regional PTAs, such as Singapore's FTA Fund, Thailand's ISTA, and new governmental departments designed to coordinate within ministries. However, it has been difficult to capture whether the FTA Fund or the governmental department have played any significant coordination role in the recent intra-regional PTAs. The reasoning behind this could be attributed to the recent rise of the department and funds, which may require more time to reach their true potential. Nevertheless, most trade negotiators believe the frequent interministerial meetings during inter-regional PTAs have helped negotiators discover and understand other ministries faster than previous encounters. They believe the regularity of their meetings has played a more significant role in cementing their cooperation and coordination.

On consultation, Singapore and Thailand have not truly introduced any new procedures with academic consultation. Policy makers have expressed the desire to hire academic consultants assessing the effects of PTAs on marginal segments of society. However, this idea emerged after the EHP between China and Thailand, when Thai farmers were coping with the floods of cheaper Chinese produce into the Thai market. Unfortunately, Thailand's remaining intra-regional PTAs, ASEAN and STEER, were focused on industries, rather than agriculture, thus failing to provide evidence that Thai policymakers have learnt from previous experience.

Inputs from the business community, on the other hand, have been in abundance. Since inter-regional PTAs, the possibility of greater competition has forced several business groups to become more vocal. Some still lurk behind the curtain of regionalism, which reflects the backward forces. Some business groups from the older ASEAN members have prohibited further liberalisation of the temporary movement of persons beyond corporate executives, this also registers as a backward force. However, some seek to embrace regionalism and the desire to expand their business, as observed under STEER, which contains more private sector cooperation than cooperation between governments.

More importantly, the introduction of professional bodies has been the greatest contribution. They have been integral in the creation of the ASEAN MRA for qualified engineers and nurses, and the possible introduction of other professions as well. Traditionally professional services has been a closely guarded sector, in both Singapore and Thailand. Commentators have argued that in ASEAN the stumbling bloc for further liberalisation has chiefly come from interest groups (Bowles & MacLean, 1996; Hew,

2005, p. 7; Stubbs, 2000). However, interest groups which were previously hostile to liberalisation are currently more willing to liberalise. This is very apparent in both Singaporean and Thai professional bodies. Some have adopted an abrupt change in attitude towards trade liberalisation and regionalism.

By bringing the entrenched professional bodies into the process of inter-regional negotiations, they have reduced the frictional cost associated with trade barriers. This has loosened the tightly screwed jar of protectionism; once they have become involved, interest groups are more willing to discuss similar issues with other countries, including intra-regional agreements; thus illustrating a case of forward force. Some scholars argue that PTAs can actually lay the basis for promoting openness. In Oye's view, discrimination stemming from preferential arrangements can mobilise and strengthen the politics of export-oriented and anti-protectionist interests, thereby generating domestic pressure to accept agreements that expands access to partners' markets. Such agreements, in turn, are likely to contribute to more openness (Oye, 1992, pp.143–4). Thus, the forward force brought both professional and industrial groups into the process, provides another form of reducing institutional cost, which smoothens the way for similar issues on professional qualifications to be negotiated at the regional level.

With respect to NGOs, during inter-regional PTA negotiations, Singapore did not experience any civil society movements, whereas Thailand saw the creation of FTA-Watch and other civil movements. However, Thailand's experience during intra-regional PTA negotiations was very different – initially there were hardly any movements from NGOs, but given time there were movements against ACFTA, but not for the other intra-regional projects.

This begs an interesting question on why civil movements have been active and vocally hostile towards inter-regional PTAs, but almost silent during intra-regional PTAs. There are several reasons behind this: firstly, there are less fears from intra-regional PTAs because the agreements are chiefly MOUs, so they are not considered legally binding. Furthermore, unlike inter-regional agreements, intra-regional agreements did not touch on contentious issues, such as intellectual property rights, which affected public health services. Secondly, provisions relating to regulatory barriers to trade were only concluded after the signing of the main agreement. For example, ACFTA concluded the Agreement on Goods, but the "green lane" was only conceived afterwards. As a result, some NGOs were completely unaware of the additional agreements. Thirdly, NGOs did oppose some intra-regional PTAs, however, this only occurred after some time lag. For

example, in the EHP between China and Thailand, NGOs did not foresee the negative impacts on small scale local farmers, since they were more concerned about PTAs with industrialised economies. Only after the negative result on local producers did NGOs became highly vocal. Overall, local NGOs, at least in Thailand, were silent because they were in the dark. Furthermore, they were more concerned with countries that have greater leverage power, and agreements which could significantly change sensitive domestic issues. Thus, NGO's could be considered as providing backward force because they lead countries towards less liberalisation.

On legislative implementation, inter-regional PTAs brought some changes in Singapore and Thailand's legal systems. PTAs provided the possibilities to review existing laws on trade facilitation and the movement of persons. In both Singapore and Thailand, some domestic laws have not been reviewed for decades, but inter-regional PTAs which tackle certain domestic regulation gives civil servants the opportunity, not only to insert new laws from the PTA, but the possibility to revise the existing laws that were outdated.

The electronic customs system, which bought greater efficiency and speed in clearing customs have also had a positive effect in reducing the possibility for corruption. Some of these developments were also been introduced in their intra-regional PTAs as well. Currently, since the introduction of the green lane, Thai customs are able to clear qualified Chinese produce at much faster speed. More importantly, the confidence in the Singapore and Thai customs departments has raised their credibility such that other ASEAN members are willing to use Thailand as a platform for exporting their products into China. Furthermore, Singapore and Thailand's customs departments have become significant players in their countries' trade negotiations, and they have played a significant role in pushing the ASEAN Customs Vision 2020 agreement, by regularly introducing minor agreements to keep the momentum rolling.

Most of the intra-regional developments, between South-South countries, have materialised in the procedural implementation. Much of the inter-regional developments involve the development of domestic agencies and procedures, such as Singapore's AVA, the International Relations Unit, SPRING Singapore; and Thailand's National Standards Council, one-stop visa service, and ACFS. The mentioned agencies have played a positive role in intra-regional PTAs, thus, reinforcing the fact that the developments from external PTAs outside the region has assisted domestic institutional developments to adopt similar patterns in their own intra-regional trade agreements. For example, the EHP between China and Thailand encountered several problems on trade facilitation. Governmental agencies, such as the Thai Customs Department and the newly formed ACFS devised ways of improving trade facilitation to China, such as the green lane and the AQSIQ certified farms. Similarly, SPRING Singapore and Thailand's National Standards Council still aim to facilitate export of industrial goods into China, by aiming to establish a MRA on conformity assessment with the Chinese AQSIQ. Similarly, in STEER, AVA and ACFS have created an MRA on processed food. Overall, governmental agencies were developed when Singapore and Thailand were negotiating their inter-regional PTAs; currently, they are capable of carrying out their duties in a constructive manner and seeking alternative solutions in their intra-regional agreements.

Finally on new strategies, from previous chapters, inter-regional PTAs failed to inspire changes in Singapore and Thailand's trade policy. Nonetheless, intra-regional PTAs have inspired Singapore and Thailand to adopt new strategies, but they are unrelated to inter-regional PTAs. Firstly, the success of the Singapore-Thailand visa, permitting business travellers to enter both countries with one document under STEER, has prompted both countries to aim for an ASEAN-wide visa that should promote regional tourism and facilitate the movement of business people within ASEAN.<sup>122</sup>

Secondly, there are plans to expand STEER by introducing similar agreements into the region. In 2006, Singapore signed the Framework Agreement on Vietnam-Singapore Connectivity. The agreement aims to be an economic road map to encourage cooperation in trade and services, investment, education and training, technology, finance, and transportation, thus boosting bilateral trade between Vietnam and Singapore. Consequently, this has encouraged Singapore to push agreements such as STEER, and the Connectivity, with other ASEAN members, as a means of pressuring them forward to achieve the AEC.

Overall, there have been concerns from scholars whether PTAs complement the ongoing economic integration process in ASEAN (Sally & Sen, 2005, p. 108). However, from a timeline perspective, most of the recent developments in the intra-regional PTAs were created after the signing of, or in parallel with, the inter-regional negotiations. This

<sup>&</sup>lt;sup>122</sup> In December 2007, Thailand and Cambodia signed a single visa agreement enabling visitors to use one visa for the two countries. The pact is a pilot project under the Ayeyawady-Chao Phya-Mekong Economic Cooperation Strategy. The joint development scheme includes Cambodia, Laos, Thailand and Vietnam, which aims to achieve the "Four countries, One Destination" initiative.

chapter aims to show how inter-regional PTAs caused Singapore and Thailand to enhance their instructional trade capacity. PTAs have also introduced deeper integration approaches for Thailand and Singapore that suit their intra-regional PTAs. Moreover, from the domestic institutional framework, it seems natural to believe there exists a link between the inter-regional PTAs and how it affects intra-regional outcomes. However, this chapter does not argue that the perception on liberalisation has changed as a result of the inter-regional PTAs; it would be stretching the story too far given that only a few sectors have been liberalised in intra-regional trade. Moreover, not all deeper integration issues from inter-regional agreements were carried forward to the intra-regional track; illustrating how Singapore and Thailand are still selective in the sectors they aim to liberalise.

Nevertheless, inter-regional PTAs have assisted Singapore and Thailand to build their domestic institutional trade capacity to find their own means of tackling NTBs, even if it is not full liberalisation, it is better than no liberalisation at all. However, this leads to an interesting question, what are the implications of the findings from intra-regional integration? This issue will be dealt in the final chapter.

# 8 Chapter VIII Conclusion and Implications: An Alternative Route towards Regional Integration?

The sustained well-being and vibrancy of East Asia also depends on its links with the other parts of the world... Lee Kuan Yew, Minister Mentor of Singapore<sup>123</sup>

# 8.1 Introduction

Prior to this chapter, the thesis has provided a narrative in the evolution of Singapore and Thailand's PTA policies. Much of the narrative emphasised facilitation of trade and the movement or persons. The differing chapters were tied together through a thread, which argued that Singapore and Thailand's inter-regional PTAs with industrialised countries improved their domestic institutional trade capacity, providing them with knowledge and experience to formulate their own strategies and implement similar regulatory policies in their own intra-regional PTAs. Consequently, given the findings, this chapter aims to discuss the implications for regional economic integration, by applying the regional PTA integration framework outlined at the end of chapter two. Thus it elaborates the primary question of the thesis, the reinforcing relationships between preferential trade agreements and domestic institutional capacity related to trade.

