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Asia-Latin America Free Trade Agreements: An Instrument for Inter-Regional Liberalization and Integration?

Ganeshan Wignaraja,
Dorothea Ramizo,
and Luca Burmeister

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Ganeshan Wignaraja is director of research at the Asian Development Bank Institute (ADBI). Dorothea Ramizo and Luca Burmeister are consultants at the Asian Development Bank (ADB).

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Please contact the authors for information about this paper.

Email: gwignaraja@adbi.org

Asian Development Bank Institute
Kasumigaseki Building 8F
3-2-5 Kasumigaseki, Chiyoda-ku
Tokyo 100-6008, Japan

Tel: +81-3-3593-5500

Fax: +81-3-3593-5571

URL: www.adbi.org

E-mail: info@adbi.org

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Abstract

Trade integration and free trade agreement (FTA)-led cooperation between Asia and Latin America has increased since the early 2000s. Using new criteria, this paper examines whether Asia-Latin America FTAs have facilitated market-led integration by liberalizing trade and behind the border regulatory barriers. Overall Asia-Latin America FTAs provide the foundations for inter-regional integration by liberalizing goods and services trade as well as some regulatory barriers. Future FTAs can support deeper integration by reducing residual regulatory barriers. Other policy priorities include forming a large inter-regional FTA, stimulating business use of FTAs and accelerating structural reforms.

.JEL Classification: F15, O24, O53, O54

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1. INTRODUCTION

Before 2000 there was a limited economic relationship between Asia and Latin America¹ through either trade or FTA-led economic cooperation. Starting in the early 2000s, however, total trade growth between Asia and Latin America accelerated, driven by differences in demand conditions, factor endowments, trade policy, and the rise of giant emerging economies (ADB and IDB 2009; ADB, ADBI, and IDB 2012; Rosales and Kuwayama 2012). The 2008 global financial crisis temporarily disrupted Asia-Latin America trade growth but a rebound appears underway. Market-led integration has been followed by growing economic cooperation through free trade agreements (FTAs). Since the first Asia-Latin America FTA emerged in 2004, an average of two FTAs have taken effect every year between countries of the two regions, bringing the total number in effect to 20 (end of June 2012).

Growing Asia-Latin American economic ties have attracted attention in the literature on trade and regional integration. Research has focused on important issues in the economic relationship between Asia and Latin America including drivers of inter-regional integration, the pattern of specialization in production and trade, tariffs and other barriers to inter-regional integration, the impact of competition from the People's Republic of China (PRC) on manufacturing in Latin America, and trade policy responses of Latin American governments to imports from the PRC and India (for a sample see Chami-Batista 2004; Devlin, Estevadeordal, and Rodríguez-Clare, eds. 2006; Jenkins, Peters and Moreira 2008; Medalla and Balboa, 2010; and Facchini, Olarrega, Silva, and Willmann 2010; Rosales and Kuwayama 2012). However, relatively little attention has been paid to liberalization under inter-regional FTAs. The few exceptions include a study on the economic implications of large inter-regional FTAs between Asia and Latin America using a computable general equilibrium model which reported gains for both regions under different scenarios (Krasniqi, Bouet, Estrades, and Laborde 2011). Some studies have explored the evolution of trade agreements between the two regions (Medalla and Balboa 2010; Rosales and Kuwayama 2012). Other studies have explored the drivers and content of inter-regional FTAs (e.g., Kawai and Wignaraja 2009; Wignaraja and Lazaro 2010; and Gonzalez-Vigil and Shimizu 2012), but more work is needed on liberalization under recent agreements based on a comprehensive approach covering goods, services, and regulatory barriers.

This paper suggests new criteria to assess liberalization in FTAs and painstakingly analyzes the coverage of all 20 Asia-Latin America FTAs in effect between 2004 and June 2012. It adopts a comprehensive approach to studying legal texts of agreements and examines liberalization in traditional areas like goods and services as well as regulatory barriers or new issues in trade policy. It also attempts to quantify the results, where appropriate and possible.

¹ Defined as the members of the Organization of America States (OAS), except the United States and Canada.

This type of exercise goes beyond the bounds of a narrow single discipline based study and inevitably required inter-disciplinary analysis blending concepts and methods in applied international economics and international trade law. New issues in trade policy are defined here as the so-called Singapore issues (investment, government procurement, trade facilitation, and competition policy) and provisions on intellectual property rights (IPRs).

The detailed review finds that goods and services are generally well covered in most FTAs, but there is variation in the inclusion of provisions to liberalize regulatory barriers or new issues. Thus, room exists for improvement in new Asia-Latin America FTAs on regulatory barriers, notably commitments on Singapore issues and provisions on IPRs. Additionally, this paper highlights the best Asia-Latin America FTAs and identifies key policy priorities to maximize gains from inter-regional integration in the future.

The structure of the paper is as follows. By way of background, section 2 briefly accounts for the increasing trade and investment flows between Asian and Latin American countries. Section 3 discusses trends in Asia-Latin America FTAs and explanations. Section 4 provides an overview of our evaluation of the scope and depth of Asia-Latin America FTAs. Sections 5 and 6 discuss the details of provisions pertaining to goods, services, Singapore issues, and IPR. Section 7 suggests priorities to support FTA-led integration between the two regions. Section 8 concludes.

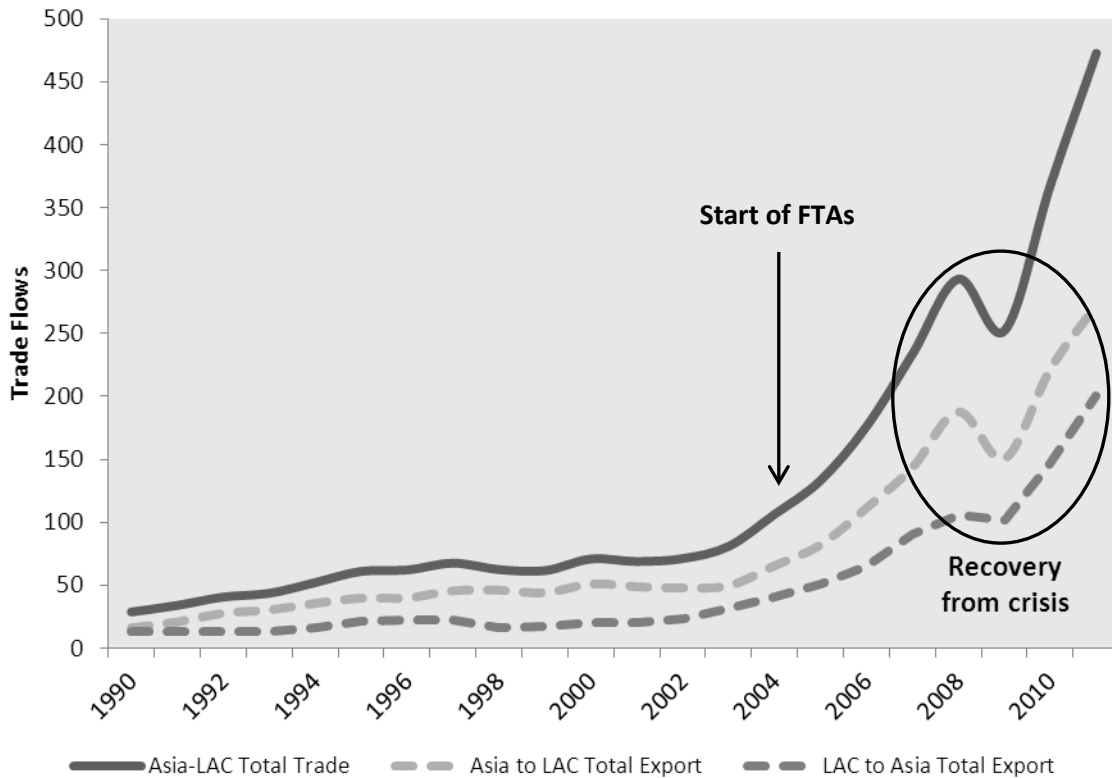
2. TRADE AND INVESTMENT GROWTH AND KEY ECONOMIES

Several aspects of trade and investment flows between Asia and Latin America can be highlighted as background for the analysis of inter-regional FTAs: (i) growth of inter-regional trade flows before and after the 2008 global economic crisis; (ii) factors underlying inter-regional trade; (iii) key economies in inter-regional trade; and (iv) growth of inter-regional foreign direct investment (FDI) flows.

Growth of Inter-regional trade flows. Figure 1 shows total trade flows between Asia and Latin America from 1990 to 2011 as well as a breakdown of Asia to Latin America exports and Latin America to Asia exports. These are readily available from the International Monetary Fund (IMF) Direction of Trade Statistics. The development of inter-regional trade between Asia and Latin America is characterized by two distinct periods of growth. Two decades ago, there was relatively little total intra-regional trade (about US\$48 billion in 1990) between the two regions. The 1990s and early years of the 21st century exhibited an annual average growth of 8.3%. The turning point in Asia and Latin America trade occurred in 2004 and annual average trade growth rapidly accelerated to 28.9% between 2004 and 2008. Not coincidentally, it was in the same year that the first two Latin America–Asia FTAs came into effect (Republic of Korea–Chile; Taipei,China–Panama). In 2009, the effects of the global economic crisis

impacted trade between Asia and Latin America, with total trade falling sharply from US\$293 billion in 2008 to US\$252 billion in 2009, representing a 14% decrease in trade. Both regions, however, rebounded strongly from the crisis and inter-regional trade grew at 36.9% per year between 2009–2011. In 2011, inter-regional trade reached an all-time high of US\$473 billion, nearly a ten-fold increase over 1990. Figure 1 also shows that Asia typically experienced a trade surplus with Latin America as indicated by higher levels of Asia to Latin America exports relative to Latin America to Asia exports.

Figure 1: Trade Flows Between Asia and Latin America, 1990–2011 (US\$ billion)



Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012)

Factors underlying inter-regional trade. Comparative advantage, demand, and policies have influenced inter-regional trade growth. Differences in factor endowments have laid the basis for trade between the two regions. Latin America has an abundance of natural resources and agricultural goods while Asia is scarce in natural resources. Some Asian economies (e.g., the PRC and India) have low cost labor and capital while others—Japan; the Republic of Korea (henceforth, Korea); and Taipei,China—have capital and industrial technology. Accordingly, specialization has occurred according to comparative advantage with Asian economies exporting manufactures of different factor intensities in exchange for primary commodities and semi-finished manufactures from Latin America. Latin America's main exports to Asia include food, minerals, fuels, metals, and wood. Asia, by comparison, exports a wide range of manufactures to Latin America. Over time, with accumulation of factors and appropriate public

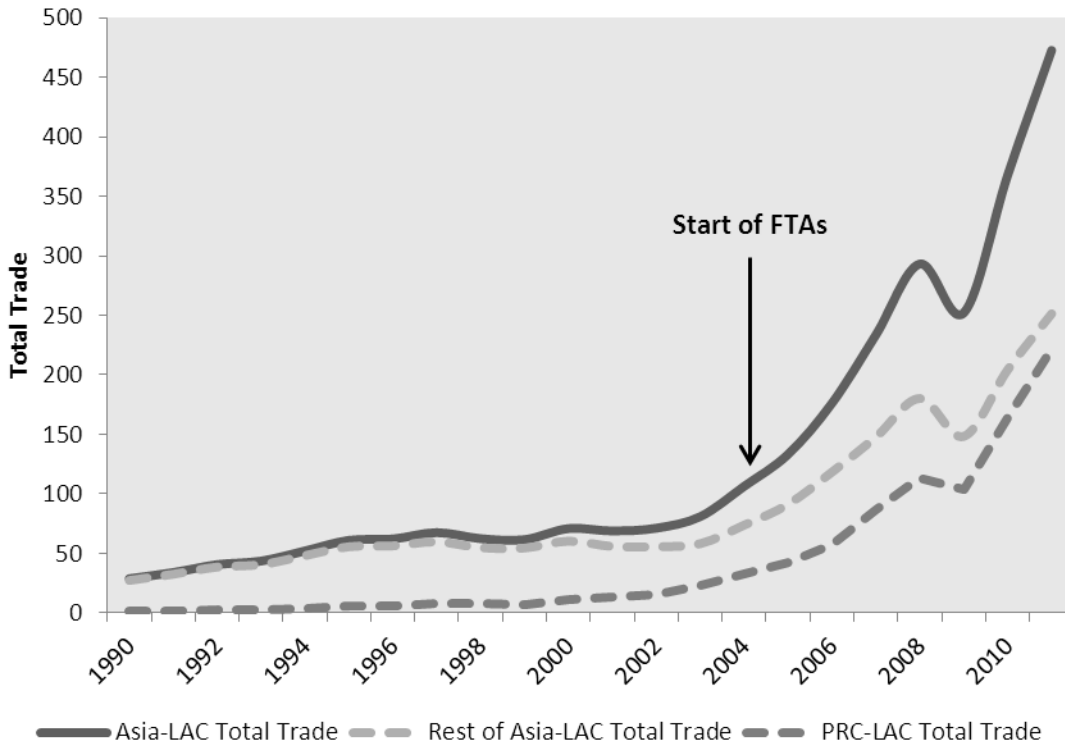
policies, each region's comparative advantage is likely to deepen within existing advantages and shifts into other areas.

