

# THE DOMESTIC AND INTERNATIONAL POLICY IMPLICATIONS OF “DEEP” VERSUS “BROAD” PREFERENTIAL TRADE AGREEMENTS

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The subject of “preferential trade agreements” (PTAs) has been the focus of significant discussion in recent years. Much of the attention has concerned the economic desirability of preferential trade liberalization versus multilateral trade liberalization. While the debate about the benefits and dangers of trade liberalization via PTAs is an important one, it tends to overlook or mask other, more basic questions about PTA formation, scope and membership.

This Article suggests that decisions regarding PTA formation, the precise PTA forms used, membership, and the sectoral scope of PTAs are, at their core, decisions about deepening existing economic relationships versus broadening to form new ones. That is, these and other PTA decisions operate within a larger framework in which each PTA decision is, ultimately, a choice between deepening a state’s existing economic relationships to make them more fully integrative, versus broadening a state’s formal international economic ties to include new ties that are less deep, in an integrative sense. This Article explores the legal and policy implications of this conceptualization of PTAs, with primary focus on U.S. PTA activity.

## INTRODUCTION

The subject of regional trade agreements—or to use more recent terminology, “preferential trade agreements” (PTAs)<sup>1</sup>—has been the focus of

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1. The traditional term “regional trade agreement” reflects the historical tendency for such agreements to be focused on a single geographic region, such as with the North American Free Trade Agreement. This is not the case, however, with more recent trans-regional trade agreements, such as the U.S.-Singapore Free Trade Agreement. See Office of the United States Trade Representative, *Singapore*, [http://www.ustr.gov/World\\_Regions/Southeast\\_Asia\\_Pacific/Singapore/Section\\_Index.html](http://www.ustr.gov/World_Regions/Southeast_Asia_Pacific/Singapore/Section_Index.html) (last visited April, 8 2009). While some commentators continue to prefer the term “regional trade agreement,” this Article employs the term “preferential trade agreement,” given that much of what is discussed below focuses on trade preferential programs that are not region-specific.

significant discussion in recent years. Much of the attention has concerned the economic desirability of preferential trade liberalization versus multilateral trade liberalization. Some observers, most notably Jagdish Bhagwati, contend that “spaghetti regionalism”—the creation of inconsistent, overlapping PTAs—hinders or even prevents much-needed multilateral trade liberalization.<sup>2</sup> Bhagwati even has gone so far as to describe PTAs as “a pox on the world trading system.”<sup>3</sup> In contrast, other observers, such as Jeffrey Schott, contend that PTAs lead to actual gains, and that comparing these real gains to the hypothetical, *pro forma* gains of multilateral trade liberalization is a relatively meaningless exercise.<sup>4</sup> Still other observers have co-opted Bhagwati’s term “spaghetti regionalism” to argue that overlapping PTAs are a positive development—that they are a first step toward establishing an ultimately harmonized network of liberalized international trade.<sup>5</sup>

The debate about the benefits and dangers of trade liberalization via PTAs is an important one, but it tends to overlook or mask other, more basic questions. Why, for example, have preferential trade agreements grown so much in popularity recently? Why are PTAs so diverse in form and scope? How do we explain the United States’ entry into PTAs with countries that offer the United States little economic benefit, while the United States forgoes PTAs with countries that offer greater economic benefits? The purpose of this Article is to bring these aspects of PTA formation and entry into greater focus.

More specifically, this Article suggests that decisions regarding PTA formation, the precise PTA forms used, PTA membership, and the sectoral scope of PTAs are, at their core, decisions about deepening existing economic relationships versus broadening to form new ones. That is, these PTA decisions operate within a larger framework in which each PTA decision is, ultimately, a choice between deepening a state’s existing, formal international ties to make them more fully integrative, versus broadening a state’s formal international economic ties to include new ties that are less deep, in an

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2. See Jagdish Bhagwati, *U.S. Trade Policy: The Infatuation with Free Trade Areas*, in JAGDISH BHAGWATI & ANNE O. KRUEGER, *THE DANGEROUS DRIFT TO PREFERENTIAL TRADE AGREEMENTS* 1 (1995); Jagdish Bhagwati, *PTAs: The Wrong Road*, 27 *LAW & POL’Y INT’L BUS.* 865 (1995). For a summary of other articles by Bhagwati in a similar vein, see RAJ BHALA, *MODERN GATT LAW: A TREATISE ON THE GENERAL AGREEMENT ON TARIFFS AND TRADE* 21-001 (2005).

3. JAGDISH BHAGWATI, *FREE TRADE TODAY* 95 (2002).

4. *FREE TRADE AGREEMENTS: US STRATEGIES AND PRIORITIES* 1-4 (Jeffrey J. Schott ed., 2004); see generally Jeffrey Schott, *The Korea-US Free Trade Agreement: A Summary Assessment* (Peterson Institute for International Economics, Policy Brief No. PB07-7, Aug. 2007), available at <http://www.iie.com/publications/pb/pb07-7.pdf> (discussing the benefits of the U.S.-Korea trade agreement, and in doing so tacitly supporting the broadening of trade agreements rather than the deepening of existing agreements) [hereinafter Schott, *U.S.-Korea Summary Assessment*]. In Schott’s view, the regional trade approach is a stable, if second-best, equilibrium for achievement of trade liberalization goals. See *infra* text accompanying note 8.

5. Caroline Freund, *Spaghetti Regionalism*, FRB INT’L FIN. DISC. PAPER 680 (2000), available at <http://ssrn.com/abstract=244072>.

integrative sense. While this perspective on regionalism is found in some literature on the European Union's expansion,<sup>6</sup> it is not often found in discussions of PTAs in other regions. It is submitted here that "deepening versus broadening" is a useful perspective on PTA formation in general, and that it is especially useful when applied to recent U.S. PTA activity. In an age in which regionalism is rivaling multilateralism for dominance in the international trading system, and in light of the United States' recent waning (or at least waffling) adherence to multilateral trade liberalization over regionalism, it is an important topic to explore.

This Article is organized as follows. Part II sets the stage by providing a brief overview of traditional PTA economic theory and traditional taxonomies of PTAs, which have dominated PTA analysis and discussion in many respects. Part II also discusses how traditional PTA economic theory and taxonomies can be in tension with foreign policy and national security considerations of states. Part III builds on and adds complexity to the commercial-versus-security tension in PTA literature by identifying and discussing important thematic points concerning contemporary PTAs.

Part IV then explores a more harmonized view of PTA formation and structure. Part IV begins by comparing modern U.S. PTA decision making to European Community (now European Union) decision making in the 1980s and 1990s regarding expansion of the Community's membership. The Community of that era was engaged in an intense debate over its future shape and scope, and this debate provides an excellent unifying thematic framework for analyzing and better understanding modern PTAs and the factors affecting their formation and scope. While the EU is currently in the midst of further discussions concerning deepening and broadening, the Community's decision making of the 1980s and 1990s is used here for two main reasons. First, the decisions of that earlier era set the EU on the path it is on today, with a highly liberalized internal market and nearly 30 members. Second, the dust has settled on those earlier decisions, whereas contemporary debates regarding further EU deepening and broadening are very much in flux. With this base in place, Part IV then applies the "deepening versus broadening" thematic framework to U.S. PTA activity. Part V concludes by discussing some of the implications of this conceptualization of PTAs for future PTA formation by the United States.

It must be noted at the outset that this Article consciously confines its analysis to a unitary view of state decision making. This is perhaps best thought of as a simplifying assumption. Domestic political considerations

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6. See Roberta De Santis & Claudio Vicarelli, *The "Deeper" and the "Wider" EU Strategies of Trade Integration: An Empirical Evaluation of EU Common Commercial Policy Effects*, 7 GLOBAL ECON. J. 1 (2007) (discussing how the EU's Common Commercial Policy has instituted the implementation of deeper internal trading between member countries and broader external trading between member countries and non-member countries); See Charles Wyplosz, *The Challenges of a Wider and Deeper Europe*, Graduate Inst. Int'l Stud. available at [http://www.oenb.at/de/img/wyplosz\\_tcm14-15240.pdf](http://www.oenb.at/de/img/wyplosz_tcm14-15240.pdf).

clearly do affect state decision making in many ways, which makes analysis of PTA formation and scope more complex, and there has been beneficial public choice theory scholarship along this vein.<sup>7</sup> The recent tensions over U.S. exports of beef to Korea, as part of the potential Korea-U.S. Free Trade Agreement, help to further illustrate the influence of such considerations.<sup>8</sup> In this Article, however, these domestic variables are held constant so that the effect of other variables can be explored.

## I. PTAS AND INTERNATIONAL TRADE THEORY

PTAs are often thought of primarily in economic or commercial terms, and traditional PTA taxonomies reinforce this view. It is therefore proper to begin with PTA taxonomies in order to establish a conceptual baseline of sorts. As the following discussion illustrates, the traditional, integration-focused PTA taxonomies have acted as a limiting factor on PTA analysis and thinking, and economic or commercial explanations of PTA development remain incomplete. This Article's discussion then turns to modern PTA trends in Part III and of PTA "deepening versus broadening" in Part IV.

### A. PTAs and Traditional PTA Taxonomies

Traditional PTA taxonomies focus on PTAs' levels of internal economic integration and cooperation, and thus characterize PTAs as preferential, potentially protectionist organizations. The taxonomies range from less integrated PTA forms, such as free trade agreements (FTAs) like the North American Free Trade Agreement (NAFTA)—which are characterized by internal trade liberalization but no coordination of monetary policy or a common external tariff (CET)—to more integrated forms such as customs unions with CETs, to even more integrated common markets like the EU that feature broader elimination of internal trade barriers, to monetary unions that coordinate monetary policy and share a single currency or tightly peg their

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7. Studies of domestic influences in PTA decision making include, for example, David Quartner, *Public Choice Theory, Protectionism and the Case of NAFTA*, ECONOMIC AFFAIRS, March 2006, at 59-60; Paul B. Stephan, *Barbarians Inside the Gate: Public Choice Theory and International Economic Law*, 10 AM. U.J. INT'L L. & POL'Y 745 (1995); Thomas M. Murray, *The U.S.-French Dispute Over GATT Treatment of Audiovisual Products and the Limits of Public Choice Theory: How an Efficient Market Solution was "Rent-Seeking"*, 21 MD. J. INT'L L. & TRADE 203, 203-05 (1997); Charles K. Rowley & William Thorbecke, *The Role of the Congress and the Executive in U.S. Trade Policy Determination: A Public Choice Analysis in National Constitutions and International Economic Law*, in NATIONAL CONSTITUTIONS AND INTERNATIONAL ECONOMIC LAW (Meinhard Hilf & Ernst-Ulrich Petersmann eds., 1993).

8. Schott, *U.S.-Korea Summary Assessment*, *supra* note 4; *Still Beefing*, ECONOMIST.COM, June 26, 2008, available at [http://www.economist.com/world/asia/displaystory.cfm?story\\_id=11622408](http://www.economist.com/world/asia/displaystory.cfm?story_id=11622408); Jon Herskovitz, *South Korea Parliament Starts, MPs Battle on Beef*, REUTERS, July 10, 2008, available at <http://www.reuters.com/article/latestCrisis/idUSSEO91880>.

currencies (again, like the EU).<sup>9</sup> The final, logical stage is complete economic integration, which also requires a degree of political integration as well.<sup>10</sup> While there are variations in the taxonomies employed by various scholars,<sup>11</sup> the main point is that PTA taxonomies are preferentialist and move from less to more integrated forms. This preferentialist view of PTAs is so well established that it is embodied in the General Agreement on Tariffs and Trade.<sup>12</sup>

Traditional PTA taxonomies are relatively clean and intuitive, but they have been rendered incomplete by modern PTA developments. First, all PTAs are not created equal: some are expansive in their scope, while others are limited to certain economic sectors. NAFTA and its accompanying side agreements, for example, are fairly comprehensive in their sectoral scope, whereas the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR) is more focused on the textiles sector.<sup>13</sup>

Second, there are agreements among states that are not traditional PTAs, but still need to be considered in any discussion of international or regional/preferential integration efforts. For example, bilateral investment treaties (BITs) establish the terms and conditions for foreign direct investment between countries.<sup>14</sup> Because it is generally recognized that foreign direct

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9. Joel P. Trachtman, *International Trade: Regionalism* 154, in RESEARCH HANDBOOK IN INTERNATIONAL ECONOMIC LAW (Andrew T. Guzman & Alan O. Sykes eds., 2007); Helen Wallace & Alasdair R. Young, *The Single Market: A New Approach to Policy* 98, in POLICY-MAKING IN THE EUROPEAN UNION (Helen Wallace & William Wallace eds., 1996) [hereinafter POLICY-MAKING IN THE EUROPEAN UNION]; see generally BÉLA BALASSA, THE THEORY OF ECONOMIC INTEGRATION (R.D. Irwin, Inc., 1961); STEVEN M. SURANOVIC, INTERNATIONAL TRADE THEORY AND POLICY, ch. 110-2 (2006), available at <http://internationalecon.com/Trade/Tch110/TI110-2.php>.