This chapter also aims to address the three inter-related questions posed in the introductory chapter. This includes the question of how PTAs influence domestic institutions. Why have both Singapore and Thailand been able to complete more comprehensive intra-regional PTAs than their regional neighbours? and does this lead towards an Asian regional PTA model? Furthermore, this chapter aims to provide a conclusion as well as implications for the multilateral trading system.

This chapter is divided into two parts. The first objective is to demonstrate how the empirical observations from the previous chapters, especially on the facilitating trade and the movement of persons, fits together with the institutional trade capacity framework and the deeper regional PTA integration framework. Moreover, this section

<sup>&</sup>lt;sup>123</sup> (Honorary doctorate speech at Korea University, Seoul)

will expose the limitations of both analytical frameworks, as well as the methodological weaknesses, thus, refining, discarding, and supplementing the analytical framework; ultimately providing a better understanding of international trade and regional PTA integration. More importantly, this will be used to discuss the hypothesis of the thesis.

The second objective is to discuss the multilateral dimension of the research. However, given the limited empirical evidence of Singapore and Thailand's position at the multilateral negotiations, due to the stagnant multilateral trade talks,<sup>124</sup> there is no evidence to support claims at the multilateral level. Consequently, this section aims to take a step back and illustrate how the findings of this thesis contribute to the traditional debate on PTAs, namely the implications of regional and bilateral PTAs on the multilateral trading system. The influence towards the multilateral system can be broken down into two differing forms: Firstly, since bilateral PTAs have influenced countries' behaviours towards deeper integration, by providing experience to negotiate and implement WTO-plus, would this change countries' perspective on trade policy making at the multilateral negotiations? Secondly, since PTAs also affect regional outcomes, would the dynamic at the regional level affect the multilateral level?

As a consequence, the outline of the concluding chapter will be as follows. The first section will elaborate the analytical frameworks by applying the empirical findings of the previous chapters, and exposing the weakness of the model, in order to refine the framework. The second part will attempt to expand the findings from the previous chapters, both from an individual country a regional bloc perspective, to provide some contribution to the literature and implication for the future of the multilateral trading system.

# 8.2 Findings and Revisiting the Analytical Frameworks

Much of the literature on PTAs aims to discuss the interaction between the multilateral and PTAs, and whether they are building blocs or stumbling blocs. There has been little discussion on the influence of PTAs on domestic factors in countries; this thesis's contribution to the literature is to address the mentioned question by providing a detailed narrative and analysis on the interplay between PTAs and the domestic mechanism.

<sup>&</sup>lt;sup>124</sup> According to the WTO, Singapore and Thailand have recently made revisions in their multilateral trade negotiations from 1996, however, the two countries have chosen not to disclose such information to the general public.

This thesis has employed two analytical frameworks in order to illustrate the two level playing field in detail. The first is the Institutional Trade Capacity framework, utilised to observe and measure the improvements in institutions which may have resulted from comprehensive PTAs, in other words it explains how external forces affect domestic dynamics. The second is the Deeper Regional PTA Integration framework, which aims to illustrate how PTAs with deeper regulatory provisions could assist the development of regional PTAs, thus explaining the international dynamic. This section will observe both analytical frameworks' weaknesses and clarify their positions.

#### 8.2.1 Institutional Trade Capacity

The institutional trade capacity framework, employed in all the empirical chapters, shows how domestic institutional capacity related to trade, both at the micro and macro level, has changed since Singapore and Thailand engaged in PTAs. The framework also explains the first interrelated question of the thesis: how can PTAs influence domestic institutions? This can be observed from the forward and backward forces which supplement the framework. However, there are certain limitations in this framework which need to be addressed.

Firstly, an underlying weakness of the institutional trade capability framework, which affects all five areas of impact of the framework, is the degree of uncertainty about whether the changes in domestic institutions were a result of PTAs. It is difficult to say with complete certainty whether the developments in domestic institutional capacity were a result of the case study countries' involvement with PTAs. In the case of Thailand, without the introduction of comprehensive PTAs, it is questionable whether new regulatory agencies and participation from the business community would have risen. In the case of Singapore, it is debateable whether the city state was already converging towards greater institutional trade capacity development without the aid of PTAs. This logic is cemented when we realise that the multilateral track is in a deadlock, thus there are no motivational forces to push Singapore and Thailand's domestic institutions to progress towards this level. Thus, in the absence of deepening in the multilateral negotiations, inter-regional PTAs have triggered and accelerated Singapore and Thailand's path towards developing domestic institutional capacity.

To raise a few examples, during the interviews, several Singaporean officials reiterated plans to create regulatory agencies, such as AVA or SPRING Singapore, before Singapore engaged in PTAs. However, most of these agencies were fully operational after the signing of the ANZSCEP. A specific example is the incorporation of existing regulatory departments in Singapore into AVA after its birth.<sup>125</sup> Conceivably Singaporean policy makers may have developed further understandings from ANZSCEP and embraced some of those lessons into their regulatory agencies before engaging in further trade agreements. Another example is Singapore's stance towards the liberalisation of financial services. Many Singaporean trade negotiators were aware that financial liberalisation plans existed, however, few knew the details of this plan. It was only after signing the USSFTA, that Singapore's financial liberalisation plans came into existence, thus combining the acceleration of domestic institutional developments. Coupled with the sufficiency in the timeline, it is possible to argue that PTAs have influenced the formation and composition of Singapore's domestic institutional capacity. Unfortunately, the difficulty lies in measuring the degree of influence PTAs have on domestic institutional capacity.

The second limitation of the institutional trade capacity framework is whether any additional areas of impact can be included into the five areas of impacts. One of the areas of impact that was purposely excluded is the observation of remedies when parties enter a dispute. The discussions in the previous chapters include informal remedies, which was under the implementation row, this includes the hotline in the EHP between China and Thailand. However, there has been no discussion on formal procedures when a dispute requires arbitration. Both Singapore and Thailand have adopted similar templates of dispute settlement procedures in most of their PTAs, namely international arbitration; however, most of the PTAs studied are still in their infancy, as a result, there are limited number of disputes to report.<sup>126</sup>

Conversely, from the five areas of impact there appears to be scope to drop one impact. The fifth area of impact, which is the development of new trade strategies as a result of PTAs, is a possible candidate. Despite changes in both facilitating trade and the movement of natural people, there have been no dramatic changes in the case study countries' strategies, illustrating a case for dropping this area of impact. Nevertheless, there is also a reason to preserve this variable because it illustrates that PTAs do not act as a driving force for further liberalisation. In the institutional trade capacity tables, it can

<sup>&</sup>lt;sup>125</sup> When AVA incorporated the Food Control Division, from the Ministry of the Environment, AVA became responsible for regulating the safety of fresh as well as processed foods. This illustrates that they have learnt from their counterparts on how to reduce the overlap of regulatory agencies under one roof. <sup>126</sup> So far, there is just one dispute between Australia and Thailand, which was resolved through informal remedies, through the mediation of government ministers and the customs department.

be seen that both countries have merely maintained the same trade strategies after signing inter-regional PTAs, suggesting that countries sign PTAs only in areas in which they have a competitive edge, and excluding the possibility for further liberalisation. This reinforces the arguments of opponents of PTAs who believe they are merely quick-fix sectoral deals, where politically sensitive sectors in goods and services are carved out (Sally, 2006, p. 308). The strategic variable may expose a critical weakness of PTAs, however, this only represents the macro picture of PTAs. There are other domestic institutions to consider, such as creating stronger governmental agencies, corporation and consultation from non-governmental actors. Moreover, other domestic institutions have adopted the forward force of "rule making rather than rule taking." (Birdsall & Lawrence, 1999, p. 139) instead. This can be observed in their intra-regional PTAs, which resulted in a slight change in strategies involved, such as the single visa programme.

To summarise, from the previous case study chapters, there are instances where PTAs have influenced domestic factors in the economy. Thus, the institutional trade capacity framework has answered the first interrelated question on how PTAs influence domestic institutions. The framework allows us to pin-point changes in the domestic system brought by PTAs. It illustrates that PTAs infiltrate the domestic system though the trade negotiating team, which then spreads to other governmental agencies, employing more legal experts into the negotiating team, providing more financial funds for the interministerial coordination, and bringing government departments traditionally not directly involved in international trade to the negotiating table. Moreover, PTAs do not merely influence governmental agencies, in Thailand, the comprehensive nature of PTAs has raised awareness amongst businesses of the inevitable future, accelerating their involvement in international trade making. Likewise, NGOs have become a familiar face at trade negotiations, having constantly pushed governments to adopt a more transparent procedure before signing international trade agreements.

## 8.2.2 Deeper Regional PTA Integration

The second framework is the deeper regional PTA integration framework, which can be employed to explain how signing deeper integration trade agreements can facilitate developing countries' ability to sign future trade agreements with deeper integration provisions. Moreover, this framework also aims to answer the second interrelated question of the thesis: why have Singapore and Thailand been able to accelerate their PTAs, especially their intra-regional PTAs, more than their Southeast and East Asian neighbours?

Recalling some important facts about the framework, firstly, the framework represents a particular policy area, rather than the entire trade agreement. The vertical axis of the matrix determines the strength of the institutions involved in a particular policy area, such as the temporary movement of persons, rather than the strength of the entire case study country. Moreover, it might be misleading to argue that because Singapore was one of the original Asian Tigers, she has a more "robust state capacity", unlike the second generation Newly Industrialised Countries (NICs), such as Thailand (Weiss, 1997, pp. 4-5). From the evidence in chapters five and six, arguably Singapore's institutional trade capacity is more developed relative to Thailand, but only in some areas, such as the city state's advanced customs procedures. However, there are some policy areas in which Singapore was equally as weak as Thailand, such as the recognition of qualifications of professionals, both countries have never undertaken any liberalisation on this front before. As a result, when discussing the strength of a state's institutions, it must be observed under a particular policy for those provisions before.

The horizontal axis of the matrix discusses the options states have for conducting bilateral PTAs. The left side of the horizontal axis are states which have signed PTAs with deeper integration provisions; whereas the right hand side are states agreeing shallow integration provisions. Consequently, after signing the trade agreements, the matrix will yield four possible dynamic path, each with differing scenarios for regional economic integration.