Furthermore, rapid economic growth in Asia and Latin America in the last decade or so, along with rising industrial demand and an increasing middle class, has led to increased exchanges of manufactures for commodities trade between the two regions. National economic policies have also played a role in inter-regional trade growth. Latin American economies liberalized their trade and investment regimes in the late-1980s and led to resource allocation according to comparative advantage, with natural resources and agricultural goods gaining ground as the region's premier exports. Meanwhile, Asia's higher export dynamism in manufactures is due to early adoption of outward-oriented development strategies, high rates of savings and investment, attraction of FDI, investment in modern infrastructure, and investment in human capital and technological capabilities, among others.

Key economies in inter-regional trade. A handful of economies in both regions underpin the growth in inter-regional trade. The Peoples' Republic of China (PRC) is a key driver behind this development and its impact has been closely analyzed (see Devlin, Estevadeordal, and Rodríguez-Clare, eds. 2006; Jenkins, Peters, and Moreira 2008; Rosales and Kuwayama 2012). Latin America has yet to replicate the relatively strong growth of the early post-war era, while most Asian countries, particularly the PRC, have grown rapidly. Some of the explanations for the growth gap between the two regions include Asia's higher levels of export dynamism, manufacturing capability, educational attainment, investment in cost-competitive infrastructure and logistics, and savings and investment.

Figure 2 shows PRC to Latin America trade flows and rest of Asia to Latin America trade flows between 1990 and 2011. The PRC's trade with Latin American countries had grown markedly since 1990. In 1990, the PRC's share of Asia-Latin America total trade was only 5.2%. This figure rose to an average of 11.9% during 1990–2003 and markedly to an average of 40.3% in 2004–2011. By 2011, PRC-Latin America trade had reached US\$221 billion or 46.8% of total Asia-Latin America trade. This development allowed the PRC to overtake Japan as the most important Asian trading partner of Latin America. Figure 3 shows the major Asian traders with Latin America between 1990–2011 (as a share of Asia's total trade with Latin America) and Figure 4 shows major Latin American traders with Asia. As expected, Asia's largest economies—the PRC and Japan—are Asia's largest traders with Latin America. The PRC accounted for 32.5% of total Asian trade with Latin America while Japan made up 24.5%. This compares with 13.6% for Korea; 4.7% for Singapore; 4.6% for Taipei, China; 4.3% for Hong Kong, China; and 4% for India. Other Southeast Asian and South Asian economies, even relatively large economies like Indonesia and Pakistan, seem to hardly trade with Latin America.

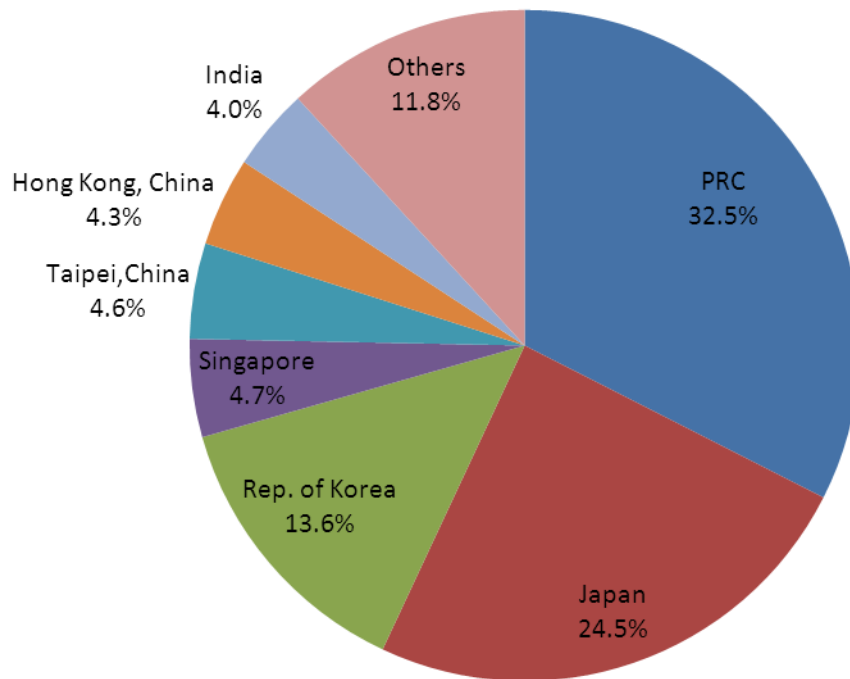
Figure 2: Trade Flows of Asia and PRC to Latin America, 1990–2011 (US\$ billion)



Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012)

Likewise, Latin America’s largest economies are the major traders with Asia. Brazil and Mexico are key trade partners comprising 26.7 % and 30.6% of Latin America’s total trade with Asia, respectively (Figure 4). Meanwhile, Chile accounts for 12.8% and Argentina for 7.5%. Three other Latin America countries (Venezuela, Peru, and Columbia) have shares of less than 5% each. Central American economies, for instance, have negligible shares of Latin America’s trade with Asia.

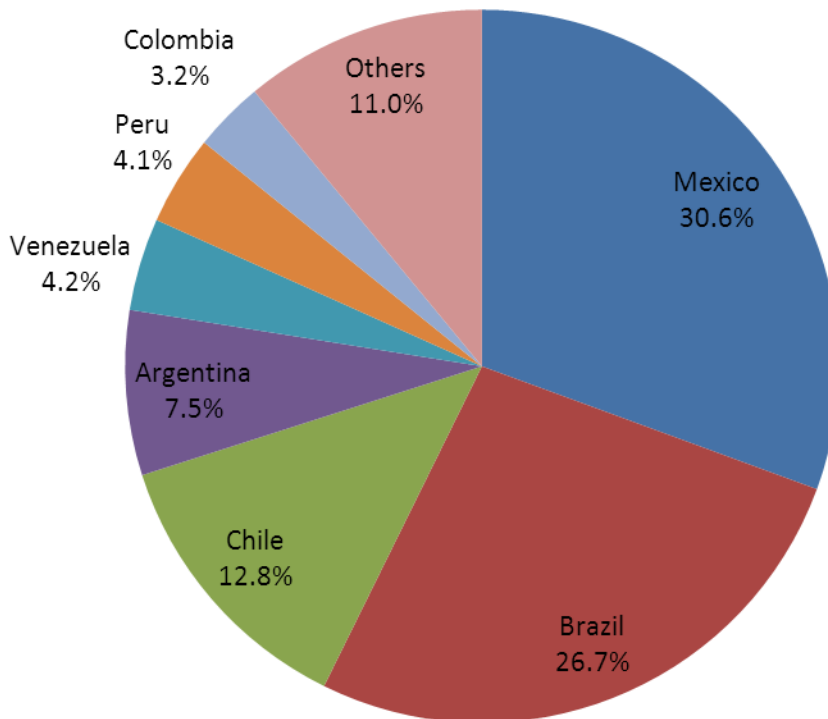
Figure 3: Top Asian Traders with Latin America, 1990–2011 (% of total trade)



Notes:

- 1) Trade refers to total trade or the total value of exports plus the total value of imports for the 21-year period;
- 2) Data for Taipei, China retrieved from Taipei, China Bureau of Foreign Trade.

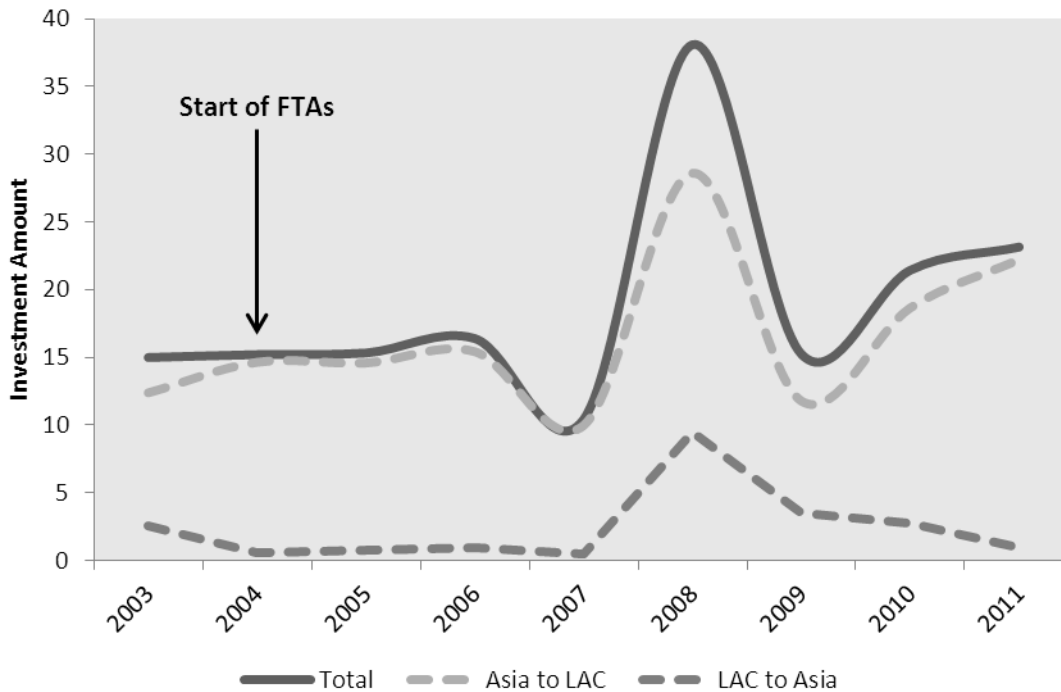
Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012)

Figure 4: Top Latin American Traders with Asia, 1990–2011 (% of total trade)**Notes:**

- 1) Trade refers to total trade or the total value of exports plus the total value of imports for the 21-year period;
- 2) Data for Panama in 2011 was removed due to a discrepancy.

Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012).

Growth of inter-regional FDI flows. Although time series data on FDI flows between Asia and Latin America dating to 1990 are not available from international sources, data from 2003 onwards are provided by fDi Intelligence and shown in Figure 5. Some features of inter-regional FDI flows can be mentioned. First, annual average inter-regional FDI flows grew from a small base at 5.6% during 2003–2011, which is considerably slower than the growth rate of inter-regional trade over the same period. During same period, annual average inter-regional FDI flows were US\$18.4 billion and cumulatively inter-regional inflows amounted to US\$170.3 billion. Second, the cumulative data mask a notable spike in inter-regional FDI flows in 2008 which can be attributed to companies in Asia and Latin America initiating new FDI projects in key sectors (such as metals; oil, coal, and natural gas; renewable energy; automotives, food, and financial services) in each other's regions.

Figure 5: FDI Flows Between Asia and Latin America, 2003–2011 (US\$ billion)

Source: Estimated from fDi Intelligence (accessed September 2012).

Note: Figures include estimates by fDi Intelligence.

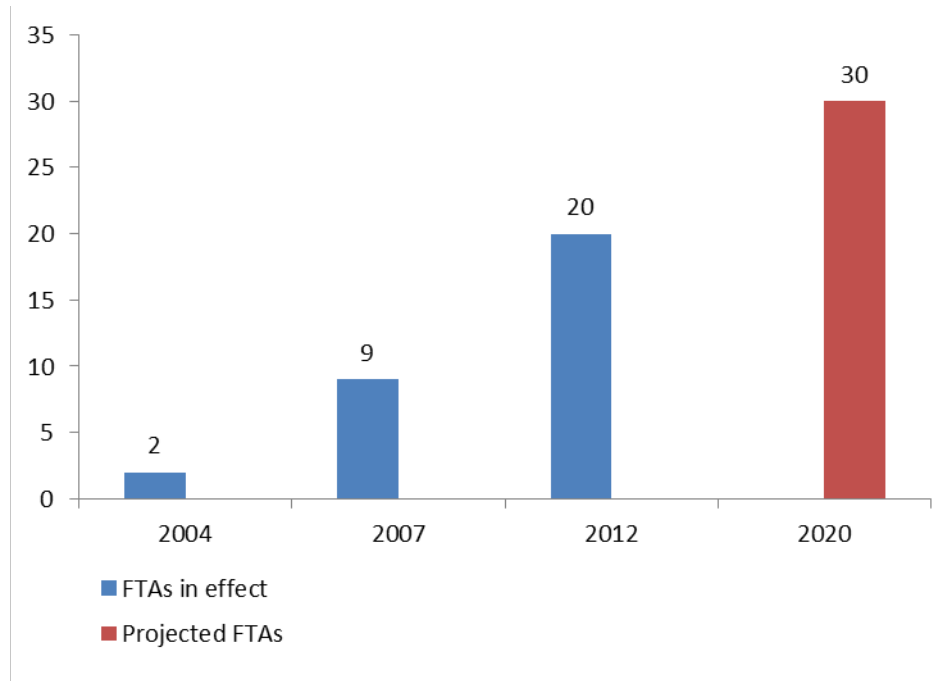
Third, a breakdown of total inter-regional FDI flows shows that the majority of flows during 2003–2011 went from Asia to Latin America (cumulatively US\$148.3 billion) while Latin America to Asia flows were relatively small (cumulatively US\$22 billion). Furthermore, there was a modest increase in Asia to Latin America FDI flows during 2009–2011 (US\$17.6 billion per year) compared with 2003–2008 (US\$15.9 billion per year). Meanwhile, Latin America to Asia FDI flows remained constant at US\$2.5 billion per year in 2003–2008 and US\$2.4 billion per year between 2009–2011. Fourth, as with trade flows, major economies from both regions seem to drive FDI flows. For instance, Japan accounts for 30.5% of cumulative Asian FDI flows to Latin America during 2003–2011, the PRC for 26.5%, and Korea for 9.7%. Meanwhile, Brazil alone makes up a staggering 48.3% of Latin American FDI to Asia. Further research is needed to explain the underlying patterns and drivers of inter-regional FDI flows. Such research can profitably focus on factor endowments, market size, corporate strategies of multinational corporations, country risk, FDI promotion, and business environments.