10. BALASSA, *supra* note 9, at 2. Balassa specifically states that economic integration “requires the setting up of a supra-national authority” for the countries involved. *Id.*

11. See, e.g., Arvind Panagariya, *Preferential Trade Liberalization: Traditional Theory and New Developments* (Sept. 1999), available at <http://www.columbia.edu/~ap2231/technical%20papers/SURVEY4-with-Figures.pdf> (listing preferential trade arrangements, free trade areas, and customs unions); SURANOVIC, *supra* note 9, at ch. 110-2.

12. See generally General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194, art. XXIV [hereinafter GATT]. For a discussion of recent developments concerning WTO-RTA interplay, see Youri Devuyt & Asja Serdaveric, *The World Trade Organization and Regional Trade Agreements: Bridging the Constitutional Credibility Gap*, 18 Duke J. Comp. & Int’l L. 1 (2007) (discussing the WTO’s Transparency Mechanism for Regional Trade Agreements, which was provisionally adopted by the WTO in 2006).

13. Office of U.S. Trade Representative, *Free Trade with Central America and the Dominican Republic: Highlights of the CAFTA* (Feb. 2005), available at [http://www.ustr.gov/assets/Trade\\_Agreements/Regional/CAFTA/Briefing\\_Book/asset\\_upload\\_file834\\_7179.pdf](http://www.ustr.gov/assets/Trade_Agreements/Regional/CAFTA/Briefing_Book/asset_upload_file834_7179.pdf); see David A. Gantz, *International Legal Development: The “Complex Problem” of Customs Law and Administrative Reform in Central America*, 12 Sw. J. L. & TRADE AM. 215, 228-29 (2006) (discussing CAFTA-DR’s possible effect on textile exports from Central America); see also Office of U.S. Trade Representative, *Textiles in the CAFTA-DR* (July 2007), available at [http://www.ustr.gov/assets/Trade\\_Agreements/Regional/CAFTA/Briefing\\_Book/asset\\_upload\\_file551\\_7185.pdf](http://www.ustr.gov/assets/Trade_Agreements/Regional/CAFTA/Briefing_Book/asset_upload_file551_7185.pdf).

14. See Zachary Elkins, Andrew Guzman & Beth Simmons, *Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960-2000*, U.C. Berkeley Public Law Research

investment can serve as both a substitute for and a complement to international trade,<sup>15</sup> BITs can have an enormous impact on regional and global trading patterns. The same can be said for tax treaties, which can facilitate (bilateral) trade and investment through the elimination of double taxation.<sup>16</sup> Additionally, Trade and Investment Framework Agreements (TIFAs) serve as general trade framework agreements, and at least in some PTA contexts they are being used as precursor agreements to BITs and formal PTAs.<sup>17</sup> TIFAs can be thought of in one sense as memoranda of understanding that precede formal agreements (PTAs), but even a TIFA that is not followed by a formal PTA can lead to trade benefits among the parties involved.

Third, there may be informal and *de facto* trade cooperation efforts among states that significantly affect regional and even global trading patterns. For example, the United States and Canada recently began coordinating procedures for inspecting and clearing commercial shipments by truck across their common border, in order to minimize delays without unduly sacrificing the vetting of these shipments.<sup>18</sup> This program (called "Free and Secure Trade," or "FAST") and other efforts like it are informal, cross-border networks that are being used by countries to coordinate and harmonize regional trade policies in certain respects.<sup>19</sup> In some cases, such efforts have developed into

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Paper No. 578961 (2004), available at <http://ssrn.com/abstract=578961> (stating that BITs are "agreements establishing the terms and conditions for private investment by nationals and companies of one country in the jurisdiction of another . . . covering the areas of FDI admission, treatment, expropriation, and the settlement of disputes"); Calvin A. Hamilton & Paula I. Rochwerger, *Trade and Investment: Foreign Direct Investment Through Bilateral and Multilateral Treaties*, 18 N.Y. INT'L L. REV. 1 (2005) (stating that BITs generally encourage foreign investment by "provid[ing] investors with rights against states and state authorities that damage investment projects"); K. Scott Gudgeon, *United States Bilateral Investment Treaties: Comments On Their Origin, Purposes and General Treatment Standards*, 4 INT'L TAX & BUS. LAW 105, 110-28 (discussing U.S. BIT legal standards on investment flow between nations).

15. See, e.g., James Markusen, *Factor Movements and Commodity Trade as Complements*, J. INT'L ECON. 43 (1983); Kar-yiu Wong, *Are International Trade and Factor Mobility Substitutes?*, 21 J. INT'L ECON. 21, 25 (1986).

16. Richard L. Doernberg, *Overriding Tax Treaties: The U.S. Perspective*, 9 EMORY INT'L L. REV. 71, 71 (1995); Tsilly Dagan, *The Tax Treaties Myth*, 32 N.Y.U. J. INT'L L. & POL. 939, 940-41 (2000) (contending that tax treaties are one way to alleviate double taxation but not the only way).

17. See generally Office of the U.S. Trade Representative, *United States and United Arab Emirates Sign TIFA* (Mar. 2003), available at [http://www.sice.oas.org/TPD/USA\\_UAE/TIFA2004\\_e.pdf](http://www.sice.oas.org/TPD/USA_UAE/TIFA2004_e.pdf). Former U.S. Trade Representative Robert Zoellick asserted that a TIFA between the United States and the United Arab Emirates (UAE) would "expand bilateral trade and investment," as well as help "liberalize" and expand the UAE's economy and "promote democracy." The U.S.-UAE TIFA was part of the United States' efforts toward building a stronger relationship with the Middle East through MEFTA. See *infra* text accompanying note 44.

18. Gregory W. Bowman, *Thinking Outside the Border: Homeland Security and the Forward Deployment of the U.S. Border*, 44 HOUS. L. REV. 189, 198-201 (2007).

19. Danniela Kaufman, *Does Security Trump Trade?*, 13 L. & BUS. REV. AM. 619, 626-28 (2007); Mark J. Andrews et al., *International Transportation Law*, 41 INT'L LAW 511, 518 (2007); Jim Bergeron et al., *International Transportation Law*, 40 INT'L LAW 403, 410-12 (2006); see generally ANN-MARIE SLAUGHTER, *A NEW WORLD ORDER*, 65-103 (2004).

more formalized, and perhaps even more global, programs, which is exactly what happened with the FAST program. However, expansion and increased formalization is not necessary for these programs to have a significant impact on regional trade.<sup>20</sup> In other cases, coordination occurs through mutual recognition by states of each other’s regulatory regimes in a particular area (such as securities regulation), and this in turn leads to greater economic activity, interdependency and integration among these states.<sup>21</sup>

Another recent regional trade development is the emergence of “open regionalism,” which is contrary to traditional protectionist assumptions regarding PTAs.<sup>22</sup> The primary example of this approach is the Asia-Pacific Economic Cooperation Forum (APEC), which is “an open regionalism and non-discriminatory” group of “like-minded” countries that “recognize[ ] . . . diverse political, economic and social background[s] and . . . promote[ ] economic growth through intensifying regional interdependence.”<sup>23</sup> Much of the current benefit of APEC arises out of its role as a forum for discussion—a matrix that allows and encourages the formation of formal and informal international networks among APEC states,<sup>24</sup> as well as the harmonization (or mutual recognition) of domestic regulatory regimes in order to promote greater regional trade and integration.<sup>25</sup> In other respects, APEC offers the regional trade liberalizing benefits of a PTA without the potentially exclusionary characteristic of restricted membership.<sup>26</sup> APEC is thus an organization with

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20. See Bowman, *supra* note 18, at 215-16 (discussing FAST and related programs); see also News Release, White House, <http://georgewbush-whitehouse.archives.gov/news/releases/2002/09/20020909-3.html> (last visited May 15, 2009).

21. See Kalypsa Nicolaidis & Gregory Shaffer, *Transnational Mutual Recognition Regimes: Governance Without Global Government*, 68 LAW & CONTEMP. PROBS. 263, 266-68 (2005) (discussing mutual recognition regimes); Jesse Westbrook, *SEC Set to Ease Accounting Rules for Foreign Companies*, INT’L HERALD TRIB., June 21, 2007 (stating that the U.S. Securities & Exchange Commission plans to ease accounting restrictions and allow overseas companies to use international accounting standards); Editorial, *French Deal, American Red Tape*, N.Y. TIMES, June 17, 2008 (discussing the Securities & Exchange Commission’s mutual recognition of alternative regulatory regimes standards). In still other cases, regional integration and cooperation can occur more organically, with little direct governmental support or direction. See, e.g., Kenneth W. Abbott & Gregory W. Bowman, *Economic Integration for the Asian Century: An Early Look at New Approaches*, 4 TRANS. L. & CONTEMP. PROB. 187, 192-94 (1994).

22. Abbott & Bowman, *supra* note 21, at 191; see also NORMAN PALMER, *THE NEW REGIONALISM IN ASIA AND THE PACIFIC* 2-5 (1991) (noting that some regional integration efforts in Asia had openness as a defining characteristic).

23. Serbini Ali, Presentation of APEC Secretariat (December 7, 1999), available at [http://www.apec.org/apec/news\\_\\_media/1999\\_speeches/071299\\_rus\\_presentation.html](http://www.apec.org/apec/news__media/1999_speeches/071299_rus_presentation.html). For more discussion and analysis of APEC’s “open regionalism” approach, see Abbott & Bowman, *supra* note 21, at 208-25.

24. See *How APEC Operates*, [http://www.apec.org/apec/about\\_apec/how\\_apec\\_operates.html](http://www.apec.org/apec/about_apec/how_apec_operates.html) (last visited Apr. 8, 2009); Abbott & Bowman, *supra* note 21, at 215-18.

25. Nicolaidis & Shaffer, *supra* note 21, at 279, n.28.

26. Abbott & Bowman, *supra* note 21, at 217-18; see also *APEC: Scope of Work*, [http://www.apec.org/apec/about\\_apec/scope\\_of\\_work.html](http://www.apec.org/apec/about_apec/scope_of_work.html) (last visited Apr. 8, 2009).

significant potential benefit (and very little downside), but it is certainly not a traditional PTA.

Fourth, more recent “new regionalism” or “new trade theory” scholarship does not adequately explain recent PTA developments. This body of PTA scholarship appeared in the 1990s<sup>27</sup> and sought to explain PTA developments such as the European Community’s “1992 Program”<sup>28</sup> and NAFTA—which were formed among countries with already low tariff barriers, and thus offered fewer conventional gains from trade liberalization.<sup>29</sup> New regionalism scholarship focused instead on the reduction of nontariff barriers to trade, as well as on the promotion of growth through imperfect competition and economies of scale (via establishment of a larger, more integrated regional market for businesses offering differentiated products).<sup>30</sup>

These were positive developments in PTA economic scholarship—and yet in important respects they were not as new as the names suggest. First and foremost, attention remained focused on formal PTAs, as opposed to any broader view of regional cooperation and coordination. PTA analysis thus often continued to be confined or constrained by its own definitions of PTA activity. Second, the shift from focusing on tariff barriers to focusing on nontariff barriers was in a large sense not substantive, but rather a shift in the form of protectionist barriers addressed.<sup>31</sup> For that matter, the relatively newfound focus on the gains from a larger market was also implicit in earlier PTA analyses.

The point here is not to suggest that traditional views or taxonomies of PTAs are not useful. Rather, the key point is that PTAs are more appropriately thought of as embedded in a larger matrix of sub-global economic integration activities. When thought of in this manner, it becomes easier to identify broader trends in regionalization.

### *B. PTAs, Redistributive Effects, and Gains from Trade*

In addition to the definitional shortcomings discussed above, two

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27. See RICHARD POMFRET, *THE ECONOMICS OF REGIONAL TRADING ARRANGEMENTS* 207-08 (1997).

28. The 1992 Program was embodied in the Maastricht Treaty on European Union, which transformed the European Community into the European Union, Maastricht Treaty on European Union, Feb. 7, 1992, 1992 O.J. (C 191).