Initially, the signing of PTAs with deeper or shallow integration provisions varies according to the states' domestic institutional capacity. Starting on the bottom right corner, the signing of PTAs with weak provisions could be a result of government's low domestic institutional capacity, permitting some governments to sign only shallow agreements. On the contrary, on the top left corner, some countries initially have developed domestic institutional capacity, which allows them to sign trade agreements with deeper integration provisions (Hamilton-Hart, 2003). The top right corner is for states with strong domestic institutions that have signed bilateral PTAs with weak or shallow integration provisions. It should be safe to assume that thanks to their strong domestic institutional capabilities, regardless of the level of commitments in their PTAs, these states have the ability to engage in deeper integration, depending on domestic

factors. Finally, the bottom left corner represents states with weak domestic institutions, but they have signed PTAs with deeper liberalisation provisions. It is possible to hypothesise that the signing of PTAs with strong provisions could reinforce change. PTAs with deeper provisions may induce more forward, than backward, forces; thus enhancing domestic institutional capacity to better coordinate and create clearer policies. More importantly, these institutional developments could also lead to a higher quality of future trade agreements, including regional trade agreements.

# 8.2.2.1 Filling in the Gaps

After reviewing the theoretical aspect of the analytical framework, it is time to supplement the framework with some empirical evidence, under Figure 21 below. This section will aim to fill the gaps of the four possible outcomes in the framework with the empirical findings from the previous chapters.

		Inter-Regional (Bilateral) PTAs	
		Deeper Integration	Shallow Integration
Domestic Institutional Capacity	Strong	Resulting in deeper regional Integration (Singapore's customs procedures, Singapore's MRA)	Could lead to deeper regional integration (Singapore's agreement on temporary movement of persons)
	Weak	Leading to strong regional agreements (Thailand's MRAs for professionals. Health and safety MRAs)	Leading to weak regional agreements (Thailand's e-commerce commitments)

Figure 21: Filling in the Deeper Regional PTA Integration Framework

## 8.2.2.2 Two Obvious Cases

Beginning with the bottom right corner: states with weak domestic institutions are likely to sign trade provisions which are also weak. In our case, this would be Thailand's limited reference to the liberalisation of e-commerce. Understandably, most developing countries, such as Thailand, do not identify e-commerce as a key priority area. As a consequence, Thailand lacks the institutional infrastructure to monitor and regulate ecommerce, which results in accepting weak provisions on e-commerce. This is reflected in the TAFTA, the agreement contains a chapter on e-commerce, however, the chapter merely reaffirms their multilateral commitments. Thus, it coincides with one of the extreme cases of the analytical framework; countries with weak institutional ability in a particular area, will have limited interest, and capacity to negotiate, and weak capabilities to implement necessary steps for deeper liberalisation of that particular policy area; thus this has not been translated into Thailand's intra-regional PTAs.

The top left corner illustrates countries with strong institutional capacity in a particular policy area, resulting in the ability to sign trade agreements with deeper integration provisions in such fields. Examples would be Singapore's custom's procedures. Due to the city state's dependence on trade flows, its customs procedures are highly developed. Accordingly, in the framework, Singapore should be capable of signing trade agreements that contain deeper integration provision in customs procedures; this is confirmed in most of Singapore's inter-regional PTAs. Given Singapore's developed trade facilitating system, the city state found little difficulty in adapting to new requirements on customs procedures of the USSFTA. This result matches with the framework: countries with high institutional capacity will find fewer complications in signing deeper integration provisions in their own trade agreements. However, this has not been extended to the intra-regional level, the reasoning behind this will be explained later.

Similar stories can also be expressed with Singapore's SPS agreements, since Singapore is solely depending on food imports; the city state has stringent standards and regulatory requirements for the importation of food products. Clearly Singapore has a developed institutional trade capacity on SPS measures, which has allowed Singapore to negotiate trade agreements with industrialised countries on SPS provisions smoothly, as shown in the SAFTA. Moreover, Singapore's SPS negotiations have also been translated into its intra-regional trade agreement as well, such as the STEER, where Singapore and Thailand have a MRA on processed food, thus providing an example that matches the analytical framework.

#### 8.2.2.3 A Natural Route towards Integration

The top right corner of the analytical framework is countries with strong domestic institutional capacity that have signed PTAs with weak provisions. The analytical framework allows the possibility for countries in the top right corner to have multiple outcomes for intra-regional trade: states with strong institutional capacity in such fields

could lead towards deeper intra-regional integration, but it could equally lead towards no intra-regional integration as well.

To illustrate results with no deeper regional PTA integration outcome, we consider the case of Singapore's temporary movement of persons. The city state is considered to have efficient infrastructure and facilities to accommodate the inflow of foreign visitors. Since it is attempting to become a regional hub for foreign enterprises, it must establish the appropriate security and necessary systems to facilitate the temporary movement of persons. As a result, the city state was able to complete the negotiations and carry out the appropriate changes for the temporary movement of persons with limited difficulties. This can be observed in Singapore's PTAs with Australia and the US, which includes WTO-plus provisions on the temporary movement of business persons.

At the intra-regional level, however, some of Singapore's provisions on the temporary movement of persons were considered weak agreements, merely confirming the existing multilateral commitments, this included ASEAN's provisions on the temporary movement of business executives. Specifically, some ASEAN members have demanded the expansion of the temporary movement of persons beyond the free movement of business people, turning this into a WTO-plus provision. Unfortunately, there are some reservations amongst the older ASEAN members, creating a backward force preventing such liberalisation. Thus, this provides a case where no deeper intra-regional integration will occur, thus remaining in the top right hand box of the analytical framework.

However, there is also a converse case for the intra-regional outcome, remaining with the example of temporary movement of persons, but shifting to another intraregional agreement, such as STEER. There appears to be strong forward force from the political elites which favours both Singapore and Thailand to develop a single visa system for entering both countries. According to the analytical framework, when signing deeper integration provisions at the inter-regional level coupled with countries subject to with strong institutional capacity, this could lead states to push for deeper intra-regional integration. Moreover, both Singapore and Thailand now aim to expand the single visa documentation to encompass the entire ASEAN region. This is clearly an example where states with developed institutional capacity can move towards greater intra-regional integration, without any push from inter-regional PTAs, provided they have the necessary domestic factors and a strong institutional capacity.

## 8.2.2.4 Building an Alternative Route towards Regionalism?

The final analysis refers to the bottom left box of the analytical framework: countries with weak domestic institutional trade capacity, but which have been compelled to sign PTAs with deeper integration provisions, which could lead to changes in their domestic institutional capacity. The ideal example would be Singapore and the listing of service trade in its trade agreements. Initially, the city state had always adopted a positive list approach in all of its PTAs with service provisions. However, after being compelled to sign the USSFTA and the SAFTA with a negative list approach, Singapore realised the effectiveness of this approach.<sup>127</sup> Afterwards, Singaporean trade negotiators have always requested a negative list approach in all of the city state's PTAs, thus, clearly illustrating the effects of forward forces brought by PTAs. However, this can also be applied to the analytical framework with some of the case studies providing multiple outcomes for the intra-regional level as well.

As a result, three examples will be put forward. The first will point out a negative outcome for the region, whereas the latter two will exemplify positive outcomes. The first example involves Thailand. Initially the country had weak or incoherent policies on the temporary movement of persons; in fact some of the existing policies were so incoherent that the international trade agreement signed in APEC contradicted domestic Thai law. However, it was only during the negotiation of the TAFTA that Thai officials noticed the contradictions. Consequently, the TAFTA bought about two significant changes. Firstly, this was due to complaints from the Australian business community, who were required to apply for differing documentation from various government agencies. Thailand introduced the one-stop service, which simplified the immigration and work permit application procedure for the eligible workers and placed it "under one roof". Secondly, and more importantly, the negotiations on the temporary movement of persons gave Thai bureaucrats the possibility of re-examining some of the outdated laws and replacing them with coherent legislation on the temporary movement of persons. This is clearly an example of a country with weak institutional capacity benefiting from trade agreements with deeper integration.

Unfortunately, the improvements from deeper integration PTAs did not propel the same momentum for intra-regional integration. The lack of enthusiasm from local

<sup>&</sup>lt;sup>127</sup> Again, I am not suggesting the negative list approach is good or better, but it id generally perceived to provide more liberalisation outcome because new sectors which are not included in the negative list must be liberalised and this enhances more competition.

business groups acted as a backward force in Thailand's intra-regional trade agreements. Both ACFTA and ASEAN made little progress on this policy issue, with the exception of STEER. As a consequence, this provides an example of where countries in the bottom left box do not necessary move forward towards greater intra-regional integration. The varying reasons for the failure at the intra-regional level will be discussed in the subsequent subsection.

The second example is the regulation on food standards, it is difficult to argue that Thailand has a strong institutional trade capacity for agricultural produce. Its major exports are mainly agricultural, however there has been limited emphasis on the health and safety standards of imported agricultural produce. Consequently, Thailand has limited experience with regulatory policies for agricultural produce.<sup>128</sup> Arguably, Thailand has weak institutional trade capacity on the regulatory aspect of agricultural trade. However, this changed once Thailand began to negotiate its comprehensive PTAs with New Zealand and Australia; both countries demanded deeper integration in the SPS provisions. As a consequence, Thailand had to develop a transparent method for facilitating Australian and New Zealand agricultural imports; including means of facilitating Thailand's agricultural exports to Australia as well. Consequently, the signed MRA in the inter-regional PTAs enhanced Thailand's institutional trade capacity, improving the negotiating capacity for MRA, and creating new institutional agencies responsible for the observation and implementation of SPS measures.

The enhanced institutional trade capacity also explains the analytical framework. Initially, Thailand's institutional trade capacity for the health and safety standards for food was at the bottom left corner of the framework. The interaction with inter-regional PTAs acted as a forward force creating the necessary institutions which allowed Thailand to sign deeper integration trade agreements. This enhanced Thailand's institutional capacity; as a result, moving Thailand upwards in the analytical framework matrices. This simultaneously provides a different outcome at the intra-regional level for Thailand. The kingdom is able to formulate and establish its own approach towards SPS measures and find ways of coming around health and safety requirements in their intra-regional agreements, such as STEER, which has a MRA for processed food. The same can be said with the ACFTA, resulting in a MRA for Thai fruits to clear Chinese customs rapidly without being subject to stringent inspection. As a consequence, the interaction of inter-

<sup>&</sup>lt;sup>128</sup> Although, it does not imply that Thailand has limited experience on the negotiating table; being active members of agricultural trade negotiations, such as the Crains Group.

regional PTAs with deeper integration provisions, created forward forces which assisted a country with weak institutional capacity to enhance its own institutional capacity and foster an environment to develop its own methods implementing similar regulatory solutions in its intra-regional trade agreements.