3. GROWTH OF ASIA-LATIN AMERICA FTAS

The 1990s witnessed the establishment of several regional economic cooperation institutions involving Latin American countries, such as MERCOSUR, the North American Free Trade Agreement (NAFTA), and various developments in intra- and inter-regional bilateral trade relations (IDB 2002; Estevadeordal and Suominen 2009; Foxley 2010). In contrast, Asia is a latecomer to formal regional integration; for several decades, free trade agreements (FTAs) were virtually non-existent in the region. Instead, Asian countries expanded trade through market-led integration without any formal arrangements except for regional schemes such as Asia–Pacific Economic Cooperation (APEC) and the Association of Southeast Asian Nations (ASEAN) Free Trade Area (AFTA). International trade policies at the national level were anchored in outward-oriented development strategies, high domestic savings rates, the creation of strong infrastructure, and investment in human capital. A long period of market-driven expansion of trade and foreign domestic investment (FDI) emerged, during which Asia increasingly became a global production center with deep and diverse technological capabilities—what Baldwin (2006) aptly called “factory Asia” and others refer to as the global factory. Shortly after the turn of the 21st century, this simple story of outward orientation and export success was punctuated by a change in the nature of Asian countries’ international trade policies toward FTAs (ADB 2008; Chia 2010; Kawai and Wignaraja 2011a). Today, Asia is at the forefront of global FTA activity (WTO 2011).

While Asia-Latin America FTAs are of relatively recent origin, there has been a steady expansion in intra-regional FTA activity. Between 2004 and 2011, an average of two agreements took effect every year, with a total of 20 FTAs as of June 2012 (Annex 1). The number of Asia-Latin America FTAs is certain to rise even higher as two new trade agreements have already been signed and are awaiting implementation, an additional eight Asia-Latin America FTAs are under negotiation, and 11 more are being proposed, see Annex 1.² Presuming that the two FTAs pending implementation and the eight FTAs under negotiation will be concluded by the end of the decade, a total of 30 FTAs between countries in the two regions will be in force in 2020 (Figure 6).

² An FTA is considered to be “under negotiation” when the parties have had the first round of talks. A “proposed FTA” is when parties are considering a free trade agreement, establishing joint study groups or joint task force, and conducting feasibility studies to determine the desirability of entering into an FTA.

Figure 6: Growth of Asia-Latin America FTAs, 2004–2020

Source: Authors' compilation.

The leaders in Asia-Latin America FTA activity have been Chile (7 FTAs), Peru (5), and Panama (2) on the Latin American side, and Taipei,China (4); Singapore (3); PRC (3); India (2); Japan (3); and Korea (2) in Asia,

With few exceptions, Asia and Latin America's biggest traders and investors in Asia-Latin America economic ties are the same countries that have participated in Asia-Latin America FTAs. Tables 1 and 2 show that 86.8% of Latin American trade with Asia is conducted by the 13 countries that participate in one or more FTAs with Asian countries and 90.8% of Asian trade with Latin America involves Asia's ten FTA players. Likewise, the same 13 Latin American economies with FTAs have undertaken 64.7% of Latin America's FDI with Asia and the same ten Asian economies with FTAs have conducted 95.4% of Asia's FDI with Latin America.

The data thus suggests a link between inter-regional trade and FDI flows and inter-regional FTAs, particularly in the last five years or so. Trade and investment activity between the two regions was initially market-led in response to the factors discussed in Section 2. Nonetheless, many residual regulatory impediments (e.g., tariffs, non-tariff barriers, and cumbersome FDI regulations) still remained, which affected Asia-Latin America trade and investment flows. Accordingly, some governments of both regions concluded FTAs to reduce such barriers. These agreements seem to have had several effects. First, by putting in place some inter-regional rules, FTAs have contributed to building greater business confidence and trust for future trade and investment flows between the two regions. Second, as Section 4 shows, FTAs

have contributed to liberalization in some trade and regulatory barriers. Third, trade agreements have laid the foundations for a process of trade and investment integration and liberalization between the two regions in the long-run. Over time, the conditions are being created to support existing players to expand trade, investment, and FTAs activity between the two regions as well as for new players to forge inter-regional economic ties. FTAs are by no means a perfect trade policy instrument and the possible costs and challenges of trade agreements are discussed in Section 7.

Table 1: Shares of Latin American Countries' Trade and Investment with Asia and Number of FTAs, 1990–2011

	Share of Trade 1990–2011 %	Share of Investment 2003–2011 %	No. of FTAs
Chile	12.8	3.7	7
Peru	4.1	0.3	5
Panama	0.4	0.4	2
Mexico	30.6	5.9	1
Brazil	26.7	48.3	1
Argentina	7.5	6.0	1
Paraguay	0.9	N.A.	1
Costa Rica	1.3	N.A.	1
Uruguay	0.8	0.1	1
Guatemala	0.9	N.A.	1
El Salvador	0.4	N.A.	1
Nicaragua	0.3	N.A.	1
Honduras	0.3	N.A.	1
Countries with FTAs	86.8	64.7	
Countries without FTA	13.2	35.3	

FTA = free trade agreement; PRC = People's Republic of China,

Note:

Share of trade refers to the share of total trade of each Latin American country with Asia divided by the total trade of the Latin America with Asia for Table 1;

Share of investment refers to the share of total investment amount of each Latin American country with Asia divided by the total investment amount of the Latin America to Asia for Table 1;

Investment figures include estimates by fDi Intelligence;

N.A. means data not available

Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012), fDi Intelligence (accessed September 2012) and Taipei,China Bureau of Foreign Trade.

Table 2: Shares of Asian Countries' Trade and Investment with Latin America and Number of FTAs, 1990–2011

	Share of Trade 1990–2011 %	Share of Investment 2003–2011 %	No. of FTAs
Taipei,China	4.6	1.9	4
Singapore	4.7	0.8	4
PRC	32.5	26.4	3
Japan	24.5	30.5	3
Republic of Korea	13.6	9.7	2
India	4.0	9.7	2
Thailand	2.3	0.1	1
Australia	1.9	16.1	1
New Zealand	0.6	0.1	1
Brunei Darussalam	negligible	N.A.	1
Malaysia	2.1	0.0	1
Countries with FTAs	90.8	95.4	
Countries without FTA	9.2	4.6	

FTA = free trade agreement; PRC = People's Republic of China,

Note:

Share of trade refers to the share of total trade of each Asian country with Latin America divided by the total trade of the Latin America with Asia for Table 1;

Share of investment refers to the share of total investment amount of each Asian country with Latin America divided by the total investment amount of the Latin America to Asia for Table 1;

Investment figures include estimates by fDi Intelligence;

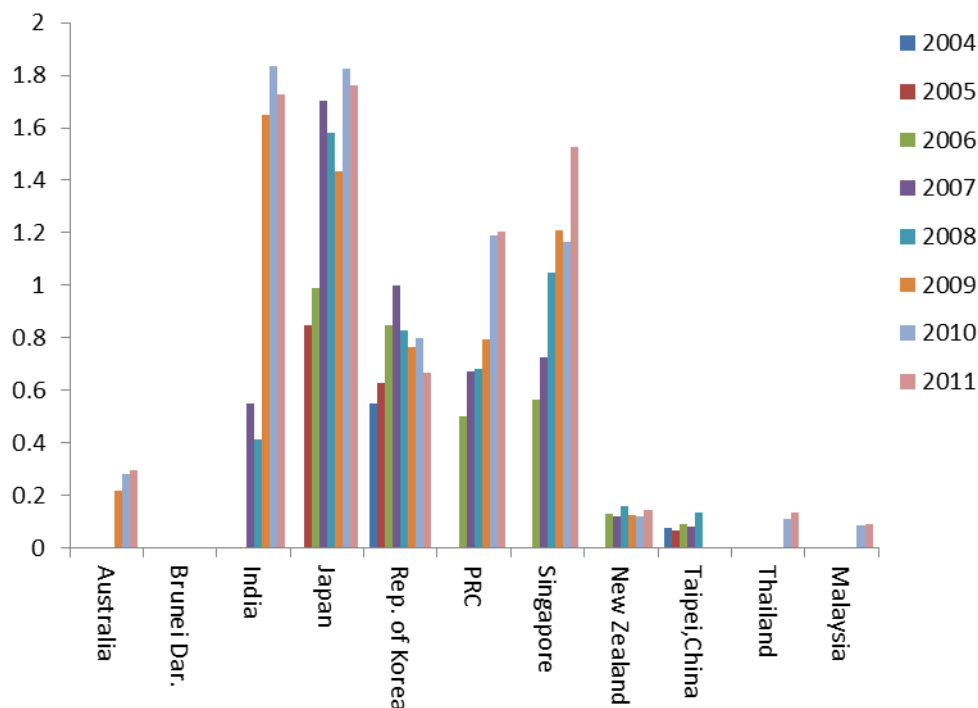
N.A. means data not available

Source: Estimated from International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS) (accessed September 2012), fDi Intelligence (accessed September 2012) and Taipei,China Bureau of Foreign Trade.

Similarly, the number of FTAs alone does not indicate the importance of FTAs to economic activity or trade at the national level. It is difficult to measure how much a country's trade is covered by FTA provisions because of exceptions and exclusions contained in many agreements. Furthermore, official statistics on utilization rates of FTA preferences in Asia are hard to come by and published data on the direction of the services trade do not exist. Nevertheless, by making the bold assumption that all trade in goods between two countries is covered by an FTA (if one exists), indicative estimates can be obtained. Figures 5a and 5b show the share of an economy's trade with its FTA partners relative to that economy's trade with the world. For every Asian country reviewed, the trade share with its Latin American FTA

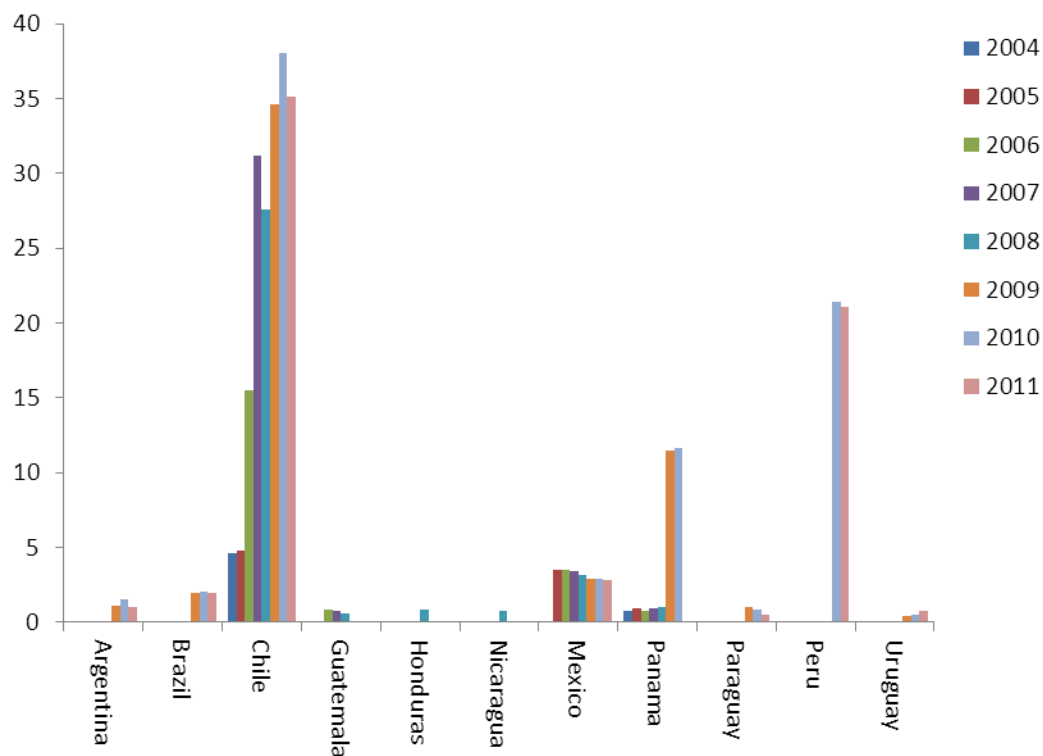
partners relative to the world did not exceed 2% in 2011. However, the trade share of Latin American countries with Asian FTA partners relative to the world reached as high as 35.1% in 2011 (e.g., Chile). Indeed, Asia is a major market for Latin American countries, and as mentioned earlier, at least 30 Asia-Latin America FTAs are expected to be in force by 2020. As a result, the trade coverage of Asia-Latin America FTAs is also expected to rise significantly.

Figure 7: Asia's FTA Trade Coverage with Latin American Countries, 2004–2011



Source: Estimates based on IMF DOTS (accessed September 2012) and ADB ARIC FTA database (accessed January 2012).

Figure 8: Latin America's FTA Trade Coverage with Asian Countries, 2004–2011



Notes: Only covers FTAs in effect for that year. The Trans-Pacific Strategic Economic Partnership (TPP) includes Brunei Darussalam, Chile, New Zealand, and Singapore; however, data on trade between Brunei Darussalam and Chile for 2004-2010 is listed as zero in the International Monetary Fund's (IMF) Direction of Trade Statistics (DOTS);

2011 data for Panama omitted due to discrepancies.