29. See *id.* at 208-09.

30. See *id.* at 207-14.

31. RALPH H. FOLSOM, MICHAEL WALLACE GORDON & JOHN A. SPANOGLE, JR., *INTERNATIONAL BUSINESS TRANSACTIONS* 434 (2d ed. 2001); Dale E. McNeil, *The NAFTA Panel Decision on Canadian Tariff-Rate Quotas: Imagining A Tariffing Bargain*, 22 *YALE J. INT'L L.* 345, 347-48 (1997) (noting that “[t]ariff and non-tariff barriers are different forms of protectionism, but they may have equivalent economic effects”); Irwin P. Altschuler & Claudia G. Pasche, *The North American Free Trade Agreement: The Ongoing Liberalization of Trade With Mexico*, 28 *WAKE FOREST L. REV.* 7, 23 (1993) (noting the general trend of replacing tariff barriers with non-tariff barriers).



principal aspects of neoclassical trade theory are in tension with one another concerning PTA formation, and this tension carries important PTA policy implications. On the one hand, neoclassical international trade theory holds that PTAs cause fewer redistributive effects when the states involved have fewer economic structural disparities among them.<sup>32</sup> One conclusion to be drawn, therefore, is that PTAs might be more successful, or at least less politically controversial, between economically similar states. An example of this is readily found in NAFTA: the current NAFTA disputes and tensions between the United States and Mexico are based, in significant part, upon displacement of Mexican workers (and a resulting emigration surge to the United States) in the wake of greater U.S.-Mexico competition in the agricultural sector.<sup>33</sup> While there are significant trade disputes between the United States and Canada—such as the softwood lumber dispute—these disputes have not led to massive worker displacement and have not resulted in widespread calls for revision of (or withdrawal from) NAFTA.<sup>34</sup>

On the other hand, traditional international economic theory also holds that greater economic structural disparities between trading states can lead to greater gains from liberalized trade, with the amount of gain in part dependent on the percentage of the parties' domestic trade versus international trade, and international trade with each other versus third parties.<sup>35</sup> This has been one justification advanced for the liberalization of trade in agricultural sectors between Mexico and the United States.<sup>36</sup> Yet this goal is inconsistent with the previous observation that consensus and economic coordination are easier

32. Carol Wise, *Great Expectations: Mexico's Short-Lived Convergence Under NAFTA* 2-3, 11 (Centre for International Governance Innovation, Working Paper No. 15, Jan. 2007); see also Timothy J. Kehoe, *Assessing the Economic Impact of North American Free Trade* 3-35, in *THE NAFTA DEBATE: GRAPPLING WITH UNCONVENTIONAL TRADE ISSUES* (M. Delal Baer & Sidney Weintraub eds., 1994) (discussing the possible effects of NAFTA on the United States, Canada, and especially Mexico considering their economic disparities).

33. Ranko Shiraki Oliver, *In the Twelve Years of NAFTA, The Treaty Gave Me . . . What, Exactly?: An Assessment of Economic, Social and Political Developments in Mexico Since 1994 and Their Impact on Mexican Immigration into the United States*, 10 *HARV. LATINO L. REV.* 53, 81-89 (2007) (discussing the losses of jobs in the manufacturing and agricultural sectors in Mexico since the ratification of NAFTA); see also Colin L. McCarthy, *Regional Integration of Developing Countries at Different Levels of Economic Development—Problems and Prospects*, 4 *TRANSNAT'L L. & CONTEMP. PROB.* 1, 10 (1994) (discussing trade liberalization among developed and developing countries).

34. Office of U.S. Trade Representative, *U.S.-Canada Reach Final Agreement on Lumber Dispute* (July 1, 2006), [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2006/July/US\\_Canada\\_Reach\\_Final\\_Agreement\\_on\\_Lumber\\_Dispute.html](http://www.ustr.gov/Document_Library/Press_Releases/2006/July/US_Canada_Reach_Final_Agreement_on_Lumber_Dispute.html); see Joost Pauwelyn, *The U.S.-Canada Soft Wood Lumber Dispute Reaches a Climax*, *AM. SOC'Y OF INT'L L.* (Nov. 30, 2005), available at <http://www.asil.org/insights/2005/11/insights051129.html> (discussing differences between NAFTA and WTO dispute resolution).

35. McCarthy, *supra* note 33, at 4-5. McCarthy also discusses the challenges of regional integration among developing countries, as opposed to among industrialized countries. *Id.*

36. See Gary C. Hufbauer & Yee Wong, *Security and the Economy in the North American Context: The Road Ahead For NAFTA*, 29 *CAN.-U.S. L.J.* 53, 63-64 (2003) (noting that agricultural trade between the U.S. and Mexico nearly doubled between 1993 and 2003).

among states with structurally similar economies, or at least structurally similar sectors (if the agreements are limited to those sectors). While this tension can be partly reconciled by imperfect competition analysis and economies of scale considerations, it is not at all clear that these observations of new regionalism fully eliminate this tension.<sup>37</sup> As a result, there appears to be continued conflict between these primary aspects of neoclassical trade theory—with one principle suggesting that PTAs should be formed by countries with similar economic structures, and the other suggesting the opposite.

### C. PTAs, National Security, and Foreign Policy

In further tension with trade liberalization considerations for PTAs are considerations of national security or foreign policy. The formation of PTAs for national security or foreign policy reasons, as opposed to commercial reasons, has been emphasized in particular by the United States since the 9/11 attacks.<sup>38</sup> On the one hand, formation of PTAs for such non-commercial reasons is not a new development.<sup>39</sup> Indeed, the United States' first PTA, the 1985 U.S.-Israel Free Trade Agreement, was entered into by the United States largely for non-commercial reasons—namely, the greater security and stability of Israel.<sup>40</sup> It was readily apparent then that the commercial or economic gains to the United States from a PTA with the small Israeli economy would be modest at best. What is new in recent years, however, is how frequently PTAs are being entered into by the United States (and other countries) for largely non-commercial reasons.<sup>41</sup> Fifteen years passed between the formation of the U.S.-Israel FTA and the United States' next small-country PTA, the U.S.-Jordan FTA. Since that time, three more U.S.-small country PTAs have entered into force,<sup>42</sup> and four more have been signed, although not yet

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37. See *supra* text accompanying notes 27-31.

38. See Sidney Weintraub, *Lack of Clarity in U.S. Trade Policy*, ISSUES IN INTERNATIONAL POLITICAL ECONOMY, July 15, 2003, available at <http://www.csis.org/media/csis/pubs/issues200307.pdf>; see generally Brink Lindsey, *The Trade Front: Combating Terrorism With Open Markets* 1, CATO INST., Trade Policy Analysis No. 24 (Aug. 5, 2003), available at <http://www.freetrade.org/pubs/pas/tpa-024.pdf> (discussing the link between MEFTA, U.S. trade policy, and U.S. national security).

39. See John Coyle, *Rules of Origin as Instruments of Foreign Economic Policy: An Analysis of the Integrated Sourcing Initiative in the U.S.-Singapore Free Trade Agreement*, 29 YALE J. INT'L L. 545 (2004); see also BHALA, *supra* note 2, at 21-003 ("Apparently, RTAs [PTAs] are economic mechanisms for realising fundamental political goals . . . includ[ing] cementing trade relationships.").

40. See Ralph Folsom, *Trading for National Security? United States Free Trade Agreements in the Middle East and North Africa*, Univ. of San Diego Legal Studies Research Paper Series, Research Paper No. 07-113 (Sept. 2007), available at <http://ssrn.com/abstract=1013372>; Howard Rosen, *Free Trade Agreements as Foreign Policy Tools: The U.S.-Israel and U.S.-Jordan FTAs*, in SCHOTT, *supra* note 4, at 51-62.

41. Folsom, *supra* note 40, at 2.

42. These FTAs are the U.S.-Singapore FTA, the U.S.-Morocco FTA, and the U.S.-Bahrain FTA. See United States Trade Representative, *Bilateral Trade Agreements*,

implemented.<sup>43</sup> These PTAs have been proposed by the U.S. government largely for national security and foreign policy purposes, such as achieving greater regional stability,<sup>44</sup> promoting or strengthening political alliances,<sup>45</sup> or achieving goals such as combating narcotics trafficking<sup>46</sup> or ensuring energy supplies.<sup>47</sup> The increased use of non-commercial PTAs in recent years is a key trend that plays into the “deepening versus broadening” analysis in Part IV below.

## II. THEMATIC PTA TRENDS

The above observations highlight the narrowness of traditional conceptions of PTAs, as well as the three-way tension between PTA redistribution considerations, comparative advantage and gains from trade, and non-commercial considerations. This Article suggests that a “deepening versus broadening” analysis of PTAs helps resolve (or rather, meaningfully explain) these tensions. In order to place this deepening versus broadening analysis into better context, however, it is first useful to identify and discuss several

[http://www.ustr.gov/Trade\\_Agreements/Bilateral/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Section_Index.html) (last visited Apr. 9, 2009) [hereinafter Bilateral Trade Agreements].

43. These FTAs are the U.S.-Colombia FTA, the U.S.-Panama FTA, the U.S.-Peru FTA, and the U.S.-Oman FTA. See United States Trade Representative, Trade Agreements, [http://www.ustr.gov/Trade\\_Agreements/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Section_Index.html) (last visited Apr. 9, 2009); United States Bilateral Trade Agreements, *supra* note 42.

44. See U.S.-Middle East Free Trade Area (June 9, 2004), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2004/06/20040609-37.html>; President’s Message to Congress (June 26, 2006), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2006/06/20060626-4.html>.

45. See Remarks by the President Upon Signing of H.R. 4759, the United States-Australia Free Trade Agreement Implementation Act (Aug. 3, 2004), available at <http://usembassy-australia.state.gov/irc/us-oz/2004/08/03/wf1.html>; Jeffrey Schott, *Assessing U.S. FTA Policy*, in SCHOTT, *supra* note 4, at 363-76 (discussing the political benefits from U.S. bilateral FTAs); see also Paul G. Johnson, Note, *Shoring U.S. National Security and Encouraging Economic Reform in the Middle East: Advocating Free Trade With Egypt*, 15 MINN. J. INT’L L. 457, 462-65 (2006) (stating that the possible chief consideration for U.S. FTAs in the Middle East and other countries has been for beneficial political alliances and the furtherance of “political objectives”).

46. See Press Release, President Bush Calls On Congress To Move Forward With U.S.-Colombia Free Trade Agreement, Help Sustain Economic Growth By Expanding Trade (Mar. 12, 2008), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2008/03/20080312-3.html>; Office of the United States Trade Representative, *Colombia FTA Briefing Materials*, [http://www.ustr.gov/assets/Document\\_Library/Fact\\_Sheets/2008/asset\\_upload\\_file854\\_14604.pdf](http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2008/asset_upload_file854_14604.pdf).

47. See Office of U.S. Trade Representative, *U.S. and Bahrain Announce Intention to Negotiate Free Trade Agreement*, available at [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2003/May/US\\_Bahrain\\_Announce\\_Intention\\_to\\_Negotiate\\_a\\_Free\\_Trade\\_Agreement.html?ht=](http://www.ustr.gov/Document_Library/Press_Releases/2003/May/US_Bahrain_Announce_Intention_to_Negotiate_a_Free_Trade_Agreement.html?ht=); see generally Alexander J. Black, *Economic and Environmental Regulatory Relations: United States-Canada Free-Trade in Energy*, 8 CONN. J. INT’L L. 583, 583-84 (1993) (discussing the liberalization of energy trade between the U.S. and Canada). National security in fact can be viewed as a subset of broader foreign policy concerns, but it is a driving, and arguably primary, force of foreign policy (both of the United States and other states) in the post-9/11 era. For that reason, these two terms—as well as the term “non-commercial”—are treated as generally synonymous for purposes of this Article.

important trends concerning modern PTAs.

#### *A. PTAs Have Proliferated as Multilateral Trade Liberalization has Slowed*

A common observation regarding the popularity of PTAs since the 1990s is that they have proliferated at the very point in time at which multilateral progress on trade liberalization has slowed dramatically.<sup>48</sup> There are now many more parties involved in global trade liberalization efforts through the World Trade Organization (WTO), which makes multilateral agreement much harder. In addition, the current topics on which WTO multilateral trade liberalization focuses—such as service sectors and agriculture—tend to be thornier topics plagued by contention.<sup>49</sup> The fact that less progress is currently being made on multilateral trade liberalization suggests that PTAs are indeed being used as a second-best strategy for trade liberalization—something that is bemoaned by some observers<sup>50</sup> and lauded by others.<sup>51</sup>

#### *B. International Trade has Grown Exponentially in Recent Decades*

Another trend relevant to PTA formation is that the total volume of international trade has grown dramatically in recent decades, which amplifies the effects of trade diversion and trade creation, as well as of economies of scale.<sup>52</sup> Multilateral trade liberalization has slowed over the same time period during which international trade has become ever more important—which has enhanced the attractiveness of other approaches to liberalizing trade, such as PTAs.