The third example applies to both Singapore and Thailand, as initially both case study countries were very protective of their professional services. Traditionally the legal profession, for example, was not merely restricted to people with the appropriate legal and linguistic knowledge, it was exclusively the preserve of the country's own citizens. Thus, due to the limited recognition of professional services, both countries have limited experience and institutional trade capacity to facilitate the liberalisation of professional services. Moreover, without any push from the multilateral level, there was little need to negotiate or find means to facilitate the recognition of professions. However, it was during the inter-regional trade negotiations, such as the USSFTA and the TAFTA, that both countries began to liberalise and create an offensive position in their professional services. In Singapore, Australian and American architects are permitted to apply for work, whereas Thailand has successfully negotiated trade agreements which allow service providers in the catering industry to seek employment in Australia and Japan. Moreover, both countries are in the process of extending similar agreements for other professions. Consequently, there is an upgrade in the institutional trade capacity making, from one which was non-existent, to the level where concrete and coherent infrastructure exists, such as getting the professional bodies involved in the negotiation and monitoring processes. As a result, both countries created an offensive position in the temporary movement of professional services.

Furthermore, this example also fits with the analytical framework: when countries with weak institutional capacity sign a trade agreement with deeper integration, they could possibly sign other deeper integration agreements in similar fields. Such developments occurred in the ASEAN recognition of professional qualifications in the nursing and engineering professions. The MRA allows all ASEAN engineers and nurses to work anywhere within ASEAN. These recent developments stemmed from the bilateral inter-regional PTAs, which Singapore and Thailand negotiated prior to the ASEAN MRAs for professionals.<sup>129</sup> The forward forces developed from the inter-

<sup>&</sup>lt;sup>129</sup> This includes the failed APEC MRA for engineers, which both Singapore and Thailand participated in the negotiating process; Singapore's MRAs with other industrialised countries, including an understanding with Japan on the MRA for engineers; and Thailand's negotiations on MRA for nurses with Japan.

regional trade agreements fostered the environment for deeper integration for intraregional PTAs. Creating experiences from trade negotiations, building necessary infrastructure such as bringing the professional bodies involved in the inter-regional process, allowed the same professional bodies to become more willing to liberalise at the intra-regional level.

As a consequence, the Deeper Regional PTA Integration Framework explains the dynamics of the second interrelated question: why have Singapore and Thailand been able to accelerate their PTAs, especially their intra-regional PTAs? The two latter examples fit in the special case of the analytical framework: countries with weak institutional trade capacity, which have signed trade agreements with deeper integration, creates the possibly for further propelling the same trade related policy in their intra-regional trade agreement. When the forward forces outweigh the backward forces, the mobilisation from domestic institutional trade capacity will favour further trade liberalisation. The removal of frictional barriers in the form of facilitating trade and the movement of persons are important because they are key ingredients for deeper economic integration or regionalism. Regionalism, requires more than trade liberalisation, there must be both security and cultural coherence, where the movement of persons and harmonising regulation are the first important steps. Thus providing an alternative route toward regional economic integration.

However, the analytical framework is far from complete. There are other variables, aside from countries with weak institutional capacity and WTO-plus trade agreements, which foster an environment for greater economic integration. Recalling the example with the temporary movement of business persons, initially Thailand was at the bottom left corner of the matrix, after upgrading domestic institutional capacity, however, it failed to fit with the predictions of the analytical framework. It was able to move upwards towards stronger institutional capacity, but it failed to provide deeper intra-regional integration on similar grounds. Nevertheless, this is not the only example of a failure in the analytical framework.

#### 8.2.2.5 Limitations of the Deeper Regional PTA Integration Framework

The previous section demonstrated how the findings from the empirical chapters matched the predictions of the deeper regional PTA integration analytical framework. However, there were a few minor cases which did not fit with the analytical framework. These problems will become more apparent once we include other trade policy issues in conjunction with the analytical framework.

One of the interesting trade policies excluded from previous discussions was the liberalisation of financial services. During Singapore and Thailand's engagement with PTAs there has virtually been no further liberalisation of financial services, with the exception of the USSFTA, which was hammered out in the final minutes of the negotiation. It would be difficult to argue that Singapore's financial service sector was initially weak, given Singapore's ability to remain immune itself from the financial crisis. However, domestic coordination, consultation, procedural and legislative implementation only took place after Singapore's negotiation and liberalisation of financial services. In other words, the USSFTA locked in and accelerated Singapore's institutional trade capacity in financial liberalisation, providing an example where PTAs with deeper integration could enhance, or at least accelerated, a country's institutional capacity.

With respect to the analytical framework, Singapore's domestic institutional capacity on financial liberalisation would initially lie closer to the bottom left corner due to Singapore's limited experience in the process of liberalising financial services. After the implementation process, Singapore's institutional upgrade moved it upwards along the vertical axis in the framework diagram. There has, however, been limited progress on the liberalisation of financial services in the intra-regional front. Singapore has rarely submitted a request for the liberalisation of financial services in negotiating its intra-regional PTAs. As a consequence, this example provides a case where the analytical framework failed to predict the outcome at the regional level.

However, there are several reasons why signing trade agreements with WTO-plus provisions does not necessary lead toward deeper regional PTA integration. In the mentioned example, sensitivity in the subject matter plays a crucial role. If we extended the example of financial liberalisation to Thailand, the Kingdom's reluctant enthusiasm to liberalise financial services is deeply rooted in the country's experiences in 1997. Moreover, prior to 1997, Thailand had weaker domestic institutions in the financial sector. The combination of traumatic experience and weak institution explains Thailand's lack of interest in completing the TUSFTA, despite the strong insistence of the USA to liberalise financial sector at the bottom right corner of the framework. Since the country has weak institutional capacity, it should seek to sign a shallow integration agreement, given its limited capabilities to carry out such policies. As a consequence, it is

unlikely include similar deeper integration provisions in its intra-regional trade agreements.

Consequently, this provides two distinct limitations of the analytical framework. Firstly, countries with weak institutions and shallow agreements, according to the framework, will fail to conclude intra-regional trade agreements in similar fields. However, if the majority of countries in the intra-regional agreement also suffer from similar weak institutional capacity, the chances of such trade policy being included in the intra-regional agreement will also be remote. Specifically, if the majority in the alliance lacks the institutional capacity or the willingness to sign such regulatory provisions in inter-regional trade agreements, the provision should not materialise in the intra-regional agreement; even if the minority of the alliance have already signed and upgraded their institutions on this matter.<sup>130</sup> This could explain why it has been a challenge to sign a trade agreement that accelerates financial liberalisation within ASEAN. The same story can be told about STEER, since Thailand, which amounts to 50 per cent of the alliance, was unwilling to negotiate on financial liberalisation because it lacked the will and the institutional capacity to implement such policies, and financial liberalisation was excluded from STEER altogether.<sup>131</sup>

The second limitation of the analytical framework is political will. This is an important variable, but only when it is combined with the majority membership variable. It should be an uphill battle to include the liberalisation of sensitive matters, such as intellectual property rights and labour standards, in intra-regional trade agreements. Similar to financial liberalisation, the sensitivity of the subject matter makes it difficult to incorporate in the trade agreement. As exemplified in Singapore's reluctance to propose financial liberalisation amongst its intra-regional partners, the city state's trade negotiators are aware that such an issue would never get off the ground.<sup>132</sup>

Nevertheless, political will might not be the most important ingredient, at least not on its own. Some observers believe PTAs are not the main driver for further liberalisation because PTAs merely liberalised selected sectors of the economy. In contrast they believe political will from home is the main driving force of further liberalisation. However, these analyses merely rely on domestic internal variables,

<sup>&</sup>lt;sup>130</sup> Unless the minority group decides to leave the intra-regional group and form their own alliance.

<sup>&</sup>lt;sup>131</sup> It would, however, be interesting to see whether the regional outcome would differ if more than 50 per cent of the intra-regional members were compelled to sign deeper integration agreements on contentious issues, such as financial liberalisation. <sup>132</sup> However, Singapore is a strong advocate for the liberalisation of investment in ACFTA.

whereas the argument in this thesis relies on both external and internal forces. The importance of political will must be juxtaposed with the majority of the intra-regional dimension as well.

To illustrate, if the majority of the intra-regional members were compelled to sign sensitive deeper integration provisions with their inter-regional PTAs partners, it may provide states with institutional capacity to undertake sensitive provisions. This might guarantee the inclusion of sensitive topics in the intra-regional alliance because inter-regional PTAs have made sensitive trade issues more digestible. Again, referring to the recognition of professional services, both Singapore and Thailand have traditionally viewed the liberalisation of profession services as sensitive.<sup>133</sup> The negotiations from various inter-regional PTAs enhanced their institutional trade capacity by developing the coordination and consultation from professional bodies, lessening the protectionist stance on professional services; making it possible for Singapore and Thailand to assemble similar provisions at the intra-regional level.

As a consequence, when including the majority membership into the analysis, it is possible to argue that, when countries are forced to liberalise sensitive trade issues by industrialised economies, it easier to push these issues forward in future agreements. This is an example of enhanced domestic institutions with forward forces, lessening the tightly screwed protectionist policies, allowing such trade issues to become more accepted in their domestic economies. If this occurred to more than half of the intra-regional PTA members, it could lead towards the negotiation and acceptance of such sensitive issues at the intra-regional level. As a consequence, this reduces the importance of the political will, because political will against the liberalisation has evaporated, either through the introduction of such issues from inter-regional PTAs or being outnumbered by the members of the intra-regional alliance.

Nevertheless, we cannot totally disregard political will, it still remains a key domestic determinant. It is unlikely that political will can dramatically change due to forward forces pushing for further liberalisation. It takes time for political will to change because it is entrenched in each society's beliefs and history. However, there are other dominant forces that can introduce changes to political will, according to this thesis, they are the external forces. Given time, the dynamics and interplay between external and internal forces will determine regional economic outcomes.