Source: Estimates based on IMF DOTS (accessed September 2012) and ADB ARIC FTA database (accessed January 2012).

The following discussion provides four key explanations as to why Asia-Latin America FTAs have proliferated in recent years, and why they will continue to do so in the years ahead (see ADB and IDB 2009; Kawai and Wignaraja 2009; and Krasniqi et al. 2011).

Market-driven integration through trade. In the 1960s and 1970s, several economies in East and South East Asia adopted outward-oriented, market friendly development strategies. These strategies resulted in falling trade and investment barriers as well as increases in inward investment and exports. In the 1980s, Latin American countries typically abandoned inward-oriented import substitution strategies associated with lackluster economic performance in the region in favor of market-oriented reforms. Policy reforms included trade and capital liberalization, and privatization. The high tariff rates of Latin American countries fell sharply to around 10%–14% in the span of a decade. Capital market liberalization led to greater inward

FDI flows to Latin America than in the past. In both Asia and Latin America, market-driven economic integration requires further liberalization of trade and FDI, and the harmonization of policies, rules, and standards governing trade and FDI. Policymakers in the two regions are increasingly of the view that FTAs, if given wider scope, can support expanding trade and FDI activities through the further elimination of cross-border impediments and other such harmonization efforts. Thus, FTAs can be part of a supporting policy framework for deepening production networks and supply chains formed by global multinational corporations and emerging Asian firms.

European and North American economic regionalism. The shift in US trade policy from multilateralism and bilateralism to regionalism in the 1990s contributed to the spread of regionalism in Latin America. The membership of Mexico in NAFTA led some countries such as Chile to express interest in joining, while Brazil and Argentina established a sub-regional trade agreement, MERCOSUR, to respond to NAFTA and increase their negotiating power. Furthermore, the European Union's (EU) expansion into Central and Eastern Europe, the creation of a monetary union in the euro area, and incipient moves toward an FTAA motivated Asian countries to adopt FTAs. Governments feared that the two giant trading blocs of Europe and North America might dominate rules-setting in the global trading system, thereby marginalizing Asia. Increasingly, policymakers have realized the need for (i) stepping up the pace of integration to improve international competitiveness by exploiting economies of scale and (ii) strengthening their bargaining power through a collective voice on global trade issues. FTAs can help insure against the periodic difficulties of multilateral trade liberalization, such as slow progress in the World Trade Organization's (WTO) Doha Round and a perceived loss of steam in the APEC process.

Increase in de facto inter-regional trade and investment. Increasing cooperation in trade and investment between Latin America and Asia also facilitated the proliferation of Latin America–Asia FTAs. Specifically, the PRC's growing role in Latin American trade and investment has contributed to the increase in inter-regional FTAs, particularly in the aftermath of the global economic crisis. The PRC's "engagement in the region may be a reflection of the country's interest in securing access to natural resources to fuel its economic growth, but the Latin American market is also a destination for exports of Chinese manufactures" (ECLAC 2008b). Meanwhile, Brazil is the Latin American country with the highest levels of investment in Asia, focusing primarily on the energy sector.

Slow progress in the WTO Doha Round. Countries have increasingly pursued FTAs due to the stalled WTO negotiation process. Hailed as a round of negotiations to promote trade-led growth in poor countries, the WTO Doha Development Round began in November 2001. The talks have largely focused on liberalization in two key areas: agricultural and non-agricultural goods market access. In essence, developed countries were being asked to accelerate the pace and scope of reductions in agricultural tariffs and subsidies, and developing countries were being asked to reduce tariffs for industrial goods and liberalize trade in services. As the prospects for agreeing on these issues and successfully concluding the round has diminished

over the years, pro-business Latin American and Asian countries turned their attention to bilateral and plurilateral FTAs for the continued liberalization of trade in goods and services, as well as the adoption of the Singapore issues, which are currently beyond the scope of the WTO.

4. SCOPE AND DEPTH OF ASIA-LATIN AMERICA FTAS: AN OVERVIEW

To the best of our knowledge, very few studies have attempted to assess the content of Asia-Latin American FTAs. In part, many of these agreements are of recent origin and academic attention has yet to turn to them. Assessing the scope and depth of Asia-Latin America FTAs is also a difficult exercise for at least three reasons. First, the legal texts of inter-regional FTAs are often not in the public domain and may not be in English even if available. Second, it requires detailed and often painstaking examination of legal texts of agreements for which a training in international trade law is vital. Furthermore, a background in international economics is useful to quantify and aggregate the contents of a sample of agreements and map patterns. Third, an internationally accepted methodology for assessing the scope and depth of the commitments in FTA texts is absent. An inter-disciplinary analysis blending international law with international economics seems to offer fruitful insights and a way forward. Drawing on methods used in Plummer (2007), Fink and Molinuevo (2008), ADB and IDB (2009), and Wignaraja and Lazaro (2010), this paper developed some simple legal and economic criteria for assessing the scope and depth of Asia-Latin America FTAs.

Accordingly, this chapter evaluates each of the 20 Asia-Latin America FTAs in three key areas:

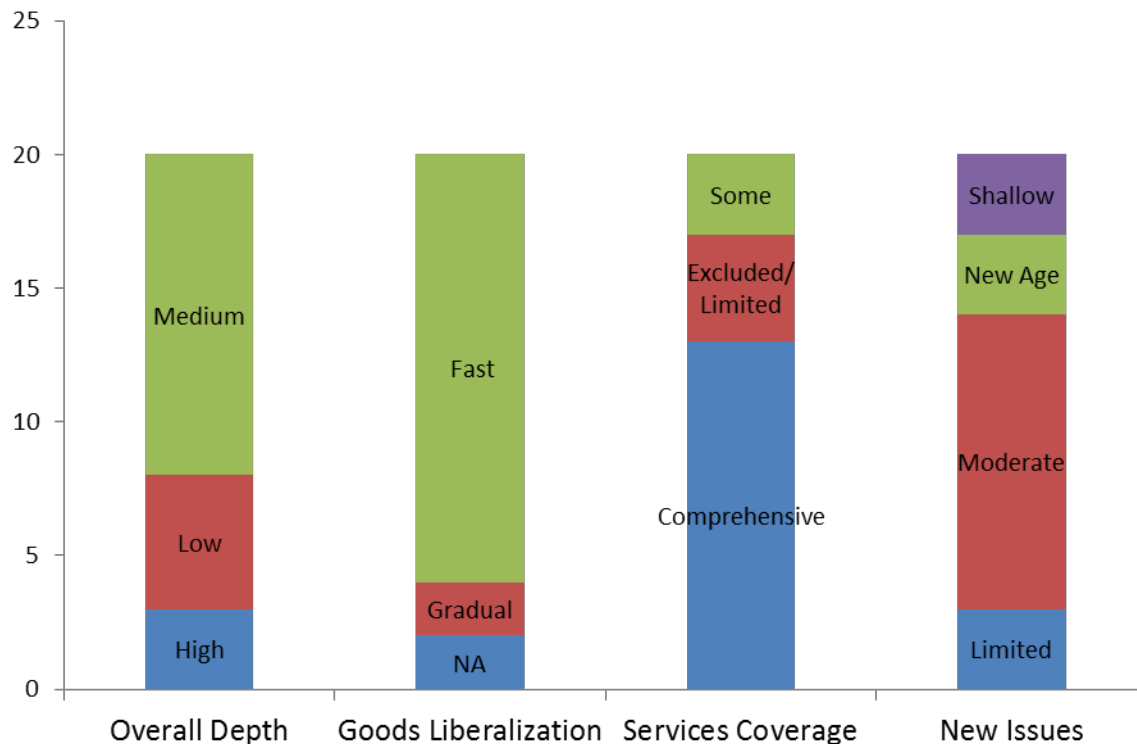
- (i) the speed and coverage of tariff liberalization based on the criteria for FTAs in the General Agreement on Trade and Tariffs (GATT),
- (ii) the number of service sectors covered based on the criteria in the General Agreement on Trade and Services (GATS), and
- (iii) the coverage of “new issues” such as IPRs and the Singapore issues (investment, government procurement, trade facilitation, and competition).

An evaluation of the scope of coverage for all three topics provides an overall picture of the scope and depth of commitments in the 20 Asia-Latin America FTAs and allows us to identify those that best promote deeper economic integration through: i) a high level of tariff liberalization in goods, ii) comprehensive liberalization in service sectors, and iii) substantive provisions that address new issues. The overall depth of each Asia-Latin America FTA is classified as being high, medium, or low. High Depth FTAs are those that have relatively fast tariff liberalization schedules, some or comprehensive services coverage, and “new age” deep integration provisions for new issues. Medium depth FTAs are those that have relatively fast tariff liberalization schedules, some or comprehensive services coverage, and moderate or

limited deep integration provisions. Low depth FTAs are those that have gradual tariff liberalization schedules, comprehensive, some or limited/excluded services coverage, and limited or shallow integration provisions.

An overview of the results is given immediately below (Figure 6) with detailed analysis presented in the following sections.

**Figure 9:
Distribution of Approaches to Tariff Liberalization, Services Coverage, and New Issues**



Source: Authors' calculations.

The majority of the Asia-Latin America FTAs ascribe to relatively fast liberalization and *also incorporate comprehensive provisions on services. The prevailing approach of the FTAs to deeper integration issues such as intellectual property rights (IPRs) and the Singapore issues remains moderate and these chapters need stronger commitments, obligations, and substantive provisions to attain a higher quality. Overall, three Asia-Latin America FTAs stand out and are deemed to be of high depth and represent the “gold standard” of FTAs. 12 are deemed medium and five are low.*

The three high quality FTAs are the Republic of Korea–Peru FTA (2011), Trans-Pacific Strategic Economic Partnership Agreement (TPP or P4) (2006), and Australia–Chile FTA (2009) and are discussed in detail immediately below. These three FTAs liberalize trade in

almost all goods with few exceptions and within a reasonable and defined time frame of ten years or less. The liberalization of trade in services is comprehensive in all three FTAs and they all provide for the automatic inclusion of newly liberalized service sectors. The three FTAs also include meaningful provisions on new issues that promote greater economic integration among all parties, thereby securing the highest possible economic welfare gains from increased trade.

The Republic of Korea–Peru FTA (2011) aims to eliminate all tariffs over a 10-year period on all products, with the exception of 107 agricultural and marine products deemed sensitive such as rice, beef, onions, and garlic. The FTA also includes liberalization in the five key service sectors. Furthermore, the FTA has above standard provisions on deeper integration issues and in particular provide strong investment protection measures and greater investment market access.

TPP (2006) comprises four original member countries: Brunei Darussalam, Chile, New Zealand, and Singapore. Five more countries—Australia, Malaysia, Peru, the United States (US), and Viet Nam—are currently negotiating to join (these negotiations are discussed in more detail below in the “Challenges” section). The market liberalization component of TPP saw the elimination of duties on the majority of tariff lines upon the agreement’s entry into force. In the case of Singapore, 100% of tariff lines were liberalized immediately. Chile undertook to liberalize 89.3% of domestic exports upon entry into force with an additional 9.7% tariffs eliminated in three years. Overall, TPP liberalized 98.9% of all domestic exports upon entry into force in 2009, and will eventually reach 100% by 2015. TPP’s chapter on trade in services is ambitious, comprehensive, and binds parties to their existing levels of liberalization as well as to the application of any future liberalization in most sectors. The investment chapter also includes strong commitments and the same applies to the other new issue areas such as government procurement, trade facilitation, competition, and IPRs. For instance, the government procurement chapter imposes significant measures that maximize competition among member parties and decrease the cost of doing business for both government and industry.

The Australia–Chile FTA (2009) grants tariff elimination on all goods traded, including sugar, which is deemed a sensitive good, by 2015. Upon entry into force, tariffs on about 92% of tariff lines representing about 97% of total trade will be reduced to zero. Although not all key service sectors are covered in the agreement, the FTA provides export opportunities in many services areas such as mining and energy technology, engineering and consulting services, information technology, tourism, agriculture, and the food and wine industry. The investment chapter is characterized by strong legal protection and transparency provisions to provide certainty and security for cross-border investments. The government procurement chapter secures non-discriminatory treatment and transparent and fair procedures for entities in both countries.

5. GOODS AND SERVICES LIBERALIZATION

Goods liberalization. The WTO criteria for an FTA's liberalization of the goods trade states that "where duties are eliminated with respect to substantially all the trade between the constituent territories... and... the plan or schedule for its formation is within a reasonable length of time" (GATT Article XXIV). The meaning of "substantially all trade" remains contentious. An FTA that eliminates 85% of either or both members' total tariff lines is often regarded as covering substantially all trade. Following paragraph 5(c) of Article XXIV, the WTO interprets a "reasonable period of time" as one that does not exceed ten years except in extraordinary cases.³ Thus, an FTA that eliminates 85% of tariff lines within ten years is classified as a relatively fast approach to tariff liberalization, while others are considered gradual.

Sixteen out of the 20 Asia-Latin America FTAs in effect for which data on tariff liberalization are available have a relatively fast approach to tariff liberalization.⁴ FTAs with a relatively fast approach to tariff liberalization have typically resulted in increased market access in goods and improved bilateral trade flows. The Republic of Korea–Chile FTA is a case in point. Here, Korea undertook to eliminate tariffs on 93.6% of its tariff lines, impacting 99% of its imports from Chile within ten years (WTO 2005 and 2008). Korea's tariff elimination schedule saw the immediate liberalization of virtually all industrial products, which contributed to a 220% increase in imports from Chile. Similarly, upon entry into force of the Japan–Mexico FTA in 2005, 3,367 (or 37%) of Japan's tariff lines immediately became duty-free for imports from Mexico (WTO 2009). The remaining tariffs are being progressively eliminated and by 2015 trade in nearly all products between the two economies will be free of duties. In 2007, exports from Japan to Mexico increased 10.5%, while Japan's imports from Mexico increased 11.8%.