#### *C. PTAs Reflect Changes in Political and Economic Orders*

The increased use of PTAs also reflects fundamental changes in the world's political and economic orders. There has been a splintering of state interests since the Cold War: there are no overarching, bipolar considerations to centripetally point trading partners—at least Western ones—in the same

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48. See generally JAGDISH BHAGWATI & ANNE O. KREUGER, *THE DANGEROUS DRIFT TO PREFERENTIAL TRADE AGREEMENTS* 9 (1995).

49. See Rafael Leal-Arcas, *The Resumption of the Doha Round and the Future of Services Trade*, 29 *LOY. L.A. INT'L & COMP. L. REV.* 339, 386-95 (2007); James Thuo Gathii, *The High Stakes of WTO Reform*, 104 *MICH. L. REV.* 1361, 1364-65, 1373 (2007).

50. See *supra* text accompanying note 2.

51. See *supra* text accompanying notes 3-4.

52. U.S. international trade statistics illustrate this growth. In 1960, U.S. trade in goods represented six percent of U.S. GDP. Bureau of Economic Analysis, *Percentage Shares of Gross Domestic Product*, available at <http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=14&ViewSeries=NO&Java=no&Request3Place=N&3Place=N&FromView=YES&Freq=Year&FirstYear=1960&LastYear=2003&3Place=N&Update=Update&JavaBox=no#Mid>. By 2003, this figure had tripled to approximately eighteen percent of U.S. GDP (which itself had more than tripled after adjustment for inflation). *Id.*

general direction.<sup>53</sup> The effect is that progress in multilateral trade liberalization is reduced. Instead, states have increasingly divergent interests, based on their particular political and economic needs—and in some cases there is perhaps greater emphasis being placed on non-commercial security considerations. This is a key point that plays out starkly in the PTA context: when a state’s vectors and patterns of trade, as well as its security and foreign policy interests, are concentrated on specific countries or regions, as opposed to being generally diffused across a larger, more multilateral landscape, the effect is that PTAs are more likely to be established with those countries or regions. In this sense, the “second-best” PTA approach to trade liberalization indeed may be a more stable equilibrium than multilateral liberalization.<sup>54</sup>

*D. Both Commercially-Driven and Security-Driven PTAs are Intended to be Mutually Beneficial Exchanges among PTA Parties*

While some recent PTAs appear to be driven heavily, and even primarily, by non-commercial security considerations, even non-commercially driven PTAs involve the exchange of benefits (or intended benefits) among PTA parties. That is, even in instances where policy considerations or national security concerns are paramount, the situation is characterized by the trading of one benefit for another in the classic comparative or absolute advantage context. There is, in other words, an exchange of economic benefits for non-economic benefits, of security for economic gain.<sup>55</sup>

The U.S.-Israel Free Trade Agreement again serves as an example. The United States entered into that free trade agreement to help stabilize Israel. Israel has gained enormously from an economic perspective<sup>56</sup>—it is able to consume far beyond its autarkic Production Possibility Frontier.<sup>57</sup> But that PTA has had only modest economic effect on the United States<sup>58</sup>—trade with Israel does not greatly improve U.S. production or consumption possibilities. The same analysis applies to the more recent U.S.-Jordan Free Trade

53. It is also worth noting that the Cold War also encouraged some regionalism in the West: the United States, although historically a strong proponent of multilateralization, supported Western European regional integration for containment purposes. See McCarthy, *supra* note 33, at 2-3.

54. Ahmed Galal & Robert Z. Lawrence, *Egypt, Morocco, and the United States*, in SCHOTT, *supra* note 4, at 324.

55. For a general discussion of this conception of international agreements, see Jeffrey L. Dunoff & Joel P. Trachtman, *Economic Analysis of International Law*, 24 YALE J. INT’L L. 1, 13-14 (1999).

56. Folsom, *supra* note 40, at 2-3 (stating that the United States receives about twenty-five percent of Israel’s exports and about twenty percent of Israel’s imports are from the United States).

57. For a discussion of production possibility frontiers, see SURANOVIC, *supra* note 9, at ch. 60-7, available at <http://internationalecon.com/Trade/Tch60/T60-7.php>, and *id.* at ch. 60-11, available at <http://internationalecon.com/Trade/Tch60/T60-11.php>.

58. Folsom, *supra* note 40, at 3.

### Agreement.<sup>59</sup>

The most recent, and in some ways quintessential, example of a PTA effort driven primarily by policy concerns is the Middle East Free Trade Area (MEFTA) initiative announced in 2003 by U.S. President George W. Bush.<sup>60</sup> The Middle East countries targeted by that initiative are not large, and they offer relatively little to the United States in terms of direct commercial gains from trade. Many of these countries, however, do offer the United States access to oil and natural gas, and all could play significant political roles in the pursuit of U.S. national security and foreign policy interests in the Middle East. In contrast, greater access to the U.S. market could be highly beneficial commercially for these Middle Eastern countries. While it is questionable whether the MEFTA initiative will bear much fruit (there has been little visible progress on it in recent years<sup>61</sup>), and it is also questionable whether it represents the best or easiest method for ensuring U.S. access to Middle East petroleum resources or for fostering Middle East economic and political stability, the larger point is that the MEFTA initiative is an apparent attempt to exchange economic for non-economic benefits. The wisdom of that bargain is an entirely separate question.<sup>62</sup> This observation about bargaining among PTA members carries important considerations for this Article's "deepening versus broadening" analysis, since, as will be discussed below, deepening is generally undertaken to achieve commercial gains, while broadening may be undertaken for commercial gain or as an exchange of commercial for non-commercial benefits.

### E. "Failed" Security-Driven PTA Initiatives Might be Policy "Successes"

For national security- or foreign policy-driven PTAs, it is important to bear in mind that because of these goals, PTA proposals that do not actually

59. This phenomenon of the smaller state benefiting much more from trade liberalization than large states has been colorfully described as "the importance of being unimportant." Harvey W. Armstrong & Robert Read, *The Importance of Being Unimportant: The Political Economy of Trade and Growth in Small States*, in ISSUES IN POSITIVE POLITICAL ECONOMY 71 (S. Mansoob Murshed ed., 2002).

60. Office of the U.S. Trade Representative, *Middle East Free Trade Area Initiative* (Feb. 27, 2003), available at [http://www.ustr.gov/Trade\\_Agreements/Regional/MEFTA/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Regional/MEFTA/Section_Index.html) [hereinafter *MEFTA Initiative*]; Office of the U.S. Trade Representative, *Zoellick to Travel to Middle East June 18 - June 23* (June 17, 2003), available at [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2003/June/Zoellick\\_to\\_Travel\\_to\\_Middle\\_East\\_June\\_18\\_-\\_June\\_23.html](http://www.ustr.gov/Document_Library/Press_Releases/2003/June/Zoellick_to_Travel_to_Middle_East_June_18_-_June_23.html) (discussing how President Bush proposed to establish a Middle East Free Trade Area by 2013).

61. One also might expect that as a second Bush administration initiative, it will be given little priority as a formal program by the Obama administration.

62. Analogizing PTA efforts to contract negotiations, the point is one of freedom of contract—the ability, or freedom, to enter into a bad bargain for a legitimate purpose. RESTATEMENT (SECOND) OF CONTRACTS § 17(1)(1981) ("[T]he formation of a contract requires a bargain in which there is a manifestation of mutual assent to the exchange and a consideration.").

come to pass might not always be policy failures. Rather, in some cases these proposals actually could be considered foreign policy or national security successes of varying degree. Again, MEFTA serves as an excellent example. As noted above, the United States has made little progress recently toward the establishment of MEFTA, and one might surmise that with the change in U.S. presidential administrations it may be moribund. Total progress on the initiative is thus likely limited to the already-accomplished preliminary steps of establishing trade and investment framework agreements (TIFAs), bilateral investment treaties (BITs), and bilateral PTAs with some of the proposed MEFTA members.<sup>63</sup>

However, one can argue that even with the lack of a full PTA, MEFTA still may have been at least partly successful from a policy perspective, above and beyond its use as a signaling mechanism for greater U.S. focus on Middle East prosperity.<sup>64</sup> That is, the U.S. national security goals embodied in the MEFTA initiative may still be achieved, at least in part, because of the launch of MEFTA. The proposal to form MEFTA coincided with increased dialogue among Gulf Cooperation Council (GCC) member states:<sup>65</sup> these countries began discussing whether the GCC, which historically has been more of a political forum than a trading bloc, could or should be revamped to increase the GCC's economic and policy role in the Middle East.<sup>66</sup> GCC member states implemented a customs union in 2003,<sup>67</sup> and recently greater efforts have been

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63. *MEFTA Initiative*, *supra* note 60.

64. Signaling occurs in the context of trade negotiations, as well as in the context of trade sanctions, which are in a sense the inverse of the promotion of trade relations. *See, e.g.*, James D. Morrow, *Assessing the Role of Trade as a Source of Costly Signals*, in *ECONOMIC INTERDEPENDENCE AND INTERNATIONAL CONFLICT: NEW PERSPECTIVES ON AN ENDURING DEBATE* 89-90 (Edward D. Mansfield & Brian M. Pollins eds., 2003) (discussing the interplay between trade volumes and signaling); *see also* MEGHAN L. O'SULLIVAN, *SHREWD SANCTIONS* 276-77 (2003) (discussing U.S. and United Nations signaling in the context of trade sanctions against Sudan).

65. Robert Z. Lawrence, *Recent U.S. Free Trade Initiative in Middle East: Opportunities but no Guarantees*, John F. Kennedy Sch. of Gov't, Working Paper Series No. RWP06-050, 2006, at 12 (noting that U.S. willingness to achieve MEFTA via bilateral negotiations with Middle Eastern states “has created a mechanism for those Gulf States that are most interested in economic reforms to place competitive pressures on those who are more reluctant to do so”); Michael Sturm et al., *The Gulf Cooperation Council Countries: Economic Structures, Recent Developments and Role in the Global Economy*, European Central Bank Occasional Paper Series, No. 92, July 2008, at 68-69 (reviewing recent GCC efforts to enter into free trade agreements).

66. *See* OFFICE OF U.S. TRADE REPRESENTATIVE, GULF COOPERATION COUNCIL 179, available at [http://www.ustr.gov/assets/Document\\_Library/Reports\\_Publications/2004/2004\\_National\\_Trade\\_Estimate/2004\\_NTE\\_Report/asset\\_upload\\_file226\\_4769.pdf](http://www.ustr.gov/assets/Document_Library/Reports_Publications/2004/2004_National_Trade_Estimate/2004_NTE_Report/asset_upload_file226_4769.pdf); *Profile: Gulf Co-operation Council*, BBCNEWS.COM, available at [http://news.bbc.co.uk/1/hi/world/middle\\_east/country\\_profiles/4155001.stm](http://news.bbc.co.uk/1/hi/world/middle_east/country_profiles/4155001.stm) (last visited Apr. 8, 2009); Sturm et al., *supra* note 65, at 68-69.

67. The Cooperation Council for The Arab States of The Gulf, *Implementation Procedures for the GCC Customs Union*, available at <http://www.gcc-sg.org/eng/index.php?action=Sec-Show&ID=93>.

undertaken to promote greater economic coordination and even the possible achievement of a monetary union.<sup>68</sup>

In economic terms, then, regional integrative competition from the United States may have resulted in greater accountability for the GCC and might encourage changes within the GCC. A stronger GCC could be beneficial to the United States in many respects. Even though the United States would not be a GCC member state (as opposed to a MEFTA member state) and would have to trade with the GCC as a third party, GCC countries, through their efforts, might achieve greater economic cooperation, integration and growth. This in turn might lead to greater economic opportunities and an improvement of stability in the region, all of which are goals the United States desires and seeks to foster through MEFTA.<sup>69</sup> MEFTA thus might not be successfully formed, but this initiative still might achieve some of its key objectives.