<sup>&</sup>lt;sup>133</sup> Thailand's case is different from Singapore because the former's strategy suddenly changed towards an offensive stance for its semi-skilled professionals simultaneously with its engagement in PTAs.

#### 8.2.2.6 The Hypothesis and Causality

Does the analytical framework confirm the hypothesis set out in the first chapter? The findings appear to confirm that when states conduct comprehensive inter-regional PTAs they are forced to find ways to tackle these barriers. These regulatory provisions are rooted in the state system nurturing and enhancing domestic institutional capacity related to trade. Moreover, this also assists the mentioned states to create similar regulatory positions of their own at the intra-regional level, with the possibility of creating a catalyst for enhancing multilateral trade liberalisation. Thus, the finding confirms the reciprocal relationship between PTAs and domestic institutions. The interplay between the two levels leads to multiple regional outcomes.

However, the major weakness of the analytical frameworks rests on the causality. It is difficult to say with complete certainty that inter-regional PTAs with developing countries have been the sole variable that affects domestic institutional development, such that it encourages the deepening of intra-regional PTAs. It is equally possible to argue that the force driving intra-regional integration is the same domestic force that drives inter-regional PTAs.

Could the political will that motivated countries to join the inter-regional PTA bandwagon be the same force that drove intra-regional PTAs? It is unlikely to be exactly the same motivating force. Could the force that drove inter-regional PTAs foresee the liberalisation of regulatory barriers? The political will could not have foreseen the liberalisation of regulatory sectors by industrialised economies. It was only after domestic institutional developments that these countries could move to liberalise regulatory issues at the intra-regional level. To illustrate, the force that drove Thailand to complete PTAs with MRAs on agricultural products with Australia did not result in exactly the same agreement in the EHP with China; thus, are they the same? Alternatively, the force that motivated countries to jump onboard the PTA bandwagon did not foresee the possibility of being obligated, by industrialised economies, to liberalise qualified professionals; consequently, the force that led to the liberalisation of qualified professions in ASEAN should have been different. Finally, when Thailand established the one-stop visa service with inter-regional PTAs, Thailand did not achieve similar developments at the intra-regional level; thus, if this was the same force would the development at the bilateral level not have been achieved at the intra-regional level as

well? Consequently, we cannot say with complete certainty that the motivating forces behind inter-regional PTAs are the same as the intra-regional ones.

Regardless, there seems to be enough evidence to support the main hypothesis laid down in the introductory chapter. The interaction between domestic institutions and inter-regional PTAs with deeper integration provisions have, in some instances, enhanced domestic institutional development; providing both forward and backward forces propelling further development in their intra-regional PTAs. Thus, the interplay between the two levels can lead to multiple outcomes for regional economic integration, including an alternative route towards regionalism.

#### 8.3 Contributions and Implications for the Multilateral Trading System

This section will take a step away from the analytical frameworks and discuss the implications of the findings. The most important implication is how the findings could affect the multilateral trading system. As mentioned in the introduction, due to lack of empirical evidence, this thesis can only speculate on the multilateral outcome.

Nevertheless, this section will also discuss the third interrelated question of the thesis: Is there an Asian model for PTAs? The section will argue that the varying inter and intra-regional PTAs have left an impressionable imprint in Singapore and Thailand's PTAs, which will influence the case study countries' implication to the multilateral trading system. This will be examined at both individual country level and the regional level. Moreover, the findings should provide some contribute to the general literature on PTAs, specifically, whether they are building or stumbling blocs for the multilateral system? However, before we begin, it would be prudent to discuss the differing and contending PTA models that may have influenced the case study countries and their behaviour towards the multilateral trading system.

Consequently, this section shall begin by outlining the differing competing PTAs models that may have influenced the case study countries. This is followed by an examination on how PTAs', in general, influence countries' behaviour towards the multilateral trading system: one from an individual country's perspective; the other from a regional perspective. The former will support the building bloc argument, whereas the latter will lead towards the stumbling bloc argument.

## 8.3.1 Competing PTA models in the Asian Region

Before generalising how the Asian region interacts with the multilateral trading system, we must observe the different contending PTA models which may have influenced the Asian region. Generally, different countries will have their own template or model in conducting PTA negotiations, in order to reduce their own frictional or transaction cost in negotiating and implementing PTAs (Sampson & Woolcock, 2003; Woolcock, 2006). As mentioned in the assumption of this thesis, this is especially the case with inter-regional PTAs which have greater bargaining power over developing countries. Let us examine some of the major contending PTA models that have negotiated with the case study countries, namely the United States, Australia and New Zealand, China, and Japan.

#### 8.3.1.1 The United States

PTAs negotiations with the United States tend to focus on a broad range of issues, however the stronger WTO-plus issues are focused on intellectual property rights, liberalisation of financial services, competition and public procurements. Most of these contentious issues have contributed to the delay in signing of the USSFTA and stalled the negotiation of the USTFTA. More importantly, most US PTAs are focused towards assisting US firms to establish companies in the partner country. This is especially problematic for most Asian economies because businesses lack industrial capacity to compete with US firms. Singapore was willing to liberalise its service sectors for competitive reason; however, certain sectors with key GLCs have not been fully liberalised yet. The issue of intellectual property rights, on the other hand, relates to problems with technocratic capacity. Several Asian countries believe there are other trade related issues which are perceived to have greater priority than enforcing property rights. Moreover, this sensitive issues also relates to the cheap production of much needed generic drugs for domestic consumption. Thus, there has been limited interest to divert resources to this trade related issue.

Nevertheless, US PTAs have generally been duplicated in most countries, especially in the Western Hemisphere. Singapore is the latest country to have adopted the US template, and there is no reason to believe why the momentum would not continue to spread to other Asian countries. The predominate reason why it has been so successful can be contributed to the US's hegemonic dominance; despite its uneven leverage in negotiating trade agreements, several countries are must negotiate trade agreements with the superpower (Dent, 2006b; Reiter, 2006; Weiss et al., 2004).

#### 8.3.1.2 Australia and New Zealand

Australian and New Zealand PTAs have generally been based on the Closer Economic Relations (CER) between Australia and New Zealand. Aside from the traditional liberalisation in traded goods and services, like the CER, there has been considerable broadenings to include the liberalisation in the movement of persons and the recognition in the qualification of professionals. On the other hand, the CER template do not provide deeper integration on issues of investment and dispute settlement, although informal mechanisms and understanding have always played an important role (Bisley, 2004; Sampson, 2003a). The reasoning behind this is because both Australia and New Zealand have relied on their own institutions to supplement the commitments. The CER has broadened and deepened through protocols and understandings that have grown out of a review process rather than major negotiating sessions (Sampson, 2003a, pp. 220-222). This might be appealing for most developing countries because it does not require strong domestic institutions to hammer out strong trade agreements immediately. More importantly, for the ASEAN integration, both Australia and New Zealand have attempted to court the region into forming a grand regional PTA alliance for decades, thus allowing the possibility for an Australian-New Zealand approach to emerge in the Asian region.

# 8.3.1.3 China

Chinese PTAs are relatively new, which might be difficult to provide any generic template at this time. From the case study countries, China is more interested in trade in goods, especially in agricultural trade. There is also an equal reluctance to liberalise financial services as well. Moreover, there appears to be two main contentious points with China's trade policy. Firstly, sometimes there are inconsistencies and confusion between the central authority and the provisional authorities in understanding the signed trade agreements, which has caused major delays for Thai exporters. Secondly, China has several regulatory barriers to trade, which has also caused grave concerns for both Singaporean and Thai exporters. Nonetheless, these are issues China is willing to resolve in their respective PTAs. Moreover, similar to the CER between Australia and New Zealand, China favour strengthening it's PTAs, such as the ACFTA, through protocols and understandings that have grown out of a review process rather than major negotiating

sessions (Antkiewicz & Whalley, 2005). According to the ACFTA, this allows the existing domestic institutions to develop and apply their own methods once a problem has arisen.

Overall, China is a slow mover in PTAs, they are cautious in adopting and implementing new trade polices. Even if China is able to wield greater influence over the Asian region, China appears to be cautions in implementing any radical change in trade policy. Consequently, there are limited Chinese PTAs to analyse and construct a generic Chinese PTA template. However, the ACFTA, once completed, should provide be a good indicator for China's template on PTAs.

#### 8.3.1.4 Japan

Japan has been a latecomer to the PTA bandwagon, however, she has been fast in completing PTAs with her neighbours. From Japan's PTAs, with the exception of agricultural trade, her PTAs have broaden trade related issues beyond her existing WTO commitments, for example the JSEPA is considered a ground braking PTA for including several novel WTO-plus issues (Dent, 2003a). However, Japanese has been reluctant to spread these novel provision to her other PTA partners, citing either caution or Japan's limited interest in a genuine desire to further liberalise trade. Nevertheless, Japan's recent trade agreements with the Philippines and Thailand have also included several WTO-plus provisions, such as the temporary movement of persons and the recognition of professional qualifications; predominantly because Japan has a shortage of skilled professionals, especially in the area of health care services.

Consequently, most of Japan's PTAs seems to be based on strengthen its security in the Asian region, with the exception liberalising agricultural trade, which is what most developing countries desire. Nevertheless, most of Japan's PTAs in the Asia region have always included financial assistance, consistent with Japan's cheque book diplomacy approach (Calder, 1998). This might be a motivation for Japan to conclude PTAs with her neighbours, however, this would lead towards light-weight PTA template.

Overall, these are the major contending PTAs which may influence the region in forming their own PTA approaches or models. The US appears to be the template that is being widely adopted, especially in the Western Hemisphere. The Australian-New Zealand approach is slowing becoming accepted amongst Asian economies, however, Thailand has yet to complete any provisions on service trade with New Zealand at this time. The remaining two, China and Japan, are competing to become a hegemon in the region, thus they are also wielding their influence over the region by completing the most number of PTAs in the region as possible.

#### 8.3.2 Individual Country's Influence on the Multilateral Trading System

From the case study countries, both Singapore and Thailand have undergone several trade negotiations, which has influenced their domestic institutional capacity, but simultaneously, this also affects their participation and perspective towards the multilateral trading system.