Although most Asia-Latin America FTAs liberalize tariffs in a relatively fast manner, they also contain temporary or permanent exclusions lists. Under the Japan–Chile Economic Partnership Agreement (EPA), nearly 30 lines are subject to tariff quotas⁵, including meat and meat preparations (e.g., beef, beef scraps, pork, chicken), rice, processed foods (e.g., milk cream and powder, yogurt, and other dairy products such as cheese and curd), and fish products, primarily tuna. Similarly, in the Taipei,China–El Salvador–Honduras FTA,

³ GATT. Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade (GATT) 1994. Article XXIV:5.

⁴ The Thailand–Peru and Taipei,China–El Salvador–Honduras agreements have gradual approaches to tariff liberalization. The India–MERCOSUR and India–Chile PTAs tariff liberalization is not applicable and even more limited as very few tariff lines are programmed for full tariff elimination and furthermore establish margins of preference for only a few hundred products.

⁵ The use of both an import tariff and an import quota in which imports below a certain quantity enter at a low (or zero) tariff while imports above that quantity enter at a higher tariff.

approximately 20% of tariff lines are either excluded from liberalization in a ten year timeframe or considered as sensitive and free from any reduction commitments. These include agricultural products (e.g., processed pork, fowl meat, tea, and rice husks), fish products (e.g., fresh and chilled fish), prepared foodstuffs and beverages (e.g., milk), and transportation (e.g., passenger cars). The Thailand-Peru FTA only commits 70% of total tariff lines to liberalization and excludes a wide range of goods, such as agricultural products (e.g., meat such as pork and poultry, dairy, coffee, rice, copra, coconut and palm oil, and tobacco), fish products (e.g., fish fillet and fish meat) and finally durable goods (e.g., travel goods, handbags, wallets, jewelry cases, woven fabrics, bicycles, and used goods). In the Republic of Korea–Chile FTA (2004), Chile excluded washing machines and refrigerators on its tariff liberalization schedule for Korean exports. Likewise, Korea refused to grant any form of tariff concession on Chilean exports of rice, apples, and pears. Meanwhile, the PRC–Peru FTA (2010) specifically excludes used goods, including reconstructed, repaired, remanufactured, or refurbished goods.

India-Chile PTA only adopts a positive list of tariff elimination and accords margin of preference⁶ ranging from 10% to 50% on 296 Indian products exported to Chile and 266 Chilean products imported by India. The tariff concession only applies to certain tariff lines pertaining to specific goods under key product groups such as pharmaceuticals, chemicals, and machineries. In effect, the tariff concession excludes most goods under these product groups and other major product groups such as mineral fuels, printed books and manuscripts, silk yarns and woven fabrics (except for other fabrics containing 85% or more by weight of silk or of silk waste), and agricultural products except for certain types of meat (e.g., pork and poultry, fresh, chilled, and processed).

Overall, agriculture products remain highly sensitive and are often found on the exclusions lists of FTAs, as is the case with the PRC–Chile FTA (2006), which excludes almost all agriculture products. While traded goods in many Latin American and Asian countries remain sensitive for a variety of economic or cultural reasons, in general, tariff line exclusions should be minimized to promote trade and harmonization.

Services liberalization. GATS Article V imposes three requirements on WTO members that must be satisfied when concluding an FTA: (i) substantial sectoral coverage, (ii) elimination of substantially all discrimination in the sense of national treatment, and (iii) prohibition on increasing barriers against nonmembers as a result of a new FTA (see Fink and Molinuevo 2008). Strict conformity to GATS requires compliance with all three conditions. In practice, however, it is difficult to assess conformity of an FTA with GATS Article V. A practical way forward is to focus on (i) and to interpret substantial sectoral coverage to mean that a comprehensive FTA should cover five key sectors at least (see Wignaraja and Lazaro 2010). Employing the GATS classification list of 12 service sectors, we follow a simple three-tier classification in determining the quality of an FTA based on service sector liberalization:

⁶ The percentage by which specific imports from a trade partner country is accorded lower tariffs than the MFN rate (the tariff level that a GATT/WTO member imposes to other members).

- (i) **Comprehensive coverage of services.** FTA covers the five key sectors of GATS (business and professional, communications, financial, transport, and labor mobility and entry of business persons).
- (ii) **Excluded or limited coverage of services.** FTA either excludes the services trade or provides only general provisions, or covers only one of the key sectors listed in (i).
- (iii) **Some coverage of services.** FTA is not otherwise classified as comprehensive or excluded, and would typically cover between two and four key sectors and some minor sectors.

A service sector is deemed covered if at least one party includes GATS or GATS-plus commitments, while not considering the number of sub-sectors, volume of trade affected, or the four modes of supply. This classification system is employed in analyzing the extent of services coverage for each of the 20 Latin America–Asia FTAs under review. Results are presented in Figure 5 above.

The thirteen Asia-Latin America FTAs classified as comprehensive are Republic of Korea–Chile FTA (2004); Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); Singapore–Panama FTA (2006); Taipei,China–Guatemala FTA (2006); Trans-Pacific Strategic EPA (2006); Japan–Chile EPA (2007); Taipei,China–El Salvador–Honduras FTA (2008); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); Singapore–Peru FTA (2009); Republic of Korea–Peru FTA (2011) and Japan–Peru (2011). Taipei,China; Japan; and Singapore are the Asian leaders in terms of degree of service coverage in Latin America–Asia FTAs. The same can be said of Chile and Peru on the Latin American side. There are three agreements with some coverage on services; People’s Republic of China–Chile FTA (2006); People’s Republic of China–Peru FTA (2010); People’s Republic of China–Costa Rica FTA (2011). Thus, all 20 FTAs under review, except India–MERCOSUR PTA (2009), India–Chile PTA (2007), Thailand–Peru FTA (2011), and Malaysia–Chile FTA (2012) cover services. The key service sectors covered in the majority of the FTAs between Asia and Latin America are labor mobility and entry of business persons.

Overall, Asia-Latin America FTAs provide substantial coverage in services. However, some sub-sectors of business, communications, transport, financial services, tourism and education services are excluded from coverage of key obligations such as national treatment, local presence, and market access. The Latin American countries in the FTAs discussed typically exclude from national treatment sub-sectors in tourism services, recreational services, and the sub-sector radio-television broadcast services. In contrast, the exclusion list of Asian countries comprised mostly of sub-sectors in business services, transport services, distribution services, and education services. Examples of exclusions from national treatment are illustrated in Box 1.

Box 1: Exclusions from National Treatment in Services in Asia-Latin America FTAs

Taipei,China–Panama FTA: Panama exclusions include the education sector and sub-sectors in tourism (travel agencies) and communications (transmission of radio and televisions programs). Taipei,China excludes internal waterway transport, cabotage, and pilotage under transport services and other sectors.

Singapore–Panama FTA: Panama excludes education and certain sub-sectors in distribution (retail sales), recreational and cultural services (musicians and artists), transport (passenger and freight road transport services and air transport), and professional services (lawyers). Singapore excludes specific sub-sectors in business services (architectural services, financial auditing, tax-related services, professional engineering, and real estate services), education services (training of doctors), health and social services (medical and pharmacy services) and transport services (air and maritime transport services).

Japan–Peru EPA: Peru's list of reservations includes sub-sectors in communications (radio and television broadcasting, audio-visual, and radio-broadcasting), business services (legal, architectural, and advertising), transport services (air and aquatic transport), and recreational, cultural, and sporting services (bullfighting, circus, and national artistic audio-visual production services). Japan's exclusions include notary public, services incidental to mining (e.g., mining and quarrying), and freight-forwarding business (excluding freight forwarding business using air transportation).

Taipei,China–Nicaragua FTA: Nicaragua excludes for example certain business services (public accounting and auditing, and notary public), communications (professional radio and television broadcast services), transport services (land and maritime transportation, and repair and maintenance services in air transport), tourism services (hotel, restaurants, tour guides, car rental, and other tourism related activities), construction and engineering services (services related to construction). In contrast, Taipei,China has a shorter exclusion list comprised of fisheries and aquaculture services, air transport auxiliary services under transport services, and public welfare.

6. REGULATORY BARRIERS, NEW ISSUES, AND DEEP INTEGRATION

Various terms have been coined to define provisions dealing with regulatory issues that often lie beyond the scope of the WTO, including “WTO plus,” “deep integration,” and “new issues.” In discussing deep integration, this paper uses the term new issues to describe IPRs and the four Singapore issues. Several studies have emphasized the importance of including new issues in FTAs because they foster deeper economic integration among countries (Fiorentino et al. 2009; Kawai and Wignaraja 2009 and 2011a; WTO 2011). Competition policy, government procurement, and investment provisions are key factors in facilitating FDI inflows and the development of production networks. Moreover, provisions on trade facilitation and logistics development help reduce trade-related transaction costs. Lastly, as technology and knowledge are integral parts of goods and services that are traded across borders (e.g., medicine, electronics, films, books, and computer software), IPR protection can promote international trade and greater economic integration.

New issues are discussed below in greater detail than tariffs and services. First, because the commitments present a more mixed and complex picture. Second, because obligations on new issues are key to deepening integration. For each of the new issues, this paper develops some simple legal and economic criteria to assess the extent and depth of the coverage, and determine whether the agreements-related provisions are a) above standard, b) standard, or c) non-existent (no provisions). Then, a cumulative evaluation of the level of deep integration will be provided and the FTA with regard to deep integration is deemed (i) new age, (ii) moderate, (iii) limited, or (iv) shallow.

Investment. Growth in cross-border investment flows now exceeds growth of international trade in goods and world gross domestic product and FDI has been a key driver of economic development around the world. The rise in FDI has spurred export manufacturing and the formation of regional production networks in East Asia, which has played an important role in connecting the region to global supply chains. Asian countries—specifically the PRC, Japan, and Korea—already have substantial investments in Latin America and are pursuing additional investment opportunities in the region.

While international investment flows are an important aspect of the global economy, no overarching multilateral agreement on investment exists.⁷ Without a unified body of rules, investment provisions in FTAs are important to promote an open and competitive investment

⁷ The existing multilateral agreements—the WTO Trade-Related Investment Measures (TRIMS) Agreement, Mode 3 (commercial presence) of the GATS, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Government Procurement Agreement (GPA), and Agreement on Subsidies and Countervailing Measures (ASCM)—address certain aspects of investment rules in a disaggregated manner.

climate that facilitates investment flows and foster greater economic integration between the parties (UNCTAD 2004 and 2006). In this paper, investment chapters in FTAs are classified according to the level of liberalization (market access) and regulation (protection) they provide. Provisions on liberalization include most-favored nation (MFN) status and national treatment at both pre-establishment and post-establishment, and prohibition of performance requirements. Regulatory and legal protection provisions may include a dispute settlement mechanism, fair and equitable treatment, free transfers on investment-related transactions and capital movements, expropriation and compensation for losses, and restrictions on nationality requirements for senior management and boards of directors. Thus, the following parameters were established to evaluate the quality of investment chapters in Latin America–Asia FTAs based on their coverage of key investment principles and the substantive provisions of an investment chapter:

- (i) **Above standard.** An FTA investment chapter that includes all liberalization and regulation provisions mentioned above.
- (ii) **Standard.** An FTA investment chapter that embodies the core principles of investment liberalization and protection by including two key provisions: (i) post-establishment national treatment and MFN treatment, and (ii) regulation on expropriation and compensation for losses.

Thirteen of the 20 Asia-Latin America FTAs under review have an investment chapter.⁸ Nine of these can be regarded as above standard,⁹ while four met only the standard provisions.¹⁰ The analysis of the investment chapters also shows that five of the seven FTAs that lack an investment chapter involved developing countries in both Asia and Latin America.¹¹

⁸ Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); Singapore–Panama FTA (2006); Taipei,China–Guatemala FTA (2006); Taipei,China–El Salvador–Honduras FTA (2008); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); Singapore–Peru FTA (2009); Republic Korea–Peru FTA (2011); Republic of Korea–Chile FTA (2004); Japan–Chile EPA (2007); PRC–Peru FTA (2010); PRC–Costa Rica FTA (2011). The PRC–Costa Rica FTA adopts an existing bilateral investment treaty between the two countries, which although inclusive of key provisions, precludes more liberalization and regulation provisions than any other Latin America–Asia FTA investment chapter.

⁹ Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); Singapore–Panama FTA (2006); Taipei,China–Guatemala FTA (2006); Taipei,China–El Salvador–Honduras FTA (2008); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); Singapore–Peru FTA (2009); Republic of Korea–Peru FTA (2011).

¹⁰ Republic of Korea–Chile FTA (2004); Japan–Chile EPA (2007); PRC–Peru FTA (2010); and PRC–Costa Rica FTA (2011).

¹¹ PRC–Chile FTA (2006); India–Chile PTA (2007); India–MERCOSUR PTA (2009); Thailand–Peru FTA (2011); Malaysia–Chile FTA (2012). The other FTAs without an investment chapter are TPP (2006) and Japan–Peru EPA (2012).