### III. A THEMATICALLY UNIFIED VIEW OF PTAs: “DEEPENING” VERSUS “BROADENING”

The above discussion illustrates that the subject of PTAs is messy and complex. PTAs are characterized by significant variety in form and scope, and also by apparent tensions between their desired (and undesired) effects. The increasing growth of international trade, difficulties in WTO trade liberalization, and recent changes in the global political and economic orders, such as the end of the Cold War, have affected PTAs substantially. Each of these topics is worthy of individual attention, to be sure—but it is also particularly interesting and useful to take a broad, general view of PTA decision making, and that is this Article’s purpose. Taking such a view reveals that the choices made about PTA form, membership and scope essentially boil down to one core decision—namely, the choice between “deepening” trade relationships versus “broadening” them. That is, when countries are considering how to promote or formalize their preferential trade arrangements, they essentially have two basic choices. First, the countries can deepen the relationship among themselves, so as to promote trade and integration in that manner. Second, they can broaden their trade arrangements to include other countries or regions as well, which often results in less direct economic benefit but which can be

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68. Daliah Merzaban, *GCC Unified Tariff Likely From 2009*, ARABNEWS.COM, Aug. 22, 2008, <http://www.arabnews.com/?page=6&section=0&article=113218&d=22&m=8&y=2008&pix=business.jpg&category=Business>. More recently the timeline for monetary union has been extended, but this goal has not been abandoned. Robin Wigglesworth, *Gulf Countries Extend Currency Union Deadline*, FIN. TIMES 6, March 25, 2009, <http://www.ft.com/cms/s/0/5cf265d0-18dc-11de-bec8-0000779fd2ac.html>. Nonetheless, these goals remain in place. It should be noted that the goal of monetary union was first adopted by the GCC in 2001, prior to the United States’ MEFTA initiative, but since the MEFTA initiative was announced significant further steps have been announced. *Dropping the Peg*, ECONOMIST.COM, July 8, 2008, available at [http://www.economist.com/agenda/displaystory.cfm?story\\_id=11698612&fsrc=rss](http://www.economist.com/agenda/displaystory.cfm?story_id=11698612&fsrc=rss) (reporting a GCC goal of monetary union by 2010).

69. See *MEFTA Initiative*, supra note 60.



extremely beneficial from a policy perspective.

Much of the academic literature discussing the question of “deepening” versus “broadening” in preferential trade has been focused on the European Union,<sup>70</sup> but the deepening versus broadening dichotomy works well in other contexts as well, and in particular with respect to current U.S. PTA activity. It is therefore useful to first review deepening versus broadening debates that have taken place in Europe, and then try to apply a deepening versus broadening analysis to the subject of U.S. PTA activity.<sup>71</sup>

### *A. European Integration and “Deepening” versus “Broadening”*

In the 1980s and early 1990s, a debate raged in Europe over the future development of the European Community (now the EU).<sup>72</sup> In the immediate wake of the Cold War, with the pending reunification of Germany and the possibility of many former Soviet bloc states seeking admission to the Community (along with perennial applicant Turkey),<sup>73</sup> the question took on a new and added urgency. The Community was generally seen as an economic success, and there was general consensus that the goal of more meaningful internal economic integration should be pursued. Yet there was internal disagreement concerning the pace of integration—and perhaps more

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70. See, e.g., Wyplosz, *supra* note 6; De Santis & Vicarelli, *supra* note 6, at 13; Mario A. Marconini, *The FTAA-WTO Divide: The Political Economy of Low Ambition*, in ECONOMIC INTEGRATION IN THE AMERICAS 50-51 (Joseph A. McKinney & H. Stephen Gardner, eds., 2008) (discussing Europe’s “deepening and expanding . . . integration process” but lack of multilateral action because of its focus on internal matters); see generally BERNARD HOEKMAN, FREE TRADE AND DEEP INTEGRATION: ANTIDUMPING AND ANTITRUST IN REGIONAL AGREEMENTS (World Bank & CEPR, 1998) (discussing the deepening of EU integration).

71. The focus of this Article is on internal EU deepening, not on the EU’s more recent external PTA efforts. The EU has undertaken those, and they are certainly important—and indeed in many ways they are like the United States’ current PTA efforts. See *infra* Part IV.B. Yet there has not been much discussion of the conceptual link between internal and external broadening versus deepening efforts, and a primary purpose of this Article is to explore that gap. For discussion of recent EU PTA efforts, see Frederick M. Abbott, *A New Dominant Trade Species Emerges: Is Bilateralism a Threat?*, 10 J. INT’L ECON. L. 571, 572-73 (2007) (discussing the EU’s expansion of trade with Africa, the Caribbean, and the Asia-Pacific Region). For a discussion that explores PTAs and deepening efforts in the narrower context of antidumping and competition (antitrust) law, see Hoekman, *supra* note 70.

72. Helen E. Hartnell, *Subregional Coalescence in European Regional Integration*, 16 WIS. INT’L L. J. 115, 120-49 (1997) (discussing the European Community’s “controversial” agreements with Russia, Ukraine, and other Eurasian States); see Desmond Dinan, *Fifty Years of European Integration: A Remarkable Achievement*, 31 FORDHAM INT’L L. J. 1118, 1132-36 (2008). In discussing the difficulties that were involved in establishing a European monetary union and Britain’s refusal to accept the Euro, Dinan notes (with interesting understatement) that public support for monetary integration in the 1990s was at best “equivocal.” *Id.*

73. Editorial, *EU Leader Urges Turkey to Speed Changes*, INT’L HERALD TRIB., Apr. 9, 2008, available at <http://www.iht.com/articles/2008/04/09/europe/union.php> (discussing request that Turkey speed up reforms if it wishes to join the EU); Craig S. Smith, *European Union Formally Opens Talks on Turkey Joining*, THE NEW YORK TIMES.COM, Oct. 4, 2005, <http://www.nytimes.com/2005/10/04/international/europe/04turkey.html>.

importantly, there was disagreement over which countries should be involved.

At the risk of oversimplification, two general schools of thought emerged.

First, a number of European continental observers favored expansion of EU membership to include a modest-to-large number of new states.<sup>74</sup> Politically speaking, the reasoning went, the collapse of the Iron Curtain presented an unprecedented opportunity to heal Europe's East-versus-West schism. Expansion offered the prospect of bringing eastern parts of Europe into the fold, so to speak, and offered Western European countries the chance to exercise greater influence over Eastern European countries during a time of economic and political adjustment that posed risk for unrest and destabilization.<sup>75</sup> This was, in other words, a political and foreign policy benefit, rather than a purely commercial one. It was also argued by some observers that rapid expansion of Community membership would not cause difficulties in terms of coordination of economic policies and efforts to deepen economic and monetary coordination among existing European Community member states.<sup>76</sup> The assumption underlying the latter arguments was that any costs of integration with new members would be exceeded by the benefits, at least in the long term.

Second, other observers—many of whom were British Euroskeptics to begin with—generally opposed the broadening of Community membership until the economies of existing member states could be more closely integrated and coordinated, and these objections predated the end of the Cold War.<sup>77</sup> While a review of these objections to deepening reveals that in many respects

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74. See Hartnell, *supra* note 72, at 119-21; Eneko Landaburu, *The Fifth Enlargement of the European Union: The Power of Example*, 26 *FORDHAM INT'L L. J.* 1, 10-11 (2002). For a detailed discussion European integration developments during and after this time period, see Earnest A. Young, *Protecting Member State Autonomy in the European Union: Some Cautionary Tales From American Federalism*, 77 *N.Y.U. L. REV.* 1612, 1623-25 (2002).

75. Hartnell, *supra* note 72, at 213-14.

76. See *id.* at 182; R. BALDWIN ET AL., *THE COSTS AND BENEFITS OF EASTERN ENLARGEMENT—THE IMPACT ON THE EU AND EUROPE* (1997), cited in Graeme Leach, *EU Membership—What's the Bottom Line?* 14-15 (Institute of Directors Policy Paper, Mar. 2000), available at <http://www.euro-know.org/articles/eumembership.pdf> (discussing costs of EU enlargement, with Baldwin et al. characterizing them as “small” costs); Liesbet Hooghe & Gary Marks, *The Making of a Polity: The Struggle Over European Integration* 7-8 (European Integration Online Papers (EIOP) Vol. 1, No. 4, 1997), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=302663](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=302663) (discussing strong support for a single market approach and the Single European Act by Jacques Delors); see McGowan, *supra* note 9, at 130-37 (discussing European countries' willingness to coordinate integration to prevent economic decline in the early 1980s due to “poor competitiveness of European firms” and large trade deficits).

77. ANTHONY FORSTER, *EUROSCEPTISM IN CONTEMPORARY BRITISH POLITICS* 74-75 (2002) (stating that British skeptics thought other EU member “governments were insincere about creating a Single Market” and that “imperfections in trade still remained”); Hooghe & Marks, *supra* note 76, at 8-9 (discussing “neoliberal” and “nationalist” opposition in the United Kingdom, France, Germany, and the Benelux countries to “market regulation” by the EU in the 1980s and 1990s).

they were veiled (or not so veiled) concerns over sovereignty,<sup>78</sup> the objections also had economic bases. Skeptical observers noted that while some core members of the European Community (namely the Benelux countries) already were closely integrated by the late 1980s and early 1990s and had similar economic structures (and currencies voluntarily pegged to one another), there were still large economic disparities among Community members as a whole.<sup>79</sup>

These observers argued (and these arguments were by no means new) that adding additional members, especially ones that were even more economically divergent than current members, would be disastrous for Community cohesion and policymaking. Rather than extending the reach and influence of the European Community by adding new members, these observers contended that expansion of Community membership would further reduce the ability of Community member states to reach consensus and make effective decisions regarding the future course of the Community.<sup>80</sup> There were concerns that broader integration would lead to greater emigration from lesser developed to more developed member states,<sup>81</sup> as well as concerns that greater

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78. J.F.O. McAllister, *Closer Union or Superstate?*, TIME, Jun. 20, 2004, available at <http://www.time.com/time/printout/0,8816,655379,00.html> (discussing opposition in Britain and other EU member states to greater EU integration); John Darnton, *Tories Stake Out a Tough Stand Against a 'Monolithic' Europe*, NEW YORK TIMES, Mar. 17, 1996, available at <http://query.nytimes.com/gst/fullpage.html?res=9F06E0D61639F934A25750C0A960958260> (stating that many “Euro-skeptics” oppose further EU integration because they believe “a common currency [will be] the . . . acid that will corrode national sovereignty and lead inevitably to a single political bloc”); Forster, *supra* note 77, at 6, 72-73 (noting that “sovereignty and autonomy” were major British concerns); MICHAEL J. BAUN, AN IMPERFECT UNION 61 (Westview Press 1996) (stating that the “primary opponent” to the European Monetary Union was Britain, due to concerns over a deterioration of “national sovereignty”); Hooghe & Marks, *supra* note 76, at 2 (stating that many Europeans feared that a shift of authority and decision making power to a central body would threaten “the sovereignty of member states”).

79. Leach, *supra* note 76, at 14-16; Loukas Tsoukalis, *Economic and Monetary Union: The Primacy of High Politics* 290-91, in POLICY-MAKING IN THE EUROPEAN UNION, *supra* note 9 (discussing objections to European Monetary Union).

80. Leach, *supra* note 76, at 10; Mariya Konovalova et al., *European Union Expansion*, The Columbia Political Union, Apr. 25, 2004, available at <http://cupolitics.org/publications/0304/euexpansion.pdf>. For a general discussion of the costs to existing members of broader inclusion and integration, see Aristidis Bitzenis & Andreas Andronikidis, *Cost and Benefits of Integration in the European Union and in the Economic Monetary Union (EMU)*, 1 ECON., MGMT., & FIN. MARKETS 28-29 (2006), available at [http://www.denbridgepress.com/emfm\\_abstract.php?a=18](http://www.denbridgepress.com/emfm_abstract.php?a=18) (discussing costs such as integration of highly disparate economies into the Community and reduced ability of member states to maintain separate fiscal policies concerning exchange rates and monetary supply, as means to regulate inflation and unemployment levels).

81. Interestingly, some of these concerns are reflected in more recent restrictions on internal EU migration. See *Migration From Eastern Europe: Shutting the Door*, THE ECONOMIST, Oct. 26, 2006, available at [http://www.economist.com/research/articlesbysubject/displaystory.cfm?subjectid=682266&story\\_id=8091309](http://www.economist.com/research/articlesbysubject/displaystory.cfm?subjectid=682266&story_id=8091309) (discussing the increased restrictions by Britain and other EU members on the migration of workers from new member states in Eastern Europe); see also McCarthy, *supra* note 33, at 809.

coordination—treating economically diverse states more like a single economy—would hamper economic and fiscal planning at the national level.<sup>82</sup> A primary focus on deepening integration among existing Community members, rather than on broadening to include new members, was therefore advocated.