During the course of investigation, this thesis confirms that the number of PTAs a country negotiates can result in a negative impact for the individual country.<sup>134</sup> For example, during the Hong Kong Ministerial, the head of the Thai delegation was invited to participate in the green room, the then minister responsible for trade declined the invitation and delegated the responsibility to his subordinate. Instead, the minister was dragged to another trade negotiation, a bilateral trade negotiation instead. Clearly, traditional criticism that PTAs divert scarce domestic resources away from the multilateral negotiation still remains a key weapon for the proponents, especially amongst developing countries (J. N. Bhagwati, 1993; Sally, 2006). This form of technocratic capacity deficiency (Dent, 2006b) is a serious problem for developing countries. Overall, several developing countries have relatively weaker domestic institutional capacity, as well as insufficient number of trained trade negotiators to undertake comprehensive PTA negotiations. Thus, for developing countries, enhancing institutional capacity must be undertaken.

Nevertheless, the general literature on PTAs also discusses the possibility for PTAs to become a testing ground for complex trade issues (Sen, 2006; World Bank, 2005). This thesis has provided some positive empirical support to this claim, with the aid of the institutional trade capacity framework; providing a deeper understanding of the

<sup>&</sup>lt;sup>134</sup> Another concern relates to the sectoral coverage. Some of the lightweight PTAs have excluded politically sensitive sectors, where some PTAs have excluded agricultural trade altogether. This is a grave concern for developing countries that rely on agricultural trade. Most countries in the Asian have concluded trade agreements based on the theory of comparative advantages, placing much emphasis on sectors with a competitive edge and protecting sectors with limited competition. As Sally suggested, for PTAs to make economic sense, they should have a comprehensive sectoral coverage, consistent with relevant WTO provisions, and preferably go beyond WTO commitments (2006). Clearly developing countries engage in inter-regional PTAs, there are limited scope for negotiations on agricultural trade. However, under intra-regional negotiations, they have a separate venue to negotiate and develop their own regulatory approach to encompass sectors in their interest, such as agricultural trade in ACFTA. This is a route developing countries should aim to undertake, given the deadlock at the multilateral level.

developments at the domestic level by illustrating how PTAs have reformed states' domestic institutions.

PTAs with deeper regulatory provisions can also act as a locking-in mechanism for reform (Frankel, 1996, pp. 216-217; Lawrence, 1992; J. Schott, 2003, p. 11; Tornell & Esquivel, 1997; World Bank, 2005, p. 7). This thesis has shown that comprehensive PTAs do not only lock-in reforms, they appear to go beyond locking-in domestic reforms. According to the institutional trade capacity framework, PTAs can exert both forward and backward forces, resulting in both positive and negative changes for countries. Countries are forced to develop new institutions and capacity to tackle comprehensive PTAs. More importantly, these regulatory reforms contribute towards the preparation of future trade liberalisation plans, whether they are other bilateral or regional PTAs, or multilateral trade.

As a result, some of the developments from inter-regional PTAs may lead to possible positive spillover effects for future liberalisation. In Singapore, more governmental regulating agencies were established to monitor new trade issues, such as financial service and movement of persons, thanks to US and CER PTAs, respectively. Singapore has enhanced her trade negotiating team by recruiting more legal professionals and accumulated experiences for their negotiating team. The city state has restructured agencies for trade negotiations and improved coordination. Moreover, due to USSFTA, Singapore has also accelerated her liberalisation plans in key sectors, such as competition and financial services. All the above will facilitate and provide the necessary infrastructure for future trade liberalisation.

Improvements in Thailand include, outsourcing of trade negotiators to the appropriate government agencies; enhancing coordination amongst agencies to provide reliable information. Due to CER PTAs, Thailand has created more government agencies suitable for comprehensive PTAs. Moreover, consultation with non-governmental agencies appears to have witnessed the greatest change: the business community, due to the trade agreement with China, now provides valuable input in both pre and post negotiating process. This also includes participation from professional bodies, which have been pushed by Japanese and CER PTAs. NGOs have also made significant impacts, pushing for more public debate before signing PTAs and successfully pressing

for a Structural Adjustment Fund for marginalised groups of society affected by PTAs.<sup>135</sup> Thus, the process of deep integration encourages domestic policy reform; the positive effect has inspired Thailand from a country where trade policy making has traditionally been from the top down to become more open and adopt a more democratic processes.

Consequently, there has been developments both by government and nongovernmental agents involved with trade policy making. Interestingly, most of the significant developments, for both Singapore and Thailand, have been undertaken by the business community. The increase in industrial capacity can be seen in their willingness to become involved in the decision making process and providing information for negotiators. However, some businesses still fear competition and seek to hide behind the curtain of PTAs. Governments must be willing to provide technical and financial assistance to these groups or society, as Thailand has began to initiate, especially if PTAs will lead to greater competition. A balance must be struck for both government and nongovernmental agents to maximise the gains from trade. Nevertheless, opening the lines of communication between governmental and non-governmental agents have provided much improvement in trade policy making. More importantly, these developments have assisted the case study countries to develop their own methods at eliminating regulatory barriers to trade and creating their own rules.

Theoretically, by the same chain of logic, when a state's institutional trade capacity has been enhanced, from bilateral PTAs -regardless from which country- this should allowed developing countries to engage in deeper liberalisation, both bilaterally, regionally, and at the multilateral level as well.

Empirically, however, due to the weakness of the project design, there are insufficient cases to confirm the hypothesis at the multilateral level.<sup>136</sup> It would be interesting to observe, for example, whether Thailand's new found stance for the recognition of semi-skilled professionals would be pushed at the multilateral level. Unfortunately, in reality, given the current climate, most WTO members have limited interests in liberalising the mobility of semi-skilled professionals. Nevertheless, it would be interesting to observe whether developing countries would bring the experience and

<sup>&</sup>lt;sup>135</sup> In the long term, the Adjustment Fund should be a prevention programme instead of a remedy programme for enterprises which would suffer by trade liberalisation. The Fund will initially be under US\$6 million and further expand to US\$15 million. Examples of sectors affected by the trade liberalisation negotiations were dairy products, electronic appliances, ceramics, and automobiles.

<sup>&</sup>lt;sup>136</sup> According to the WTO website, both Thailand and Singapore have submitted their revised offers for multilateral negotiations. However, both countries have made it a policy not to reveal their offers to the general public.

approaches developed in their own regional PTAs to the multilateral negotiating table, thus providing an example of best practice (Woolcock, 2003, p. 338).

Overall, PTAs distract and divert countries' scarce resource from the multilateral negotiations. Moreover, there are concerns that the liberalisation policies from interregional PTAs, will lead to unnecessary regulatory reform for developing countries. As mentioned in the introduction, some of the reforms are aimed at increasing competition, some are aimed at protecting the rights of the suppliers and inventors. Nevertheless, there are concerns whether developing countries need to develop such reforms, which are not in their best interests, at this stage of their development. Nonetheless, PTA liberalisation that brings regulatory reforms, are reforms that must be undertaken in the future, at the multilateral level anyway. If the multilateral trading system suddenly made a break through, developing countries would be forced to liberalise certain sections they are reluctant to liberalise, in order to exchange for market access in agricultural trade. It is however, unfortunate that under PTAs countries must undertake these reforms earlier, and with an unequal negotiating stance. However, this has assisted developing countries to develop their own domestic capacity which may not have existed before.

From the empirical findings, perhaps some developing countries are being forced to build their capacity too early, and diverted valuable resource away from other trade related issues, however, it depends how fast developing countries are able to adapt and build their technocratic capacity, this may be problematic for most developing countries. Nevertheless, once they have been developed, this should indirectly assist developing countries towards understanding their trade positions. For example, both Singapore and Thailand have recently discovered the strategic importance in liberalising the movement of persons and professionals, an aspect they would not have discovered if they did not undertake comprehensive PTAs.

Moreover, in the absence of multilateral negotiations, by actively participating in the negotiation and ongoing monitoring of deep integration agreements, developing countries could become important actors at the multilateral level rather than spectators, thus putting them in a much better position to assert their interests. This would confirm Birdsall and Lawrance's statement that PTAs allow the possibility for developing countries to perform "rule making rather than rule taking" (1999, p. 139). This approach allows developing countries to participate and become involved at the multilateral level; ultimately supporting the building bloc argument. Nevertheless, one must also examine the intra-regional level and observe their implications towards multilateral trade.

# 8.3.3 Regional Influence towards the Multilateral Trading System

Traditionally ASEAN members regularly worked together, forging alliances and negotiating for a stronger WTO. In the contemporary era, however, most scholars believe this is no longer the case, predominantly because ASEAN members are distracted by PTAs (Sally, 2004b). However, the findings from this thesis will present an alternative perspective. Moreover, this perspective could provide an alternative approach towards Asian regional PTAs and the regional implications towards the multilateral trading system. This will be examined in comparison with other main contending regional PTAs. Previously, we only examined the contending PTA models that are conducting PTAs in the region, and how they may influence and shape Asian PTAs. The contending regional PTAs, that will be discussed here, are the dominant PTAs that have been widely adopted in their own region, and they are able to exert and spread their regional norms and approaches beyond their own regions as well (OECD, 2003b; Sampson & Woolcock, 2003).

#### 8.3.3.1 An Asian Approach towards Regionalism

One of the aims of this thesis focuses on intra-regional economic integration. Specifically, how the spillover effects from PTAs foster the deeper intra-regional integration, and its implications towards the multilateral trading system? Collectively, the differing templates from the contending PTAs have influenced the case study PTAs, which should contribute to developing an Asian regional PTA, which is outlined in the five characteristics below.

The first feature, Asian PTAs embraces the liberalisation of goods and services, with the exception of financial services. Despite domestic institutional development, most Asian countries have failed to include a provision on the liberalisation of financial services, with the exception of the USSFTA. The reasoning behind this could be a result of the scar embedded by the recent experience of the Asian financial crisis. The limited progress on the liberalisation of financial services and investment has resulted in the weak institutional capacity for this field. For example, the ACFTA made substantive progress on the negotiations of goods and services, however, there has been virtually no progress on the negotiations in investment. It would be interesting to see how long Asian countries plan to avoid the liberalisation of financial services, especially when US-type investment provisions are being accepted globally, including Singapore (Reiter, 2006).