Competition. Competition policy is a broad set of measures and instruments employed by governments to prevent distortions of competition and anticompetitive behavior, and achieve a more efficient allocation of resources in liberalized markets. A well-functioning market free of anti-competitive practices enables businesses to take full advantage of liberalization, increase trade, and spur growth. Typically, anticompetitive behavior includes anti-competitive horizontal arrangements between competitors, misuse of dominant market power (e.g., predatory pricing), anticompetitive vertical arrangements between businesses, and anticompetitive mergers and acquisitions. The following criteria were used to evaluate the competition chapters of Asia-Latin America FTAs:

- i. **Above standard.** In addition to standard competition provisions, specific obligations to adopt or maintain competition laws, possibly including a definition of anticompetitive behavior.
- ii. **Standard.** General obligations to take measures against anticompetitive behavior plus commitments to promote competition among businesses and cooperation in enforcement activities.

Two of the 20 Asia-Latin America FTAs are considered above standard—Trans-Pacific Strategic EPA (2006) and Singapore-Peru FTA (2009)—in that they specifically obligate members to adopt or maintain a competition law. In addition, they contain comprehensive administrative obligations relating to cooperation and coordination. Eleven FTAs contain general obligations of varying degrees relating to competition and are thus considered standard.¹² These typically prohibit anticompetitive business practices in general, ensure that there are avenues for complaints over unfair practices, and obligate the relevant authorities to commit to cooperation with one another to facilitate enforcement and share best practices. The FTAs between Chile and Singapore and Chile and Korea adopt an approach that is focused on cooperation between the competition authorities of the concerned parties. The chapters on competition in these two agreements include definitions and objectives, as well as provisions for notification, coordination of enforcement, consultations in the event that the important interests of one party are adversely affected in the territory of the other party, the exchange of information and protection of confidentiality, technical assistance, public and private monopolies and exclusive rights, and dispute settlement. Seven of the 20 FTAs under review have no competition-related provisions.¹³

¹² Republic of Korea–Chile FTA (2004); Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); Singapore–Panama FTA (2006); Japan–Chile EPA (2007); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); PRC–Peru FTA (2010); Republic of Korea–Peru FTA (2011); PRC–Costa Rica FTA (2011); and Japan–Peru EPA (2012).

¹³ Taipei,China–El Salvador–Honduras FTA (2008); India–MERCOSUR PTA (2007); PRC–Chile FTA (2006); Taipei, China–Guatemala FTA (2005); India–Chile PTA (2007); Thailand–Peru FTA (2011); Malaysia–Chile (2012).

Government procurement. Government procurement policies are relevant to international trade when foreign suppliers participate in domestic government procurement markets. The WTO and APEC regulate procurement through a set of rules and principles for establishing efficient procurement systems. The WTO Agreement on Government Procurement (GPA) is a plurilateral agreement between 15 WTO members based on principles of national treatment and transparency (see Anderson, Muller, Kodjo, De Leon, and Pelletier 2011).¹⁴ APEC has established a set of voluntary non-binding principles to advance liberalization of government procurement markets and increase transparency and effective competition. An efficient procurement system founded on the principles of non-discrimination and transparency can ensure the optimal use of public funds.

Building on GPA rules and APEC principles, government procurement chapters in FTAs should include obligations and provisions ensuring (i) reasonable scope of commitments (ii) non-discriminatory treatment, and (iii) transparent procurement procedures and due process. The scope of commitments in government procurement chapters determines to what extent substantive rules and obligations are applied. Non-discriminatory treatment ensures that suppliers from all FTA parties are treated equally in the spirit of open and effective competition. A key provision of non-discriminatory treatment is “national treatment” ensuring that each party to the agreement accords the goods and services of suppliers from other parties treatment that is “no less favorable than that accorded to domestic goods and services”.¹⁵ Finally, in accordance with APEC¹⁶ standards on government procurement, a transparent procurement system is characterized by the proper documentation of rules and the availability of relevant information to all interested parties in a timely manner through an open and commonly used platform.

Based on the above discussion, two criteria were developed to assess the quality of government procurement chapters in Asia-Latin America FTAs, according to the inclusion of provisions embodying the core principles of non-discrimination and transparency:

- i. **Above standard.** The government procurement chapter embodies the core principles of non-discrimination and transparency by including a reasonable wide scope of commitments and covering all key affirmative obligations on non-discrimination (e.g., national treatment, qualification of suppliers, tendering procedure, and prohibition of offsets) and transparency. The chapter also covers

¹⁴ Parties to the GPA are mostly developed economies. The 27 countries of the European Union (EU) are considered to be a single signatory. No Latin American country is a signatory to the GPA. In Asia, only Japan; the Republic of Korea; Singapore; and Taipei, China are signatories.

¹⁵ See WTO's Agreement on Government Procurement Article 3.

¹⁶ At their meeting in Santiago, Chile in November 2004, APEC leaders endorsed the Transparency Standards on Government Procurement, which are based on the transparency provisions of the APEC Non-Binding Principles on Government Procurement, and adopted the standards as part of the Leader's Transparency Statement.

substantial obligations going beyond the GPA (GPA-plus) such as electronic and e-government procurement, ensuring integrity, SME development, cooperation and training, and establishment of a single market.

- ii. **Standard.** The government procurement chapter includes a provision on the scope of commitments and all key affirmative obligations on non-discrimination and transparency. It may or may not include a basic GPA-plus provision such as e-government procurement and clauses to establish cooperative measures.

Out of the 20 Asia-Latin America FTAs, nine have chapters on government procurement.¹⁷ Among these, six qualified as having above standard government procurement chapters.¹⁸ The Asian countries in these six Asia-Latin America FTAs are all GPA signatories, while none of the Latin American countries are. Despite the non-accession to the GPA of these Latin American countries, their FTAs conform to the core principles of non-discrimination and transparency, and include obligations beyond those set by the GPA. Three Asia-Latin America FTAs have a standard government procurement chapter.¹⁹ Specifically, the government procurement chapters of Japan's FTAs with Mexico and Chile adopt the language of the GPA in most key provisions, as Japan is a GPA signatory.

Trade Facilitation. The WTO defines trade facilitation as “the simplification and harmonization of international trade procedures,” including “activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade” (WTO 20XX).²⁰ Numerous empirical studies have shown that even a miniscule decrease in trade transaction costs, such as burdensome customs procedures, can yield tremendous welfare gains (Engman 2005, Hummels 2001). Hence, it is crucial that customs and related procedures, which are at the heart of trade facilitation, adhere to best practices and remain consistent with GATT and WTO rules and regulations.

For the purpose of our study, we follow the five key principles in trade facilitation propounded in the study of Willie and Redden (2007), which embody the proposed WTO measures and APEC NBPs in trade facilitation: (i) transparency, (ii) simplification, (iii) harmonization, (iv)

¹⁷ Republic of Korea–Chile FTA (2004), Japan–Mexico EPA (2005), Singapore–Panama FTA (2006), Trans-Pacific Partnership (TPP) (2006), Japan–Chile EPA (2007), Australia–Chile FTA (2009), Singapore–Peru FTA (2009), Republic of Korea–Peru FTA (2011).

¹⁸ Republic of Korea–Chile FTA (2004), Singapore–Panama FTA (2006), TPP (2006), Australia–Chile FTA (2009), Republic of Korea–Peru FTA (2011), Republic of Korea–Chile FTA (2004), Singapore–Panama FTA (2006), TPP (2006), Australia–Chile FTA (2009), Republic of Korea–Peru FTA (2011).

¹⁹ Japan–Mexico EPA (2005); Japan–Chile EPA (2007); Singapore–Peru FTA (2009).

²⁰ This definition does not include non-tariff barriers (NTBs) to trade, such as sanitary and phyto-sanitary measures (SPS), or instruments to protect social and environmental standards.

cooperation, and (v) use of modern technology. A meaningful trade facilitation policy includes specific measures to put these principles into effect. Based on the above considerations, criteria have been developed to evaluate the extent that Asia-Latin America FTAs uphold the key principles of trade facilitation:

- i. **Above standard.** Customs procedure or trade facilitation chapter covers all five key principles and includes relevant measures for implementation.
- ii. **Standard.** Customs procedure or trade facilitation chapter covers three or four of the five key principles and includes relevant measures for implementation.

Of the 20 Asia-Latin America FTAs in effect, 18 have a customs procedure chapter or provisions on trade facilitation.²¹ In most of these FTAs, trade facilitation provisions are found in the chapter for customs procedures instead of there being a separate and distinct chapter for trade facilitation. On the basis of the above criteria, ten out of 18 Latin America–Asia FTAs with customs procedure chapter or provisions on trade facilitation qualify as above standard.²² Eight Asia-Latin America FTAs are classified as having standard customs procedure or trade facilitation chapters.²³ We also observed that Asia-Latin America FTAs embody the key principles of trade facilitation in varying degrees with respect to incorporating relevant measures. For example, while the Republic of Korea–Chile FTA (2004) and the Taipei,China–Panama FTA (2004) contain only two measures on transparency (advance rulings and review mechanism), several other FTAs²⁴ include three measures on transparency (e.g., publication of laws and regulations, advance rulings, and review mechanism). The same variations on relevant measures can be seen with the other four principles.

²¹ Singapore–Panama FTA (2006); TPP (2006); Japan–Chile EPA (2007); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); Singapore–Peru FTA (2009); PRC–Peru FTA (2010); Republic of Korea–Peru FTA (2011); Republic of Korea–Chile FTA (2004); Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); PRC–Chile FTA (2006); Taipei,China–Guatemala FTA (2006); Taipei,China–El Salvador–Honduras FTA (2008); PRC–Costa Rica FTA (2011); Thailand–Peru FTA (2011); Japan–Peru EPA (2012); Malaysia–Chile (2012).

²² Singapore–Panama FTA (2006); TPP (2006); Japan–Chile EPA (2007); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); Singapore–Peru FTA (2009); PRC–Peru FTA (2010); Republic of Korea–Peru FTA (2011); Japan–Peru EPA (2012).

²³ Republic of Korea–Chile FTA (2004); Taipei,China–Panama FTA(2004); Japan–Mexico EPA (2005); PRC–Chile FTA (2006); Taipei,China–Guatemala FTA (2006); Taipei,China–El Salvador–Honduras FTA (2008); PRC–Costa Rica FTA (2011); Thailand–Peru FTA (2011); Malaysia–Chile (2012)..

²⁴ Singapore–Panama FTA (2006); Taipei,China–Nicaragua FTA (2008); Singapore–Peru FTA (2008); Australia–Chile FTA (2009); Republic of Korea–Peru FTA (2010); PRC–Peru FTA (2010); and PRC–Costa Rica FTA (2011).

Intellectual property rights. IPRs are exclusive rights that enable the holders of such rights to exclude others from using protected technology or property. IPRs are necessary to reward creators, stimulate innovation, and promote economic development. In some instances, however, IPRs can increase prices and limit access to goods and technology. Striking the right balance between stimulating innovation on the one hand and providing the public access to knowledge and goods on the other is of critical importance. IPRs encompass a wide range of different rights with different purposes, effects, and costs. While the primary purpose of patents, copyrights, and industrial design is to stimulate innovation and creativity in technology and the creative arts, the purpose of trademarks and geographical indications is advertising, ensuring that other companies cannot free ride on brand-building efforts, and to facilitate information to consumers about the origin and quality of products. Some countries are net users of patented machines and pharmaceuticals, and some are exporters. Some benefit from slack copyright protection for software, movies, and music, while some benefit from access to using trademarks or geographical indications. Therefore, the international regulation of intellectual property, whether through the WTO or an FTA, must be flexible enough to leave governments the space needed to implement optimally-balanced IPR protection policies.

The Agreement on Trade Related Aspects of Intellectual Property—commonly known as the TRIPS Agreement—entered into force in 1995 and is the most comprehensive multilateral agreement concerning intellectual property.²⁵ IPR provisions in bilateral and regional FTAs that extend protection beyond that of TRIPS are referred to as TRIPS Plus. These include higher standards of protection (e.g., extending copyright protection from the 50 years mandated in TRIPS to 70 years), enhancing the scope of IPRs (e.g., expanding IPRs to goods and services not covered by TRIPS such as life forms and plant varieties), or by requiring more extensive enforcement procedures (e.g., stronger criminal remedies and border measures). Whether an FTA contains one or more TRIPS-Plus provisions is a key determinant of its level of IPR protection. The criteria used to evaluate the level of IPR protection in FTAs is as follows:

- i. **Above standard.** FTA that contains one or more TRIPS-Plus provisions.
- ii. **Standard.** FTA that contains IPR provisions that do not exceed those of the TRIPS Agreement.

²⁵ The TRIPS Agreement was adopted on 15 April 1994 as Annex 1C of the Final Act of the Uruguay Round of Multilateral Trade Negotiations creating the World Trade Organization (WTO). Available at http://www.wto.org/english/docs_e/legal_e/27-trips.pdf

Thirteen of the 20 Asia-Latin America FTAs contain IPR commitments.²⁶ In fact, each of these 13 FTAs contains one or more TRIPS-plus provisions. Thus, there are no FTAs with an IPR chapter classified as standard. The key TRIPS-plus provisions concern enforcement, which is a priority of Asian countries exporting goods and services that use advanced technology, and securing expanded protection of geographical indications, which is a priority of a number of Latin American countries. The TRIPS Agreement requires protection of geographical indications, but does not list which ones are eligible for the protection. All 13 FTAs offer the same level of protection as the TRIPS Agreement but regulate geographical indications in more depth by including an annex numerating the specific geographical indications of each party that must be protected in the other party's territory.