On the face of it, then, both proponents and opponents of broadening generally agreed that further internal deepening of the Community could be desirable and beneficial. Yet they disagreed, in chicken-and-egg fashion, about whether deepening or broadening should come first, and which would best further the development of the other. While neoclassical economic theory generally was on the side of the skeptics—in the sense that it suggested very strongly that the commercial gains to existing members from broadening the community might be outweighed by the costs of integrating these new economies into the Community fold<sup>83</sup>—the European proponents of broadening before deepening nevertheless prevailed, and between 1986 and 2007 seventeen new member states were added to what is now the EU (with most of these being added after the end of the Cold War).<sup>84</sup> Additional new member states likely will be added in the near future.

This broadening was not costless, of course, which strongly suggests that the observations of the critics of broadening were valid in many respects. The unification of Germany was the cause of enormous internal economic and political stresses,<sup>85</sup> and the admission of Greece and Spain in the 1980s led to enormous costs later, as both countries struggled to coordinate their fiscal policies with other disparate EU economies such as Germany and France.<sup>86</sup> Yet the EU's program of extensive broadening to include new members has been seen as largely successful (although deepening-versus-broadening tensions have continued to play out in the EU's further development).<sup>87</sup> Does this mean

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82. Bitzenis & Andronikidis, *supra* note 80, at 28-29.

83. *See supra* Part II.B.

84. These countries were Portugal and Spain (1986); Austria, Finland, and Sweden (1995); Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia (2004); and Bulgaria and Romania (2007). Europa, *European Countries*, available at [http://europa.eu/abc/european\\_countries/index\\_en.htm](http://europa.eu/abc/european_countries/index_en.htm) (last visited Apr. 4, 2009).

85. Robert F. Owen, *The Challenges of German Unification for EC Policymaking and Performance*, 81 THE AM. ECON. POL'Y REV., 171-74 (1991).

86. Loukas Tsoukalis, *Greece: Like Any Other European Country?*, 55 NAT INT. 65, (1999) (discussing Greece's struggle to conform to the EU); DANIEL GROS & NIELS THYGESEN, EUROPEAN MONETARY INTEGRATION 191-92, 223-24 (2nd ed. 1998); BAUN, *supra* note 78, at 72-73, 113-14 (discussing economic disparities and monetary policy tensions between Spain and other less prosperous European countries, as opposed to Germany, France and Britain).

87. For discussion of recent tensions concerning EU integration, *see* KRISTIN ARCHICK, CONG. RESEARCH SERV. REPORT FOR CONGRESS, ORDER CODE RS21618, THE EUROPEAN UNION'S REFORM PROCESS: THE LISBON TREATY (July 3, 2008), available at <http://www.usembassy.it/pdf/other/RS21618.pdf>; *see also* Gráinne De Búrca, *The Lisbon Treaty No-Vote: An Irish Problem or a European Problem?* (University College Dublin Working Papers in Law, Criminology & Socio-Legal Studies, Paper No. 03, 2009), available at <http://ssrn.com/abstract=1359042>. For a recently expressed French perspective on EU

that the (very significant) short-term economic costs of EU broadening were indeed outweighed by long-term economic gains? That is, was broadening a “loss leader” approach to PTAs, pursuant to which the costs and inconveniences of regional coordination and cooperation were frontloaded in order to achieve longer term, and ultimately beneficial, coordination of efforts? Or was this simply a case of political considerations taking precedence over economic ones?

### *B. Application of Deepening versus Broadening” Framework to U.S. PTAs*

The deepening versus broadening conceptual framework from the EU’s internal experience can be quite informative when applied to more recent PTA efforts, especially by the United States. On the one hand, the United States and EU preferential trade experiences are quite different. The United States certainly has never undertaken anything akin to the EU’s internal integration efforts (at least since the Articles of Confederation), and its preferential trade efforts have been *ad hoc*. The EU, by contrast, has developed as a confederation of states embedded in an increasingly formalized legal and commercial framework. On the other hand, PTAs increasingly have been considered by the United States for significant non-economic reasons, such as the U.S.-Colombia Trade Promotion Agreement<sup>88</sup> and MEFTA.<sup>89</sup> PTAs of this sort are akin in some of their justifications, as well as their effects, to the EU members’ repeated decisions to broaden the EU, rather than to focus first on deepening existing intra-EU relationships. That is, rather than concentrating on deepening existing and successful U.S. PTAs or seeking to deepen ties with countries with which the United States shares strong commercial interests and economic structural similarities, the United States instead has sought in many cases to expand its political reach and influence through the signing of new PTAs with other states, even when—and indeed especially when—these new PTAs appear to offer the United States marginal economic benefit.

It must be noted that in recent years the EU has taken to signing (as a unified bloc) external PTAs with third countries, such as Mexico (2001), Croatia (2002), Jordan (2002), Chile (2003), Lebanon (2003), and Egypt

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integration, see Pierre Moscovici, Opinion, *From Hubris to Nemesis*, THE MOSCOW TIMES.COM, MAY 27, 2009, available at <http://www.themoscowtimes.com/article/1016/42/377461.htm> (characterizing EU integration as ‘moving forward’ despite periodic internal opposition and dissension).

88. David Gantz, *The “Bipartisan Trade Deal,” Trade Promotion Authority and Future of U.S. Free Trade Agreements* 3 (Ariz. Legal Studies, Discussion Paper No. 08-16, 2008), available at [http://papers.ssm.com/sol3/papers.cfm?abstract\\_id=1186982](http://papers.ssm.com/sol3/papers.cfm?abstract_id=1186982); Office of United States Trade Representative, *United States and Colombia Sign Trade Promotion Agreement* (Nov. 22, 2006), [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2006/November/United\\_States\\_Colombia\\_Sign\\_Trade\\_Promotion\\_Agreement.html?ht=](http://www.ustr.gov/Document_Library/Press_Releases/2006/November/United_States_Colombia_Sign_Trade_Promotion_Agreement.html?ht=) [hereinafter U.S.-Colombia TPA].

89. *MEFTA Initiative*, *supra* note 60; Lawrence, *supra* note 65, at 2-3; Folsom, *supra* note 40, at 8.

(2004).<sup>90</sup> This does not undermine the validity of the U.S.-EU comparison, however. Rather, it is an example of the EU also taking a shallower “broad” approach in recent years.

### *1. Deepening versus Broadening and U.S. Commercial Considerations*

The deepening versus broadening dichotomy works well to explain the difference between U.S. commercially driven and non-commercially driven PTAs. With commercially-driven PTAs, there is U.S. interest in achieving greater integration with the other economies involved. NAFTA and its side agreements serve as a good example of this: there is a willingness—perhaps even a desire—to achieve closer U.S. economic integration with Canada. Even with Mexico, which has been the source of a great deal of NAFTA-related political tension in the United States, the very concerns the United States has about its trade relations with Mexico center on elements of greater economic integration—namely, labor mobility, direct investment, agriculture and trucking.<sup>91</sup>

With non-commercially driven PTAs, in contrast, the primary U.S. interest lies in expanding formal (or in some cases, less formal) U.S. trade relations to include new countries for a variety of other reasons. Given the structural economic disparities between the United States and many of these other countries, deeper integration might prove difficult, and in any event the economic gains to the United States from liberalized trade with those countries are marginal at best. If direct economic gains from trade were the primary factor involved, it is likely these PTAs would never come to pass. PTAs of this sort include the proposed (and to date troubled) U.S.-Colombia Free Trade Promotional Agreement<sup>92</sup> and the proposed (and less troubled) U.S.-Panama

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90. De Santis & Vicarelli, *supra* note 6, at 13.

91. M. ANGELES VILLARREAL, U.S.-MEXICO ECONOMIC RELATIONS: TRENDS, ISSUES, AND IMPLICATIONS 20-22 (CRS Report for Congress, July 11, 2005), available at <http://www.fas.org/sgp/crs/row/RL32934.pdf>; Gustavo Vega Canovas, *Convergence: Future Integration between Mexico and the United States*, 10 U.S.-MEX. L. J. 17, 18 (2002) (discussing strengths and weaknesses of NAFTA and NAFTA-related labor market integration); see generally Shiraki, *supra* note 33, at 55-56.

92. Opposition to the U.S.-Colombia Free Trade Promotional Agreement began under the second Bush administration. See *U.S.-Colombia TPA*, *supra* note 87; Steven R. Weisman, *Colombia Trade Deal Is Threatened*, NEW YORK TIMES, July 13, 2008, available at <http://www.nytimes.com/2008/07/13/washington/13trade.html> (listing opposition by American labor unions, Democratic leaders in Congress, and then-Senator Barack Obama as several reasons why Congress is unlikely to pass the legislation approving the Colombia Trade Promotion Agreement); *Bush Urges Congress to Approve Colombia Trade Pact*, REUTERS, July 22, 2008, available at <http://www.reuters.com/article/politicsNews/idUSN2231809520080722> (observing that congressional unwillingness to bring implementing legislation to a vote has placed the pact's future in doubt). President Obama's campaign rhetoric contained anti-trade elements, but in his actions in office have been governed by a strong sense of pragmatism. To this end, President Obama has been exploring ways to perhaps bring this PTA into existence.

Trade Promotion Agreement; the latter has been proposed, not surprisingly, due to the Panama Canal and its importance to U.S. security and trade.<sup>93</sup>

With respect to the U.S.-Colombia Free Trade Promotional Agreement, President Bush’s remarks to Congress in April 2008, when his administration was seeking congressional approval of this pact via implementing legislation, were particularly telling. The first justification given for this proposed PTA was that it would “advance America’s national security interests in a critical region.”<sup>94</sup> The second justification—closely related to the first—was the need “to strengthen a courageous ally.”<sup>95</sup> U.S. economic interests were only listed *third*.<sup>96</sup> President Bush made similar statements at other times as well, as did other U.S. government officials.<sup>97</sup> Moreover, the commercially-focused justifications given by U.S. officials for this PTA have emphasized the large economic benefits to Colombia, not to the United States, due to the fact that the United States is Colombia’s largest trading partner.<sup>98</sup> Similar national security statements have been made by U.S. officials about the U.S.-Panama Trade Promotion Agreement.<sup>99</sup>

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*See Low Expectations Exceeded*, ECONOMIST.COM, Apr. 30, 2009, available at [http://www.economist.com/world/unitedstates/displaystory.cfm?story\\_id=13578834](http://www.economist.com/world/unitedstates/displaystory.cfm?story_id=13578834).

93. Office of U.S. Trade Representative, *United States and Panama Sign Trade Promotional Agreement* (June 28, 2007), available at [http://www.ustr.gov/Document\\_Library/Press\\_Releases/2007/June/United\\_States\\_Panama\\_Sign\\_Trade\\_Promotion\\_Agreement.html?ht](http://www.ustr.gov/Document_Library/Press_Releases/2007/June/United_States_Panama_Sign_Trade_Promotion_Agreement.html?ht) =. Current indications are that the U.S.-Panama Trade Promotion Agreement is likely to approved by Congress. *See Low Expectations Exceeded*, *supra* note 91.

94. Press Release, White House, Office of Press Secretary, President Bush Discusses Colombia Free Trade Agreement (Apr. 7, 2008), <http://georgewbush-whitehouse.archives.gov/news/releases/2008/04/20080407-1.html> (last visited May 15, 2009).

95. *Id.*

96. *Id.*

97. *See, e.g.*, Dan Eggen, *Bush Backs New Trade Pact With Colombia*, WASH. POST, Apr. 8, 2008, at A3 (quoting President Bush as saying that “[a]pproving [this] free-trade agreement is one of the most important ways America can demonstrate our support for Colombia); Carlos Gutierrez, *Ask the White House*, Mar. 13, 2008, available at <http://georgewbush-whitehouse.archives.gov/ask/20080313.html> (quoting Secretary of Commerce Gutierrez) (“[T]he Colombia FTA is more than just a free trade agreement; it is way to ensure security in our hemisphere”); David Lawder, *Paulson Urges OK on Colombian and Panama Trade Pacts*, REUTERS, Apr. 7, 2008, available at <http://www.reuters.com/article/politicsNews/idUSN0729483920080407> (reporting statements by President Bush) (“[T]he need for this [free trade] agreement [with Colombia] is too urgent, the stakes for our national security are too high, to allow this year to end without a [congressional] vote.”) (quoting Treasury Secretary Paulson) (“ [We] call on the U.S. Congress to show support for the Colombian people . . . by passing the Colombian trade agreement”).