The second characteristic can be observed in the ROO chapters. Most of Singapore and Thailand's intra-regional PTAs, and some of their inter-regional PTAs, have generally adopted a ROO regional value content of between 30 and 60 per cent. The main reasoning behind this is because AFTA adopts the 40 per cent cumulative regional value content to qualify for tariff concessions. As a result Singapore and Thailand found it convenient to duplicate this template in most of their PTA negotiations, including the ACFTA. Moreover, this is particularly important for Singapore, a country with virtually no natural resources. Thus, illustrating how strong domestic institutions in ASEAN states have become, they are now agenda setters in their intra-regional agreements. Moreover, according to the WTO, the 40 per cent cumulative regional value content is also deemed one of the most acceptable average threshold for ROO range. Consequently, several scholars have pressed for other developing countries to adopt this template is also being adopted in most of ASEAN's trade agreements, including the ACFTA.

The third characteristic is the desire to have financial assistance built into their intra-regional trade agreements. This is a legacy from the Japanese PTA template which uses this tool to exert its influence over the region, however, other countries, such as China, also utilises this tool to sweeten its PTA deals. Nevertheless, unlike most PTAs, with the unique exception of EU-type PTAs, financial assistance in Asian PTAs has mainly been joint venture projects between informal, rather than formal, institutions (Doner, 1997). In other words, most joint ventures have been between businesses, not between governments. However, like other PTAs, there are also funds aimed at providing financial assistance towards trade facilitating infrastructures. Examples of Asian PTAs with financial assistance include the JTEPA, which has included financial support for the Thai automobile industry. Japan has shown interest in the several infrastructure projects in Thailand, such as financing the construction of the road link. Similarly, Singapore used the STEER to develop Thailand's science parks. These illustrate cases where domestic institutional development is not restricted to governmental agencies, it also involves the private sector as well.

With respect to infrastructure building, both Thailand and Singapore, under ASEAN, have also agreed to provide financial assistance to the CLMV countries. During the ASEAN-China summit in January 2007, China pledged to implement a strategic transportation plan to link China and the ASEAN countries within the next ten

to fifteen years.<sup>137</sup> Like other non-Asian PTAs, financial assistance is seen as a mechanism for putting less developed members on a par with the developed members. The development of infrastructure, according to a Thai diplomat, is considered important because: "Infrastructure projects also provide a basis for forging an East Asian Community; the free trade area that ASEAN countries was working out with dialogue partners would act as a blood vessel for broader regional integration".

The fourth striking characteristic, despite enhancement in domestic institutions by industrialised economies, there appears to be no change in Asian countries' attitude towards the legality of trade agreements. Most intra-regional trade agreements between Asian countries do not appear to be *de jure*, but they are *de facto* agreements instead. An example would be the EHP between China and Thailand. At first sight, the legal agreements can be regarded as a lightweight trade agreement, misleading observers that the signatory countries were not serious about eliminating barriers to trade. However, the empirical findings in this thesis provide an alternative view. When Thailand encountered Chinese NTBs, both sides sought informal procedures as a means of reducing regulatory delays, which signifies a genuine desire by the Chinese authorities to having a reliable trade agreement. Some scholars believe Chinese, and Asians in general, prefer to conclude a short legal text during the negotiation process, and then adopt a more pragmatic approach based on cooperation and reconciliation rather than legalistic procedures (Antkiewicz & Whalley, 2005). This might explain why most the intraregional agreements are MOUs, rather than the legally binding treaties. This characteristic can be traced from the Chinese and CER PTA template, which favours development and cooperation through informal procedures. Apparently, the rational behind this characteristic cannot be contributed solely on domestic institutional capacity's; it can also be contributed to the Asian cultural and their reluctance to adopt a legally binding text, in contrast with the Anglo-American culture. As a consequence, it could be argued that Asian states prefer a *de facto* trade agreement for resolving problems, which is more practical.

The fifth characteristic, closely linked to the previous characteristic, suggests that Asian countries prefer to adopt a more "practical approach" towards their trade agreements (Desker, 2004). An interesting example is the ACFTA, both parties in the trade agreement have chosen to adopt a sequential approach rather than a single

<sup>&</sup>lt;sup>137</sup> Moreover, China is willing to bankroll US\$1.12 million for feasibility studies on the two sections of the Singapore-Kunming rail link that need to be constructed inside Cambodia and Burma.

undertaking approach.<sup>138</sup> Some Asian countries believe they will discover a means of resolving contentious problems later; so it is best to push the issues that are ready to be implemented forward and resolve the rest later. This illustrates a practical approach in resolving problems. Thus, allowing the domestic institutions which are ready to implement to begin first and allow time for the remaining weaker institutions to catch up later. Thus, ensuring some form of economic integration project does occur.

In addition to the five characteristics, there is another feature which is regularly associated with Asian Regionalism. Several trade negotiators believe Asian PTAs have always and still employs Open Regionalism (Bergsten, 1997). Most trade agreements encourage third parties to enter their PTA, especially in most of Singapore's PTAs. For example, the P4 originally consisted of three members, but later allowed Brunei in as an additional member. Singapore and Thailand have also adopted this approach in STEER. Nevertheless, several scholars today still debate what Open Regionalism truly entails, and whether it is relevant.

Overall this thesis has outlined five possible characteristics for Asian regional PTAs, which have been drawn through the analysis of institutional capacity and the influences from the contending PTAs. It must be understood, however, that institutional capacity is not the only determinant of these characteristics, but it also includes other factors such as historical events and cultural difference which may have been embedded in their society, influencing their perception towards international trade. Nevertheless, the contending PTA-models have been influential in assisting the Asian countries to learn and adopt certain regulatory practices in their advantages, leading to the five many Asian PTA characteristics mentioned above.

Overall, despite America's unequal leverage in negotiating power which should influenced Asian PTAs; when Asian economies convene in their intra-regional PTAs they are less legally binding and focuses on development and cooperation through informal procedures. This is more a kin to the Australia-New Zealand CER and Chinese Approach on PTAs. The CER template may have also influenced service trade, especially in the movement of persons, however, Thailand has still yet to conclude a chapter on services with New Zealand. Nevertheless, under ASEAN, Singapore and Thailand have managed to move forwards with this issue at their own pace. The Chinese approach, on

<sup>&</sup>lt;sup>138</sup> This approach might be catching on, given the ASEAN-Australia-New Zealand Closer Economic Relations have proposed a step by step negotiation, starting with trade in goods followed by services and then investment, because it is seen to appease ASEAN, and it is a strategy that will help Laos, Cambodia, Burma and Vietnam, which face fiscal and human resources problems.

the other hand, focuses more on trade in goods, especially on agricultural trade, which is the main interest for Asian economies. Moreover, Chinese PTAs also combines the financial and technical assistance aspect, similar to Japanese PTAs.

Consequently, aside from the pragmatic cooperative aspects of resolving conflicts, there appears to be two contending models for the Asian region: one is China, with a focus on trade in goods and providing assistance; the other is ASEAN, with the 40 per cent cumulative regional value content requirement and the focus on the movement of persons. More importantly, would either approach become a regional economic hegemon for the Asian region? If most Asian PTAs are centred around either PTA, that particular PTA could potentially become a blueprint for intra-regional Asian PTA, providing the dominating template for the remaining Asian country to follow and duplicate, thus becoming a standard as the Asian approach for regionalism, where the security and non-economic cooperation aspects could supplement the economic substance afterwards.

Interestingly, most intra-regional PTAs tend to gravitate towards ASEAN, there are many suitors, as seen in the ASEAN-plus PTAs: ASEAN-China FTA, ASEAN-Australia-New Zealand FTA, ASEAN-Japan FTA, ASEAN-Korean FTA.<sup>139</sup> However, ASEAN on its own does not have the leverage and capacity to become a regional hegemon, making it unlikely for the Asian bloc to centre around ASEAN (Sen, 2006). There is, however, a general consensus that China will transform into a regional PTA hub and its suitors, including ASEAN, will become the spokes.<sup>140</sup> Thus, allowing the possibility for the Asian region to develop their own regional PTA approach. Consequently, given the possible emergence of an Asian PTA model, what implications would this have towards the multilateral trading system?

8.3.3.2 Contending Regional PTA Models and the Multilateral Trading System.

Given the current deadlock at the multilateral trading system, PTAs have now taken the lead in deepening international trade. Consequently, it would be of interest to speculate the implications of the rapid development in international trade by PTAs.

<sup>&</sup>lt;sup>139</sup> Not to mention the ASEAN-EU FTA, where the first rounds of negotiations should begin in 2008.
<sup>140</sup> This is, of course, speaking from a theoretical perspective. In reality, there are a great deal of impediments at the regional level: the bitter nationalist rivalries, in North-East Asia, and vast inter-country differences in economic structure, development, policies, and institutions, will continue to be a stumbling block for Asian Pacific regional economic integration (Sakakibara & Yamakawa, 2003).

Currently, there are concerns that the global trading system is being divided into two major PTA models, namely the EU-centred and the US-centred model (Woolcock, . 2003, 2006). The EU approach is based on the EU's PTAs with accession countries. Generally, the EU approach has focused on competition and service trade. Moreover, the EU's approach is based on mutual recognition of the service provider. In other words, provided the regulatory jurisdiction of the supplier approves of the sale, it can also be sold in other jurisdictions (Woolcock 2003). Despite difficulties in complying, the EU has successfully exported its norms to their potential EU member countries; however, MRAs are favoured partly because MRAs can be applied to certain areas, thus avoiding sensitive sectors completely (Kostoris Padoa Schioppa, 2005).

The US centred approach, which has already been discussed above, is based on assisting the expansion of US MNCs by securing strong competition, investment, and intellectual property rights provisions in their PTAs. Generally, the US approach is based on the NAFTA, which is based on the host control of the local jurisdiction to uphold their commitments, thus ensuring non-discrimination, where market factors will bring about equivalence and compatibility (Woolcock, 2003). The US approach is also being adopted in the Western Hemisphere, and her contemporary PTA partners, such as Singapore and Chile.

The differing regulatory approaches amongst different regions is a most distressing matter; different regional PTAs will place their own regulatory approaches above their trading partners' approaches. This is more worrying for developing countries that have less bargaining power than the EU and USA. Moreover, despite the exist divide amongst the Western Hemisphere and Europe, the possible emergence of an Asian PTA approach which also emerge. The Asian approach appears to be focused on a *de facto* and pragmatic approach, which will add to the stockpile of concerns that differential approaches in regulatory trade barriers may result in "regulatory regionalism" or the development of competing approaches in dealing with regulatory barriers to trade (Sampson & Woolcock, 2003; Woolcock, 2006). This should lead to confusions in the multilateral trading system, and ultimately leading to a divergence in trade practices that would diverge away from a common global approach for the multilateral trading system; thus supporting the stumbling bloc argument.