The most comprehensive FTA with respect to IPR is the Republic of Korea–Peru FTA, which in addition to strong regulation on geographical indications and enforcement, also expands copyright protection to 70 years after the death of the creator of the copyrighted work. The FTAs that do not regulate IP are Singapore–Panama FTA (2006); India–Chile PTA (2007); Taipei,China–El Salvador–Honduras FTA (2008); India–MERCOSUR PTA (2009); Singapore–Peru FTA (2009); Thailand–Peru FTA (2011); and Malaysia–Chile (2012).

Summary of regulatory barriers and new issues. Throughout the evaluation of regulatory barriers and new issues, the same classifications were used for each specific issue: above standard, standard, no provision. A cumulative evaluation of the level of deep integration resulted in the FTAs deemed (i) new age, (ii) moderate, (iii) limited, or (iv) shallow. The overall results are presented in Figure 6 above and the individual agreements in annex 2. The 20 Asia-Latin American agreements appear to vary in terms of coverage of new issues. Some strengths and weaknesses of the set of agreements studied here can be mentioned as follows.

Eighteen agreements have a customs procedure chapter or provisions on trade facilitation. In this area in particular, a harmonized approach among the FTAs is advisable. Intellectual property is dealt with in 13 out of 20 FTAs, and all 13 agreements have one or more TRIPS-plus provisions. Nine FTAs have above standard investment chapters and therefore strong commitments on both liberalization and protections. Two FTAs directly mandate countries to adopt or maintain competition law and are above standard, while other FTAs encourage countries do so. Overall, competition is the deep integration issue that is lacking the most in Latin-America FTAs (as in FTAs in general). Nine agreements have government procurement chapters and six are above standard. The Asian countries in these six Asia-Latin America FTAs are all GPA signatories, while none of the Latin American countries are. Although there is room for improvement it is encouraging that government procurement increasingly is featured in FTAs.

²⁶ Republic of Korea–Chile FTA (2004); Taipei,China–Panama FTA (2004); Japan–Mexico EPA (2005); PRC–Chile FTA (2006); Taipei,China–Guatemala FTA (2006); TPP (2006); Japan–Chile EPA (2007); Taipei,China–Nicaragua FTA (2008); Australia–Chile FTA (2009); PRC–Peru FTA (2010); Republic of Korea–Peru FTA (2011); PRC–Costa Rica FTA (2011); Japan–Peru EPA (2012).

7. KEY POLICY PRIORITIES

The growth in the number of Asia-Latin America FTAs creates an opportunity for future gains from further inter-regional integration. This deepening of trade between the two regions is attended by some key challenges that have to be surmounted if these gains are to be realized. This paper identifies five key policy priorities that will help spur FTA-led integration between Asia and Latin America: (i) promoting FTAs that provide deep integration, (ii) forming an inter-regional trade agreement between Asia and Latin America, (iii) ensuring firm-level use of FTAs, (iv) addressing the “noodle bowl” problem, and (v) pursuing structural reforms.

Priority 1: Promoting FTAs that provide deep integration

New age FTAs that comprehensively address WTO-plus issues are becoming more common globally (Fiorentino et al. 2009, Freund and Ornelas 2010). Evidence presented here has notable deep integration elements, but room for improvement exists. The inclusion of WTO-plus provisions, particularly the four Singapore issues, is desirable in all future Asia-Latin America FTAs. Competition policy and investment provisions are integral ingredients in facilitating FDI inflows and the development of production networks. High costs of inter-regional trade due to non-tariff barriers and poor transportation infrastructures are impediments to deeper economic ties between Latin America and Asia. Inclusion of provisions on trade facilitation, harmonization of customs procedures, standards and logistics development would help lower transactions costs in conducting trade. Properly addressing government procurement promotes transparency and deepens market access. Cooperation provisions—along the line of the APEC economic and technical cooperation (ECOTECH) agenda—would stimulate technology transfer and industrial competitiveness.²⁷

Priority 2: Towards the formation of an inter-regional trade agreement

An inter-regional FTA is an important means to consolidate the plethora of bilateral and plurilateral agreements between the two regions and better align global and regional rules of existing Asia-Latin America FTAs (see ADB, IDB, and ADBI 2012). Such an FTA would confer a range of economic benefits: (i) increase market access to goods, services, skills, and technology; (ii) increase market size to permit specialization and realization of economies of scale; (iii) facilitate the FDI activities and technology transfer of MNCs; and (iv) permit simplification of tariff schedules, rules, and standards (Chia 2010). Moreover, a large grouping would offer insurance against protectionist sentiments that pose a risk to Asia’s trade and recovery.

²⁷ ECOTECH is the APEC schedule of programs designed to build capacity and skills in APEC member economies to enable them to participate more fully in the regional economy and the liberalization process. See <http://www.apec.org> for more information.

In the last few years, a proposal for an inter-regional FTA through a Free Trade Area of the Asia–Pacific (FTAAP)²⁸ has been under serious discussion in trade fora in some Asian and Latin American countries. Since 2007, the FTAAP has been consistently proposed at APEC Summits. Above all, the FTAAP could increase the two-way trade of partner countries in a significant manner, build regional integration and also be a useful way of reviving the stalled Doha Round (Bergsten 2007, Hufbauer and Schott 2009). The formation of the FTAAP, however, is expected to take many years and involve studies, evaluations, and negotiations among all 21 potential member economies. Given that the number of APEC member economies is so large, a smaller group could be more feasible to initiate the process. The recently emerging TPP is enjoying increasing momentum among a growing number of countries sympathetic to its goal of high-standard liberalization (Markheim 2008).

The original TPP, also known as the Pacific Four (P4) agreement, is a plurilateral FTA agreed upon in 2006 between Brunei Darussalam, Chile, New Zealand, and Singapore. Led by the US, negotiations to expand membership began in March 2010 with Australia, Peru, the US, and Viet Nam. Malaysia joined the negotiations in November 2010. The parties aim to agree on a comprehensive 21st century FTA that comprehensively covers tariffs and services in addition to new issues such as investment, intellectual property, government procurement, competition policy, and labor and environmental regulations. The agreement is also expected to enforce strict regulation of state-owned enterprises (SOEs) and produce innovative initiatives to harmonize regulatory systems to free up global supply chains. A broad outline of the Agreement was unveiled at the APEC summit in Hawaii in November 2011.²⁹ TPP is the only current initiative to include several countries in both Asia and Latin America, and can be an important opportunity to serve as a Pacific trade bridge. Under the agreement's accession clause, it has the potential to grow to include many other nations. In June 2012, Canada and Mexico were invited to join the TPP talks. Japan has also expressed interest but has not joined partly due to domestic politics. Other countries such as Costa Rica, Panama, Philippines, Korea, and Indonesia have been mentioned as possible future parties.

Various pros and cons have been articulated about TPP in academic and policy circles in Asia and Latin America. The pros are well known. Through other countries joining, the TPP could help expand and strengthen economic and strategic ties among select APEC members and lay the foundation for a wider FTAAP. TPP can thus foster trade and investment integration across the Pacific. Although many current and potential TPP countries already share FTAs, TPP could address a potential future noodle bowl problem in the future by simplifying and streamlining customs procedures, tariff lines, and ROOs (rationalizing, adopting coequals, upgrading origin

²⁸ Free Trade Agreement of the Asia–Pacific (FTAAP) covering APEC members (Australia; Brunei Darussalam; Canada; Chile; PRC; Hong Kong, China; Indonesia; Japan; Republic of Korea; Malaysia; Mexico; New Zealand; Papua New Guinea; Peru; Philippines; Russia; Singapore; Taipei, China; Thailand; United States; and Viet Nam.

²⁹ See the broad outlines of the agreement at the USTR website <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/outlines-trans-pacific-partnership-agreement>

administration, and harmonizing). By consolidating the numerous agreements in force, and together with initiatives on regulatory harmonization, TPP can particularly benefit small and medium-sized enterprises (SMEs). The cons include TPP members having to agree to more far reaching liberalization standards in traditional areas (like agriculture and services) than in existing agreements, TPP members possibly taking on commitments in areas beyond trade policy (such as labor and the environment), the challenge of mitigating adjustment costs from widespread liberalization and new commitments, and the political and economic consequences of PRC (the world's second largest trader) not joining the TPP.

Looking ahead, TPP complements the ASEAN-centric approaches to regional integration in Asia, which is known as the ASEAN+3 (or +6) discussions (Kawai and Wignaraja 2011a).³⁰ The two processes are not mutually exclusive, and the ASEAN+3 or +6 approach could create synergies with the TPP approach through useful discussions that lead to liberalizing trade and avoiding protectionism. Whichever avenue is taken, it is important to accelerate the liberalization of goods and services, and trade and investment, and reduce behind-the-border barriers while pursuing domestic reforms. A harmonious approach would see a convergence between the two processes, which would be a win-win solution for the entire Asia-Pacific community. In the end, any inter-regional agreement could be a series of linked agreements with variable coverage of members and issues.

The possibility of significant benefits from inter-regional FTAs has been indicated by studies based on a computable general equilibrium (CGE) model, which has produced estimates of potential welfare gains to members, losses to non-members, and sector-level gains and losses. Depending on the CGE model and data sources used, these studies differ somewhat in their estimates of welfare gains and losses. Generally, these studies indicate that there would be significant gains to members from an inter-regional FTA (Gilbert, Scollay, and Bora 2004; Francois and Wignaraja 2008). Meanwhile, losses to non-members would be negligible. Krasniqi et al. (2011) examined the effects of trade integration between Asia and Latin America, using scenarios with and without Korea and Japan, and found that such trade integration could increase welfare by about 20% on average. Petri, Plummer, and Zhai (2011) found that TPP and FTAAP are competitive routes but will create incentives for the US and PRC to consolidate tracks into a region-wide agreement. They found that both tracks can create additional trade volume of US\$742 billion by 2025. Finally, Park et al. (2010) analyze the effects of FTAAP on APEC members and find that FTAAP could provide welfare gains of US\$50–US\$70 million. CGE studies also indicate that larger agreements in terms of membership and issues covered would bring bigger welfare gains than agreements with less members and limited coverage of issues. Furthermore, a comprehensive trans-regional FTA covering a range of issues implies better alignment of compatibilities between global and regional rules in Asia-Latin America FTAs. Ideally, the three issues covered in this paper—tariff

³⁰ The ten ASEAN countries plus the PRC, Japan, and Republic of Korea (ASEAN+3) and Australia, India, and New Zealand (ASEAN+6).

liberalization, services liberalization, and deep integration—could form the heart of such an agreement.

Priority 3: Ensuring firm-level use of FTA preferences

Well-designed and comprehensive FTAs provide numerous benefits, including preferential tariffs, market access, and new business opportunities. Previous studies at the country and industry levels, however, suggest that FTA preference utilization rates—based on shares of export value enjoying preferences—are modest in Asian countries (Baldwin 2006, World Bank 2007). Some even view FTAs as discriminatory and a drain on scarce trade negotiation capacity in developing countries (Bhagwati 2008).

Eight comprehensive surveys of exporting firms conducted between 2007 and 2012 by ADB and several partner researchers in Japan, the PRC, Korea, Singapore, Thailand, the Philippines, Indonesia, and Malaysia shed light on the use of FTA preferences (Kawai and Wignaraja 2011b for results of six surveys). Asian exporting firms tend to utilize FTA preferences more frequently than previously thought and may even be increasing their utilization rate. Of the 1,281 Asian sample firms, around 32% use FTA preferences. When plans for using FTA preferences are also factored in, 56% of all Asian firms either use or plan to use FTA preferences. PRC, Indonesian, and Japanese firms are the highest users of FTA preferences, indicating the growing importance of FTAs at the firm level. Firms in Asia—in particular in the PRC, Korea, and Japan—have plans in place to increase the use of FTA preferences. While these findings are encouraging, room for improvement exists in FTA preference use at the firm level in Asia.

Surveys of private firms in Latin America carried out by the IDB found that nearly all exporting firms make use of preferential agreements, with the only deviation occurring in countries that did not have FTAs with their principal trading partners (Harris and Suominen 2009; WTO 2011). The difference in Latin America comes from a long history of preferential trading arrangements dating back to the 1960s, which was also a time of high MFN tariffs, creating a sizable incentive to master the procedures of qualifying for preferential duty rates. Asia, in contrast, is a relative newcomer to FTAs with most agreements coming in the mid 2000s and countries are already applying low MFN tariffs following outward oriented trade strategies.

Use of FTAs can be encouraged by raising awareness of (i) FTA provisions, including the phasing out of tariff schedules; (ii) margins of preference at the product level; and (iii) administrative procedures for rules of origin (ROOs). Business associations and governments could make information on how to use FTAs more transparent, particularly for SMEs. Practical ideas include frequent seminars with SMEs, television programs directed at businesses, and dedicated websites and telephone help lines. More generally, institutional support systems for businesses, particularly for SMEs, need to be improved. Existing support systems for exporting under FTAs are of varying quality and utilization rates. Business and industry associations will have to play a greater role in providing members with support services for exporting under FTAs. Upgrading SME technical standards, quality, and

productivity could be useful so that they can participate more fully in regional production networks driven by large firms.