98. Gutierrez, *supra* note 96.

99. Lawder, *supra* note 96 (reporting statements by U.S. Treasury Secretary Henry Paulson calling for congressional approval of the Colombian and Panama trade pacts, as a means to bolster democracy in Latin America); Press Release, Department of Commerce, Office of Public Affairs, U.S. Commerce Secretary Carlos M. Gutierrez on Meeting With President of Panama Martin Torrijos (Feb. 15, 2007), [http://www.commerce.gov/NewsRoom/PressReleases\\_FactSheets/PROD01\\_002795](http://www.commerce.gov/NewsRoom/PressReleases_FactSheets/PROD01_002795) (statements by Gutierrez) (stating that the agreement is a “comprehensive free trade pact that will enhance economic growth and prosperity for the people of the United States and Panama.”).

PTA relationships that have little direct commercial benefit thus can be seen as agreements that do little to promote regional economic integration and the gains that integration can bring. In fact, if economic concerns were paramount, it is possible that the United States could achieve greater direct commercial benefits by forgoing these types of non-commercial PTA efforts entirely and instead focusing on further deepening of the U.S. *domestic* market.<sup>100</sup> The U.S. domestic market retains various modest barriers to trade and transaction costs that are perhaps higher than they should or could be, and the United States could seek to reduce or eliminate these as a means to promote U.S. economic growth. In addition, certain economic sectors that hold the potential for significant growth may require government support or investment, due to high startup and research costs—just as railroads have received substantial government support and the Internet began as a government defense research project.<sup>101</sup> Such efforts could include, for example, more active initiatives to federally preempt state laws in the name of national harmonization of disparate legal regimes; the harmonization of overlapping federal regulatory regimes; the improvement of roads and railways, including the development of new transport modes (such as mag-lev trains) to lower transportation costs and spur economic development; greater funding for renewable energy sources; and the upgrading of communications infrastructures.

In fact, the Obama administration has touted the development of renewable energy sources as a means to stimulate U.S. economic growth, and it also has proposed unified federal standards for automobile mileage as a means to regulatorily incentivize industry improvements and preempt inconsistent state standards.<sup>102</sup> Still, there is no readily available evidence that intra-governmental discussions or analyses of this sort have regularly occurred in the United States under current or prior administrations. It is much more likely that such choices between broadening regionally versus deepening domestically have been made by default—all the more so since U.S. governmental agencies that are heavily involved in international trade matters (such as the Office of the U.S. Trade Representative) are often different from (and have different budgets than) those involved in domestic matters (such as the Department of Transportation and Federal Communications Commission).

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100. This point can be thought of as a corollary of McCarthy's observation that (sufficiently deep) regional integration leads to a PTA's territory behaving as (or indeed, becoming) a single market. See McCarthy, *supra* note 33, at 5-6.

101. See generally UNEP SUSTAINABLE ENERGY FINANCE INITIATIVE, PUBLIC FINANCE MECHANISMS TO CATALYZE SUSTAINABLE ENERGY SECTOR GROWTH (2005); JOHN LAURITZ LARSON, INTERNAL IMPROVEMENT: NATIONAL PUBLIC WORKS AND THE PROMISE OF POPULAR GOVERNMENT IN THE EARLY UNITED STATES 225-255 (Univ. of North Carolina Press, 2001).

102. See Press Release, The White House Office of Press Secretary, President Obama Highlights Vision for Clean Energy Economy (Apr. 22, 2009), [http://www.whitehouse.gov/the\\_press\\_office/Clean-Energy-Economy-Fact-Sheet/](http://www.whitehouse.gov/the_press_office/Clean-Energy-Economy-Fact-Sheet/) (asserting that renewable energy sector development will create jobs and lead to greater economic growth); John M. Broder, *Obama to Toughen Rules on Emissions and Mileage*, N.Y. TIMES, May 19, 2009, at A1.



It is somewhat disturbing to think that this sort of regional-broadening-versus-domestic-deepening analysis might reach a conclusion that in some cases is similar to the very sort of isolationist thinking that historically has infused U.S. policymaking on international trade. Certainly there have been (and still are) some observers who would find great appeal in this justification. Yet the conceptual point stands: every decision has an opportunity cost or gain—and if a PTA is being undertaken for non-commercial reasons, the benefits from the PTA might be less in some cases than the benefits that could be derived from domestic deepening efforts.<sup>103</sup>

## 2. *Deepening versus Broadening and Choice of PTA Form*

Deepening versus broadening is also a way to explain the structure or choice of PTA forms used by the United States and other countries. For example, the use of TIFAs and BITs as precursors to formal FTAs with MEFTA target countries<sup>104</sup> means that any initial U.S. PTA relationships with these countries are more broad and less integrative or deep than if a formal FTA were the first step in these relationships. In these cases, more limited agreements (and in the case of TIFAs, less formal agreements) have been chosen when there is an interest in broadening U.S. reach, but little or no interest in immediately deeper ties with the other countries involved. In addition, while the creation of and U.S. membership in APEC preceded the current spate of U.S. PTA activity, APEC’s non-traditional approach fits well into this analysis too—and, in fact, its less formalized, less deep structure helps to explain why APEC’s membership is larger than that of most PTAs—with 21 members as of April 2009.<sup>105</sup>

## 3. *Balancing Considerations*

Of course, deepening versus broadening is not a true dichotomy, but

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103. The Smoot-Hawley Tariff Act of 1930 was perhaps the quintessential example of American isolationist desires in international trade (notwithstanding its disastrous consequences). U.S. Department of State, *Protectionism In the Interwar Period*, <http://www.state.gov/r/pa/ho/time/id/17606.htm> (last visited Apr. 8, 2009). While few now seriously entertain the notion of full isolationism, isolationism still influences modern international trade thinking (and politicking). See Council on Foreign Relations, *The Candidates on Trade*, July 30, 2008, <http://www.cfr.org/publication/14762/> (stating that Barack Obama, Hillary Clinton, Joseph Biden, Christopher Dodd, and John Edwards all claimed to be free trade advocates, yet during the campaign expressed doubt and quite frequently opposed recent U.S. free trade initiatives); Peter T. Kilborn, *The Free Trade Accord: Labor Unions Vow to Punish Pact’s Backers*, NEW YORK TIMES, Nov. 19, 1993 at A27 (stating that labor and workers’ unions struck an alliance with other politicians against free trade agreements, including NAFTA). For a discussion of trade and protectionist sentiments specifically regarding PTAs in the 2008 U.S. presidential election, see Gantz, *supra* note 87, at 9-10.

104. See *supra* text accompanying notes 14-17.

105. See Asia-Pacific Economic Cooperation Forum, Member Economies, [http://www.apec.org/content/apec/member\\_economies.html](http://www.apec.org/content/apec/member_economies.html) (last visited Apr. 8, 2009).

rather more of a spectrum or axis. Various PTA agreements will be located at different points along the axis, depending on the precise balance involved. In many cases, both commercial and security concerns will be important. This is certainly true for the U.S.-Singapore Free Trade Agreement. Singapore's status as one of the world's largest "megaports" for international trade means that it is critically important to the United States for cargo security purposes—although much of that concern has been addressed by the United States through separate, non-PTA programs intended to promote inbound cargo security.<sup>106</sup> Singapore also is a significant trading partner for the United States, far in excess of its tiny size: it was the United States' tenth-largest export market in 2007 and the United States' thirteenth-largest trading partner, with two-way trade of over US\$22.5 billion.<sup>107</sup> It may be, then, that the commercial and security benefits to the United States from the U.S.-Singapore Free Trade Agreement are relatively evenly balanced between economic and security benefits. The Korea-U.S. FTA is another example of a proposed PTA that has clear security and commercial benefits, given both the current (and potentially much greater) volume of U.S.-Korea trade and strategic concerns regarding North Korea.<sup>108</sup> For example, President Obama on the one hand has suggested that U.S. access to the Korean automotive market (a commercial concern) is central to the completion of this PTA.<sup>109</sup> On the other hand, in the wake of North Korea's missile launch in April 2009 and resumption of its nuclear program (clearly non-commercial concerns), congressional leaders from both sides of the aisle have urged President Obama to seek completion of this agreement expeditiously.<sup>110</sup>

The point, again, is that deepening versus broadening is not an all-or-nothing choice. The fact that many recent U.S. PTAs have been driven by non-commercial broadening considerations is thus reflective not of the exclusive nature of deepening versus broadening considerations, but rather of recent U.S. regional trade policymaking.

#### CONCLUSION: U.S. FUTURE PTA ACTIVITY

As the above discussion demonstrates, taking a broadly thematic view of the tensions between PTA deepening versus PTA broadening can lead to better appreciation and understanding of PTA activity. This section concludes this

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106. See Bowman, *supra* note 18, at 204-7.

107. *U.S. Trade With Singapore: 2007 (Jan.-June) v. 2006 (Jan.-June)*, [http://singapore.usembassy.gov/uploads/images/dj4XLVFE4sljAwISiYQ3VA/2007\\_H1\\_Trade\\_Data\\_Bullets\\_8\\_07\\_2\\_.pdf](http://singapore.usembassy.gov/uploads/images/dj4XLVFE4sljAwISiYQ3VA/2007_H1_Trade_Data_Bullets_8_07_2_.pdf) (last visited Apr. 4, 2009).

108. U.S. DEPARTMENT OF STATE, *The Case for the U.S.-Korea Free Trade Agreement*, May 2008, available at <http://www.state.gov/e/eeb/tpp/korea/>.

109. *Low Expectations Exceeded*, *supra* note 92.

110. Senators Max Baucus & Chuck Grassley, Letter to President Obama Regarding Korea FTA, April 20, 2009, available at <http://finance.senate.gov/press/Bpress/2009press/prb042009.pdf>; *Low Expectations Exceeded*, *supra* note 92.

Article by discussing potential future U.S. PTA activity and likely areas of inactivity.

First, this Article’s conceptualization of PTAs suggests that PTA formation follows either economic or non-commercial national security or foreign policy interests, and that the balance of these two considerations will affect the scope, membership, and structure of each particular PTA. It also suggests that when neither type of interest is present, PTAs will not be formed, or if formed will be ineffective. On the one hand, such an observation—that PTAs will not be successfully formed when there are little benefits involved for all parties—might appear trite. On the other hand, the United States has been involved in PTA-related efforts over the past decade that satisfy neither condition—efforts that have yielded little or no direct results. This is therefore an observation worth making, any apparent obviousness notwithstanding.

For example, this conceptualization helps explain the lack of progress on PTA initiatives such as the Free Trade Agreement of the Americas (FTAA), for which there is (or at least there is perceived to be) neither strong economic benefit over current arrangements nor any grand, pressing security need. The FTAA initiative was launched in 1994,<sup>111</sup> but since that time several deadlines for FTAA formation have passed.<sup>112</sup> While FTAA discussions continue, and the United States and other potential FTAA member states officially proclaim their continued commitment to FTAA formation,<sup>113</sup> in truth there is little real progress currently being made toward FTAA formation. Instead, the United States has focused on bilateral PTAs with Latin American countries, such as the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR)<sup>114</sup> and U.S.-Chile Free Trade Agreement.<sup>115</sup> The U.S.-Panama

111. Christopher M. Bruner, *Hemispheric Integration and the Politics of Regionalism: The Free Trade Area of the Americas*, U. MIAMI INTER-AM. L. REV. 1, 2 (2002); Frank J. Garcia, “America’s Agreements”—*An Interim Stage in Building the Free Trade Area of the Americas*, 35 COLUM. J. TRANSNAT’L L. 63, 65 (1997); see also Kenneth W. Abbott & Gregory W. Bowman, *Economic Integration in the Americas: “A Work in Progress”*, 14 J. INT’L L. & BUS. 493, 524-27 (1994) (discussing U.S. position on the FTAA initiative).

112. SARAH ANDERSON & JOHN CAVANAGH, STATE OF THE DEBATE ON THE FREE TRADE AREA OF THE AMERICAS 3-6 (2002), available at <http://www.fntg.org/fntg/docs/stateofthedebate-FINAL4.pdf>.

113. Ministerial Declaration, Free Trade Agreement of the Americas Eighth Ministerial Meeting (Nov. 20, 2003), available at [http://www.ftaa-alca.org/Ministerials/Miami/Miami\\_e.asp](http://www.ftaa-alca.org/Ministerials/Miami/Miami_e.asp). In that declaration, ministers from the thirty-four countries participating in the FTAA negotiations stated that “[w]e recognize the significant contribution that economic integration, including the FTAA, will make to the attainment of the objectives established in the Summit of the Americas process: strengthening democracy, creating prosperity and realizing human potential,” and that “[w]e, the Ministers, expressly reaffirm our commitment to the successful conclusion of the FTAA negotiations by January 2005, with the ultimate goal of achieving an area of free trade and regional integration.” *Id.* (reservation by Venezuela omitted).