Strictly, speaking, from the empirical evidence gathered in this thesis, currently, we are unable to safely confirm the existence of the Asian model for PTAs, there are still insufficient empirical data to support this claim. Nevertheless, as international rulemaking evolves, major trading powers need to accept the increasing role of developing countries in rule making, and the possible emergence of an alternative PTA approach.

#### 8.4 Conclusion: The Future of PTAs in the Multilateral System.

Currently, PTAs have become familiar features of the global trading system. Both Singapore and Thailand are unwilling to relinquish such policies. Singapore seeks PTAs with newer countries, attempting to build both security and economic bridges with non-traditional trading countries. In Thailand, despite the abrupt change in political regime, which aimed at discontinuing old economic polices, the military junta have decide to carry on with the Thaksin administration's PTA policies.

From the findings in this thesis, inter-regional PTAs with deeper integration provisions have provoked several changes in domestic institutional capacity related to trade. There has been development both at the technocratic and industrial capacity, where most of the development has been undertaken by agents from the latter category. This transformation could have existed under multilateralism, however, the deadlock of the WTO opened a gap for PTAs push new developments in international trade policymaking. However, there is a related matter of whether developing countries are forced to adopt the norms from developed countries, due to the asymmetric bargaining negotiating power, which would lead to unnecessary regulatory reform. Nevertheless, it has allowed some countries to discover their weakness, which they might have to encountered at the multilateral level. Nevertheless, interestingly, this has allowed developing countries to develop their own regulatory approaches in their intra-regional PTAs, and thus, allows the possibilities for developing countries to transform from rule takers into rule makers, participating more at the multilateral negotiations, and supporting the building bloc argument.

The interesting question is what type of regulatory approach would Asian PTAs adopt? This still remains to be seen. The main concern here is whether the region will take on an approach that is entirely different from the rest of the world? Would the institutional developments from PTAs result in Asian countries establishing their own regulatory approaches on customs procedure, health and safety regulations, and movement of persons, as seen in ACFTA and STEER? Would this result in another regional hub, which is different from the rest of world? If so, this could lead to more

confusion at the multilateral level, resulting in different regions adopting their own regional approaches, resulting into a stumbling bloc.

Some scholars argue that the emergence of major regional hubs could be a possible solution for the multilateral trading system. Collier argues, given the current deadlock in the WTO, as the deepening of trade rules becomes more problematic, it will become more difficult to introduce a sudden extension of international rules to all the WTO members. Alternatively, it might be less problematic to gradually introduce regulatory economic rules to differing regions according to their appropriateness. Once the rules have been accepted, the WTO could improve those rules in order to become more accommodating for the global system. In other words, once rules are in place by the minority, they can be adapted and adopted for the majority, thus providing an alternative process for the building bloc arguments (2006, pp. 1434-1435).

However, there are two major concerns with this system: firstly, this approach might result in a two-tier system: there will exist one group prepared to kickstart the regulatory agreement, and the remaining group which has to take a back seat (Baldwin, 2006). The second concern comes from academics who realise that if a rule is adopted by the majority of countries, the remaining countries will be compelled to adopt those rules, especially when they involve environmental and labour standards. The main question is what will happen if no progress was made in the WTO? Would the differing regions adopt their own differing approaches, resulting in the separation of the global system into differing economic blocs?

Regardless, it must be remembered that PTAs are here to stay, suggesting that plurilateralism might be the best approach. Consequently, a reform of the multilateral trading organisation will be required. Since differing regions will develop their own intra-regional approaches towards regulatory barriers to trade, the WTO must become the central authority that coordinates and decides best regulatory practice that should be dispersed though its members. Without any coordination from a central organisation, PTAs will most likely spread in a sporadic pattern, resulting in regulatory regionalism and chaotic bewilderment for the multilateral system. Only with careful coordination can we regulate the spread of PTAs in an efficient manner.

To summarise, according to the literature, PTAs are at most a second best option, whereas multilateral trade is without a doubt the first best option because it has a wider coverage and liberalisation applies to all the members. As one Thai trade negotiator said: "Even if we signed free trade agreements with every country, it is not a substitute for the WTO". Unfortunately, PTAs is the name of the game, and countries must learn to live with them by jumping onboard the PTA bandwagon. Nevertheless, as this thesis has pointed out, a dynamic relation exists between PTAs and domestic institutions. PTAs act as a testing-site in increasing countries' readiness for regulatory issues. Domestically, they have fostered an environment for countries to develop their own regulatory approaches in their intra-regional PTAs. More importantly, these regulatory approaches can provide best practices, which may assist future trade liberalisation, both at the bilateral and multilateral level. It is, however, equally possible that PTAs may cause a divergence between different regional models, creating an even greater complication in the global system. What will be required, in the long run, is to create a stronger multilateral organisation, such as the WTO, not only to monitor but also to regulate the disparities of PTAs in a more efficient manner that can strengthens the global trading system.

85,480 Words

### Appendix A: List of Interviews

#### Singapore:

Chief Negotiator of the Korea-Singapore FTA, Director of the Institute of Southeast Asian Studies.

Head, Import and Export Division, Agri-Food & Veterinary Authority of Singapore.

Deputy Director, Directorate B, Trade Division, Ministry of Trade and Industry.

Assistant Director, Directorate B, Trade Division, Ministry of Trade and Industry.

Economist, Economics and Strategy Division, Ministry of Trade and Industry.

Manager of International Relations Unit, Ministry of Manpower.

Executive Director, Singapore International Chamber of Commerce.

#### Thailand:

Former Permanent Secretary of Ministry of Commerce, Chief Negotiator of the EFTA-Thailand FTA.

ASEAN Chair for the ASEAN China FTA Negotiations, Deputy Director General of Department of Trade Negotiations, Ministry of Commerce.

Thailand's Chief Negotiator of JTEPA, Deputy Permanent Secretary, Ministry of Foreign Affairs.

Executive Director of Thai JTEPA Office, Deputy Director General of International Economics Department, Ministry of Foreign Affairs.

Deputy Secretary-General, Office of Agricultural Economics, Ministry of Agriculture and Cooperatives.

Former Deputy Director General of Bureau of Industrial Promotion, Ministry of Industry. Director of Bureau of International Cooperation, Ministry of Education.

Tax Specialist, Customs Department, Ministry of Finance.

Trade Officer, Bureau of Trade in Services, Department of Trade Negotiations, Ministry of Commerce.

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Trade Officer, Department of Trade Negotiations, Ministry of Commerce.

Legal expert, FTA-Watch Group.

Chairman of NTB and ROO Committee, Federation of Thai Industry.

Issues	Negotiators
Market Access for Goods	Ministry of Trade & Industry
Rules of Origin	Ministry of Trade & Industry
Customs Administration	Ministry of Finance and
	Customs and Excise Department
Textiles and Apparel Chapter	Ministry of Trade & Industry
	(Consultant)
Technical Barriers to Trade	Ministry of Trade & Industry
	(Consultant)
Safeguards	Ministry of Trade & Industry
Cross-border Trade in Services	Attorney-General's Chamber
Telecommunication	Info-Communications Development
	Authority
Financial Services	Ministry of Finance
Temporary Entry of Business Persons	Attorney-General's Chamber
Anticompetitive Business Conduct, Designated	Ministry of Finance
Monopolies, and Government Enterprises	
Government Procurement	Ministry of Finance
& E-Commerce	Info-Communications Development
	Authority
Investment	Ministry of Trade and Industry
Intellectual Property Rights	Attorney-General's Chamber
Labour	Ministry of Manpower
Environment	Ministry of Environment
Transparency	Attorney-General's Chamber
Administration and Dispute Settlement	Attorney-General's Chamber

## Appendix B: Singapore's Negotiation Team in USSFTA

Issues	Negotiators
Trade in goods	Ministry of Commerce
Rules of Origin	Ministry of Finance
Customs Procedures	Ministry of Finance
Paperless Trading	Ministry of Finance
Mutual Recognition and Standard and	Ministry of Industry
Conformity Assessment	
Competition Policy	Ministry of Commerce
Intellectual Property Rights	Ministry of Commerce
Government Procurement	Ministry of Finance
Trade in services	Ministry of Foreign Affairs
Investment	Ministry of Foreign Affairs
Movement of Natural Persons	Ministry of Foreign Affairs
Financial Services Cooperation	Ministry of Finance
	Ministry of Foreign Affairs
Information Communication and Technology	Ministry of Information
	Communications and Technology
Science, Technology, Energy and Environment	Ministry of Science and Technology
Education and Human Resource Development	Ministry of Education
Tourism	Ministry of Tourism and Sports
Small and Medium Enterprise	Office of SMEs Promotion
Trade and Investment Promotion	Board of Investment
Agriculture, Forestry and Fisheries Cooperation	Ministry of Agriculture and
	Cooperatives
Improvement of Business Environment	Board of Investment
Dispute Avoidance and Settlement	Ministry of Foreign Affairs

# Appendix C: Thailand's Negotiation Team in JTEPA

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Issues	Negotiators
Market Access for Industrial Products	Ministry of Commerce
Market Access for Agricultural Products	Ministry of Agriculture and
	Cooperatives
Market Access for Textiles and Apparel Products	Ministry of Commerce
Trade Remedies	Ministry of Commerce
Sanitary and Phytosanitary Measures	Ministry of Agriculture and
	Cooperatives
Technical Barriers to Trade	Ministry of Industry
Rules of Origin	Ministry of Finance
Customs Administration and Procedures	Ministry of Finance
Cross Border Services	Ministry of Commerce
Financial Services	Ministry of Finance
Investment	Ministry of Foreign Affairs
Mobility of Business Persons	Ministry of Foreign Affairs
Labour	Ministry of Labour
Environment	Ministry of Natural Resources and
	Environment
Intellectual Property Rights	Ministry of Commerce
E-commerce	Ministry of Information
	Communications and Technology
Telecommunication	Ministry of Information
	Communications and Technology
Government Procurement	Ministry of Finance
Competition Policy	Ministry of Commerce
Science and Technology/ R&D	Ministry of Science and Technology
Capacity Building/SME	Ministry of Foreign Affairs
Dispute Settlement	Ministry of Foreign Affairs
Transparency	Ministry of Foreign Affairs

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## Appendix D: Thailand's Negotiation Team in TUSFTA

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