Priority 4: Addressing the “noodle bowl” problem

ROOs are another potentially challenging aspect of the surge in the number of Latin America–Asian FTAs. These are devices to determine which goods will enjoy preferential tariffs in order to prevent trade deflection among FTA members (Estevadeordal and K. Suominen 2006). The multiplicity of bilateral trade agreements, such as the growing number of Asia-Latin America FTAs, have generated a complicated, inconsistent set of ROOs, sparking concerns about what the attendant rules and administrative procedures would imply for the cost of doing business. Indeed, the firm-level surveys in Latin America that show high levels of FTA utilization, also show that firms do face challenges in utilizing multiple FTAs simultaneously, limiting their ability to leverage preferences to diversify their export markets (Harris and Suominen 2009). Multiple ROOs pose a severe burden on SMEs, whether exporting directly to FTA partners, or when integrated into multinationals’ supply chains, which can be constrained by ROO. In Asia, it is predominantly seen as a future challenge according to firm-level data presented in Kawai and Wignaraja (2011 a and b). Originally termed a “spaghetti bowl” of trade deals (Bhagwati 1995), this phenomenon has become widely known as the “noodle bowl” effect in Asia.³¹

Supportive measures—such as encouraging rationalization of ROOs and upgrading their administration—can mitigate any negative effects of the “noodle bowl” problem in the future. Gains are possible from simplifying the preferential trading system through harmonizing ROOs and the procedures for calculation and certification of compliance, and cumulation provisions that allow for more efficient, sophisticated supply chains without jeopardizing eligibility for preferences. Likewise, it would be useful to adopt international best practices in ROO administration. These may include introducing a trusted trader program that would allow successful applicants to self-certify origin, expanding the use of business associations issuing certificates of origin for a fee, increasing use of information technology based systems of ROO administration, and training SMEs to enhance their capacity to use FTAs.

Priority 5: Pursue structural reforms

There is a consensus that a general emphasis on markets for resource allocation and promotion of greater competition on domestic markets encourages efficiency in developing countries. Where market imperfections and institutional bottlenecks arise, however, intervention through domestic structural reforms may be required in Asian and Latin American countries. Indeed recent research suggests that some aspects of regulatory policies (e.g., procedures required to start a business) in Asian and Latin American countries have improved

³¹ Others suggest that the depiction of multiple FTAs as a complicated noodle bowl is misleading, arguing on the contrary, that this plethora of bi-lateral trade agreements may be creating an order of a different sort by building the foundation for a stronger regional trading system (Petri 2008, Chia 2010).

between 2005 and 2012, but an unfinished agenda remains particularly in some less outward-oriented Latin American economies (ADB, IDB, and ADBI 2012). However, there is no one-size-fits-all strategy for domestic structural reforms. Key ingredients of domestic structural reforms—open trade and investment policies, streamlining of business procedures, measures to encourage export competitiveness, improvement of infrastructure and education, and capacity building—need to be modified and sequenced to suit individual country needs and priorities. As the 2008 global economic crisis and the 1997–98 Asian financial crisis indicate, financial markets also require adequate regulation to avert financial crises. Likewise, inter-regional FTAs should be designed to effectively lock-in domestic structural reforms rather than affording prolonged protection to inefficient production.

8. CONCLUSION

The 2008 global financial crisis and the growing impetus towards more South-South cooperation seems to have accentuated the growing economic relationship between Asia and Latin America since the early 2000s. This relationship was initially market-led by the private sector who responded to falling trade and investment barriers and increasing business opportunities across vast geographical space separating the two dynamic regions. A handful of large countries in both regions have forged a promising inter-regional economic relationship but many players are absent or only participating below potential. Furthermore, inter-regional investment has grown but lags inter-regional trade growth and is largely from Asia to Latin America. More recently, market-led inter-regional trade and investment has been followed by growing numbers of inter-regional FTAs concluded between governments to reduce trade and behind the border regulatory barriers.

This paper suggested new economic and legal criteria to comprehensively study the extent of liberalization in goods, services, and regulatory barriers in 20 Asia-Latin American FTAs in effect in mid-2012. The contents of new, complex inter-regional FTAs are not widely understood and little attention has been given in the literature to studying liberalization under inter-regional FTAs. An inter-disciplinary approach was adopted here—blending methods from international law and applied international economics—to quantify and assess the extent of liberalization under different inter-regional FTAs. The criteria and methodology used in this paper may be usefully refined in future studies.

The evaluation of agreements suggests that progress has been made in reducing trade and regulatory barriers using FTAs, but more needs to be done in future FTAs to solidify and expand the process of deep integration between the two regions. It was found that traditional areas like goods and services are typically well covered in inter-regional FTAs. Relatively fast liberalization and comprehensive provisions on services characterize most inter-regional FTAs. Many inter-regional FTAs also extend beyond trade in goods and services to support deeper integration through the Singapore issues and provisions on IPRs. Three FTAs (the Republic of

Korea–Peru FTA, Trans-Pacific Strategic Economic Partnership Agreement, and Australia–Chile FTA) are of particular high depth while four offer low depth. Another twelve FTAs are deemed medium depth and nine of these follow the same formula: Relatively fast tariff liberalization, comprehensive commitments of services, and mode obligations on some new issues. Some Asia-Latin America FTAs, however, adopt a somewhat cautious approach to liberalization of sensitive regulatory barriers in areas like investment, competition, and government procurement. This caution reflects the influence of domestic business interests and lobbies. By putting in place some inter-regional rules, FTAs have also helped build greater business confidence and trust which is vital for future inter-regional trade and investment flows.

There are benefits as well as costs with FTAs between Asia and Latin America. The paper also noted several challenges with existing Asia-Latin America FTAs including insufficient depth in some agreements, variable rates of FTA used by business, and the risk of a noodle bowl effect.

With no end in sight for the WTO Doha Round and questions remaining about the efficiency of the trade negotiating function of the WTO, the numbers of Asia-Latin America numbers are projected rise to about 30 by 2020. Further improvement is needed in five key areas to make future inter-regional FTAs more effective as a liberalizing instrument. The future policy agenda includes: promoting deep integration FTAs, forming a comprehensive inter-regional FTA, raising FTA use by business, addressing the noodle bowl problem, and pursuing domestic structural reforms. Strong partnerships between government, business, and regional institutions are vital to design and implement this ambitious policy agenda.

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ANNEX 1:**Status of Asia-Latin America FTAs (End June 2012)**

In Effect
<ol style="list-style-type: none"> 1. Republic of Korea–Chile FTA(2004) 2. Taipei,China–Panama FTA (2004) 3. Japan–Mexico EPA (2005) 4. People’s Republic of China–Chile FTA (2006) 5. Singapore–Panama FTA (2006) 6. Taipei,China–Guatemala FTA (2006) 7. Trans-Pacific Strategic EPA (2006) 8. Japan–Chile EPA (2007) 9. India–Chile PTA (2007) 10. Taipei,China–El Salvador–Honduras FTA (2008) 11. Taipei,China–Nicaragua FTA (2008) 12. Australia–Chile FTA (2009) 13. India–MERCOSUR PTA (2009) 14. Singapore–Peru FTA (2009) 15. People’s Republic of China–Peru FTA (2010) 16. Republic of Korea–Peru FTA (2011) 17. People’s Republic of China–Costa Rica FTA (2011) 18. Thailand–Peru FTA (2011) 19. Japan–Peru FTA (2012) 20. Malaysia–Chile FTA (2012)
Signed (Not in Effect)
<ol style="list-style-type: none"> 21. Singapore–Costa Rica FTA (2010) 22. Chile–Viet Nam FTA (2011)
Under Negotiation
<ol style="list-style-type: none"> 23. Singapore–Mexico FTA (2000) 24. Taipei,China–Paraguay FTA (2004) 25. Republic of Korea–Mexico SECA (2006) 26. Pakistan–MERCOSUR PTA (2006) 27. Taipei,China–Dominican Republic FTA (2006) 28. Republic of Korea–Colombia FTA (2009) 29. Trans-Pacific Partnership (2010) 30. Thailand–Chile FTA (2011)

Proposed
31. India–Colombia PTA (2004)
32. India–Uruguay PTA (2004)
33. India–Venezuela PTA (2004)
34. Republic of Korea–MERCOSUR PTA (2004)
35. Australia–Mexico FTA (2006)
36. Thailand–MERCOSUR FTA (2006)
37. Australia–Colombia (2009)
38. Hong Kong, China–Chile (FTA) 2009
39. Indonesia–Chile FTA (2009)
40. Republic of Korea–Central America FTA (2010)
41. Japan–Colombia FTA (2011)

Source: Authors' compilation.

ANNEX 2:**New Issues in Asia-Latin America FTAs in Effect**

FTA	Government Procurement Chapter	Investment Chapter	Trade Facilitation Chapter	Competition Policy	Intellectual Property Rights	New Issues (overall) ³²
1. Republic of Korea–Chile FTA (2004)	Above Standard	Standard	Standard	Standard	Above Standard	Moderate
2. Taipei,China–Panama FTA (2004)	No Provision	Above Standard	Standard	Standard	Above Standard	Moderate
3. Japan–Mexico EPA (2005)	Standard	Above Standard	Standard	Standard	Above Standard	Moderate
4. PRC–Chile FTA (2006)	No Provision	No Provision	Standard	No Provision	Above Standard	Limited
5. Singapore–Panama FTA (2006)	Above Standard	Above Standard	Above Standard	Standard	No Provision	Moderate
6. Taipei,China–Guatemala FTA (2005)	No Provision	Above Standard	Standard	No provision	Above Standard	Moderate
7. TPP (2006)	Above Standard	No Provision	Above Standard	Above Standard	Above Standard	New Age
8. Japan–Chile FTA (2007)	Standard	Standard	Above Standard	Standard	Above standard	Moderate
9. India–Chile PTA (2007)	No Provision	No Provision	No Provision	No Provision	No Provision	Shallow
10. Taipei,China–El Salvador–Honduras FTA (2008)	No Provision	Above Standard	Standard	No Provision	No Provision	Limited
11. Taipei,China–Nicaragua FTA (2008)	No Provision	Above Standard	Above Standard	Standard	Above Standard	Moderate
12. Australia–Chile FTA (2009)	Above Standard	Above Standard	Above Standard	Standard	Above Standard	New age
13. India–MERCOSUR PTA (2007)	No Provision	No Provision	No Provision	No Provision	No Provision	Shallow

³² In the overall determination, no provision is given 0 points, a standard provision 1 point and above standard 2 points. An FTA is classified as new age combined score ranges from 8–10 points, moderate with a range of 5–7, limited with a range of 2–4, and shallow with a range of 0–1.

14. Singapore–Peru FTA (2009)	Standard	Above Standard	Above Standard	Above Standard	No Provision	Moderate
15. PRC–Peru FTA (2010)	No Provision	Standard	Above Standard	Standard	Above Standard	Moderate
16. Korea–Peru FTA (2010)	Above Standard	Above Standard	Above Standard	Standard	Above Standard	New age
17. PRC–Costa Rica FTA (2011)	No Provision	Standard	Standard	Standard	Above Standard	Moderate
18. Thailand–Peru FTA (2011)	No Provision	No Provision	Standard	No Provision	No Provision	Shallow
19. Japan–Peru EPA (2012)	Above Standard	No Provision	Above Standard	Standard	Above Standard	Moderate
20. Malaysia–Chile FTA (2012)	No provision	No Provision	Above Standard	No Provision	No Provision	Limited

Source: Authors' compilation.

ANNEX 3:

**Asia-Latin America FTAs—Approaches to Tariff Liberalization,
Services Coverage, and Deep Integration (New Issues)**

FTA	Level of Development³³	Tariff Liberalization	Services coverage	New Issues	Overall Quality
1. Republic of Korea–Chile FTA (2004)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
2. Taipei,China–Panama FTA(2004)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
3. Japan–Mexico EPA(2005)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
4. People's Republic of China–Chile FTA (2006)	Developing–Developing	Relatively Fast	Some	Limited	Medium
5. Singapore–Panama FTA (2006)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
6. Taipei,China–Guatemala FTA (2006)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
7. Trans-Pacific Strategic EPA (2006)	Advanced–Developing	Relatively Fast	Comprehensive	New age	High
8. Japan–Chile EPA(2007)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
9. India–Chile PTA (2007)	Developing–Developing	NA	Excluded or Limited	Shallow	Low
10. Taipei,China–El Salvador–Honduras FTA (2008)	Advanced–Developing	Gradual	Comprehensive	Limited	Low
11. Taipei,China–Nicaragua FTA (2008)	Advanced–Developing	Relatively Fast	Comprehensive	Moderate	Medium
12. Australia–Chile FTA (2009)	Advanced–Developing	Relatively Fast	Comprehensive	New Age	High

³³ Based on IMF definition.

13. India–MERCOSUR PTA (2009)	Developing–Developing	NA	Excluded or Limited	Shallow	Low
14. Singapore–Peru FTA (2009)	Advanced–Developing	Relatively fast	Comprehensive	Moderate	Medium
15. People's Republic of China–Peru FTA (2010)	Developing–Developing	Relatively Fast	Some	Moderate	Medium
16. Republic of Korea–Peru FTA (2011)	Advanced–Developing	Relatively Fast	Comprehensive	New Age	High
17. People's Republic of China–Costa Rica FTA (2011)	Developing–Developing	Relatively Fast	Some	Moderate	Medium
18. Thailand – Peru FTA (2011)	Developing – Developing	Gradual	Excluded or Limited	Shallow	Low
19. Japan–Peru EPA (2012)	Advanced - Developing	Relatively Fast	Comprehensive	Moderate	Medium
20. Malaysia–Chile FTA	Developing-Developing	Relatively Fast	Excluded or Limited	Limited	Low

Source: Authors' compilation.