114. See generally Office of the United States Trade Representative, *Dominican Republic-Central America-United States Free Trade Agreement*, [http://www.ustr.gov/Trade\\_Agreements/Regional/CAFTA/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Regional/CAFTA/Section_Index.html) (last visited Feb. 4, 2009).

Trade Promotion Agreement is likely to be approved,<sup>116</sup> and while the U.S.-Colombia Free Trade Promotional Agreement<sup>117</sup> appeared moribund at the end of the second Bush administration, it is possible that this PTA also may be approved under the Obama administration.<sup>118</sup> In each of these cases, a narrower economic or foreign policy interest has justified the effort involved in negotiating and forming a PTA.

This observation also helps explain the disturbing American inaction to date concerning PTAs in sub-Saharan Africa. U.S. President Clinton signed the African Growth and Opportunity Act (AGOA) in 2000 to great fanfare,<sup>119</sup> and four years later President Bush signed the AGOA Acceleration Act of 2004.<sup>120</sup> The United States also explored the possibility of establishing a free trade agreement with the Southern African Customs Union (SACU).<sup>121</sup> Like some of the smaller western hemispheric PTAs the United States has recently entered into, much of the focus of any U.S.-African PTAs would necessarily be on agriculture and textiles.

Yet the United States' trade numbers with sub-Saharan Africa have remained small—the export market was worth only US\$14 billion as of 2007<sup>122</sup> and has not increased much, if any, since then. Moreover, unlike western hemispheric countries, sub-Saharan African countries fall outside the United States' immediate geographic sphere of influence. It is not surprising, then, that the efforts of both the Clinton and second Bush administrations never matched their rhetoric.<sup>123</sup> For example, President Bush's 2008 visit to Africa

115. See generally Office of the United States Trade Representative, *Chile Free Trade Agreement*, [http://www.ustr.gov/Trade\\_Agreements/Bilateral/Chile\\_FTA/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Chile_FTA/Section_Index.html) (last visited Feb. 4, 2009).

116. See generally Office of the United States Trade Representative, *Panama Trade Promotion Agreement*, [http://www.ustr.gov/Trade\\_Agreements/Bilateral/Panama\\_FTA/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Panama_FTA/Section_Index.html) (last visited Feb. 4, 2009); see also *supra* note 92.

117. See *U.S.-Colombia TPA*, *supra* note 88.

118. See *supra* text accompanying note 92.

119. See generally Trade and Development Act of 2000, 19 U.S.C. §§ 3701-3741 (2007); Robert H. Edwards Jr. et al., *International Investment, Development, and Privatization*, 35 INT'L LAW. 383, 383 (2001).

120. See generally AGOA Acceleration Act of 2004, H.R. 4103, 108<sup>th</sup> Cong. (2004); Raj Bhala, *Generosity and America's Trade Relations With Sub-Saharan Africa*, 18 PACE INT'L L. REV. 133, 146 (2006).

121. Members are Botswana, Lesotho, Namibia, South Africa and Swaziland. 2002 Southern African Customs Union (SACU) Agreement between the Governments of the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia, the Republic of South Africa and the Kingdom of Swaziland, available at <http://www.sacu.int/>; see also Raj Bhala, *The Limits of American Generosity*, 29 FORDHAM INT'L L.J. 299, 343 n.148 (2006).

122. Press Release, Africa Policy, WHITEHOUSE.GOV, <http://georgewbush-whitehouse.archives.gov/infocus/africa/> (last visited May 15, 2009) [hereinafter *Africa Policy*].

123. See *Clinton Visits Nigerian Village*, BBCNEWS.COM, Aug. 27, 2000, <http://news.bbc.co.uk/2/hi/africa/898450.stm> (reporting on the disconnect between President Clinton's "messages of support" for Nigeria and lack of offers to assist with debt relief); R. W. Apple, Jr., *Analysis: Africa Faces Hurdles, Despite Clinton's Optimism*, NEW YORK TIMES, Apr. 3, 1998, available at <http://www.nytimes.com/library/world/040398clinton-africa-assess.html> (reporting on President Clinton's 1998 trip to Africa, his optimistic rhetoric, and uncertainty of

had all the trappings of an outgoing president seeking to strengthen his legacy at home and abroad, but much of the focus was on health and individual opportunity, not development and trade *per se*.<sup>124</sup> During the visit, President Bush spoke repeatedly about the importance of malaria control and mosquito nets, but he said very little about fostering deeper U.S.-African economic ties or about fostering economic development and opportunity in sub-Saharan Africa.<sup>125</sup> Personal compassion and a focus on public health are certainly worthy and needed, but they do not themselves generate trade. Moreover, if we assume, as both the Clinton and second Bush administrations did, that greater trade can lead to greater opportunity and stability,<sup>126</sup> then the absence of such talk during President Bush's 2008 visit is all the more telling. Africa was simply not perceived by the U.S. government as either presenting strong economic opportunities or posing a significant security or foreign policy threat or concern that could be addressed through trade, and so it was not the focus of U.S. PTA efforts.<sup>127</sup>

Even under the Obama administration, it is not yet clear how much weight will be given to U.S. trade with sub-Saharan Africa. Some observers anticipate that President Obama will place greater emphasis on U.S.-Africa trade

substantive American aid); See Press Release, The White House, President Bush Discusses Trip to Africa at Leon H. Sullivan Foundation (Feb. 26, 2008), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080226.html> (stating that during his first term President Bush "doubled" assistance to Africa and asked Congress to "double" assistance to Africa during his second term).

124. See Press Release, The White House, President and Mrs. Bush Discuss Africa Policy, Trip to Africa (Feb. 14, 2008), <http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080214.html>; see generally *Bush on Safari: Some Relief in Africa*, ECONOMIST.COM, Feb. 15, 2008, [http://www.economist.com/displayStory.cfm?story\\_id=10711375&fsrc=RSS](http://www.economist.com/displayStory.cfm?story_id=10711375&fsrc=RSS) (describing President Bush's AIDS package to Africa, dubbed "PEPFAR" (President's Emergency Plan For AIDS Relief), which is intended to give nearly \$19 billion to Africa over a 5-year period) [hereinafter *Bush on Safari*]; Peter Baker, *Bush, in Africa, Issues Warning to Kenya*, WASHINGTONPOST.COM, Feb. 17, 2008, <http://www.washingtonpost.com/wp-dyn/content/article/2008/02/16/AR2008021600323.html> (describing President Bush's policies in Africa as programs that fight disease, poverty and illiteracy on the continent).

125. See generally Press Release, The White House, President Bush Tours Meru District Hospital, Discusses Malaria (Feb. 18, 2008), <http://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080218.html> (discussing President Bush's "Malaria Initiative," which supports anti-mosquito measures including netting and spray, medical treatment, and anti-malarial medication); see generally *Bush Begins African Trip in Benin*, BBCNEWS.COM, Feb. 16, 2008, <http://news.bbc.co.uk/2/hi/americas/7247370.stm> (reporting on visits by President Bush to local hospitals).

126. THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES 17 (2002), available at <http://georgewbush-whitehouse.archives.gov/nsc/nss.pdf> (stating that "free trade and free markets" create stability by creating new jobs and higher incomes, as well as by advancing the prosperity and freedom that "enhance[ ] our national security"); THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES 25 (2006), available at <http://georgewbush-whitehouse.archives.gov/nsc/nss/2006/nss2006.pdf> (stating that one tenet of American foreign policy is to promote "free and fair trade," because it expands economic liberty that in turn brings prosperity and eventually political liberty).

127. For a discussion of longstanding structural impediments to inter-regional trade between Africa and developed countries, see McCarthy, *supra* note 33, at 16-17.

policy, both in light of his own interest in economic development and his own African heritage, and also building on the modest efforts of his presidential predecessors.<sup>128</sup> Others note that President Obama's positions on trade have shifted from what some viewed as protectionist in tone (during the 2008 presidential campaign) toward more pro-free trade stances since his inauguration,<sup>129</sup> which perhaps suggests that more trade agreements may be seen during the Obama administration. On the other hand, U.S. Trade Representative Ron Kirk has been quoted as saying that he did not come to that job with "deal fever"—meaning that the Obama administration may have less of a penchant than the previous administration for signing new trade deals, including PTAs.<sup>130</sup> Consistent with this position, the Obama administration has stated that the United States will not revive PTA talks between the United States and the Southern African Customs Union (SACU), although the United States will entertain the possibility of separate PTAs with individual SACU countries. A TIFA negotiated between the United States and SACU will remain in effect.<sup>131</sup> Such a TIFA, of course, is a less integrative form of regional cooperation, as already discussed in this Article.

In light of this recent history of U.S. regional trade with sub-Saharan Africa, it appears that unless there is further significant destabilization in Africa, or growing support of terrorism in Southern Africa, any progress toward strengthening U.S. formal trade arrangements with sub-Saharan Africa and other regions like it will be modest at best, and perhaps even marginal. This is a disappointing conclusion, but it is a difficult one to avoid. This seems especially true in light of the global economic crisis of 2009, which has turned significant U.S. policymaking attention to domestic issues such as job losses and difficulties in the banking and automotive sectors of the U.S. economy.

On the other hand, the fact that PTA developments increasingly seem to follow perceived foreign policy goals—like MEFTA—means that we might be able to predict some future PTA developments, based on anticipated foreign policy shifts. In particular, given China's current push to secure access to natural resources and export markets in Africa<sup>132</sup>—and in Latin America as

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128. See Rosa Whitaker, *Africa: Trade Talk—President Obama's Emerging Policy*, May 13, 2009, <http://allafrica.com/stories/200905130703.html> (anticipating greater U.S. focus on Africa trade policy); Bob Tortora, *Opinion Briefing: Achieving Gains in Africa*, January 13, 2009, <http://www.gallup.com/poll/113872/Opinion-Briefing-Achieving-Gains-Africa.aspx> (noting a general intent by the Obama administration to engage with African nations in various ways, including economically).

129. See *Low Expectations Exceeded*, *supra* note 92.

130. Anthony Faiola, *U.S. to Toughen its Stance on Trade*, WASHINGTON POST, March 10, 2009, at A01.

131. Siseko Njobeni, *Southern Africa: U.S. Will Not Reopen SACU Trade Deal Talks*, BUSINESSDAY, May 12, 2009, available at <http://allafrica.com/stories/200905120111.html>.

132. *China's Quest for Resources: A Ravenous Dragon*, ECONOMIST.COM, Mar. 13, 2008, [http://www.economist.com/specialreports/displaystory.cfm?story\\_id=10795714](http://www.economist.com/specialreports/displaystory.cfm?story_id=10795714) (stating that both Angola and Sudan have benefited from Chinese investment in those countries, with Angola specifically turning down International Monetary Fund money because of an influx from

well<sup>133</sup>—perhaps we will see a shift in U.S. foreign policy through trade, and thus greater focus on PTA developments in sub-Saharan Africa and renewed U.S. interest in multilateral preferential trade with Latin American countries. Perhaps these efforts, if they come to pass, will succeed; perhaps they will fail; or perhaps (arguably like MEFTA) they may be policy successes even in the wake of their own technical failure. But they will not take place soon, either as deep PTA efforts or new broad PTA initiatives, unless something in the current politico-economic landscape of international trade changes.

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Chinese aid and investment); *China's Quest For Resources: No Strings*, ECONOMIST.COM, Mar. 13, 2008, [http://www.economist.com/specialreports/displaystory.cfm?story\\_id=10795763](http://www.economist.com/specialreports/displaystory.cfm?story_id=10795763) (stating that a recent World Bank report found “strong evidence that Chinese demand was boosting Latin American exports and little indication that Chinese exports were crowding Latin American ones out of other markets”).

133. Stephen Johnson, *Balancing China's Growing Influence in Latin America*, THE HERITAGE FOUNDATION, Backgrounder #1888, Oct. 24, 2005, available at <http://www.heritage.org/research/latinamerica/bg1888.cfm> (stating that China's interest in Latin America stems from the region's abundance of raw materials and lack of formalized industry, as well as an ability to make quick deals with governments in the region); see generally KERRY DUNBAUGH & MARK P. SULLIVAN, CHINA'S GROWING INTEREST IN LATIN AMERICA, (CRS Report for Congress, Apr. 20, 2005), available at <http://italy.usembassy.gov/pdf/other/RS22119.pdf> (reporting on China's investment and trade activities throughout Central and South America).

