I

African Regional Trade Agreements as flexible legal regimes

A Introduction

Trade integration in Africa is often viewed in light of the European Union and other regional integration arrangements like the North American Free Trade Agreement (NAFTA). From this perspective, integration is regarded as necessarily destined to proceed on a linear path where tariffs and non-tariff barriers are progressively eliminated, the trade regimes of member countries are linked together, and eventually their fiscal and monetary policies are harmonized. In the European experience, trade integration has been the result of a series of treaty commitments that also created a supranational organization to which the states transferred certain types of authority.

Seen in this light, African Regional Trade Agreements (RTAs) contrast sharply with their counterparts in Europe and North America, where there is a much higher commitment to compliance with the legal obligations contained in the treaties establishing them. From this view, African RTAs have not resolved the 'problems of coordination, collaboration or domestic politics' that treaty regimes are argued to remedy.[1] In addition, the treaty commitments in African RTAs do not appear to have raised 'the political costs of noncompliance' such as reputational losses.[2] In short, the existence of regional trade rules and institutions has not done much to change the behaviour of African countries.[3]

1 K. Abbott and D. Snidal, 'Hard and Soft Law in International Governance', *International Organization* 54 (2000) 421, 424. This is a view strongly associated with institutionalists.

2 C. Lipson, 'Why Are Some International Agreements Informal?', *International Organization* 45 (1991) 495, 508 (acknowledging that loss of reputation does promote compliance but does not guarantee it).

3 See S. Krasner, 'Structural Causes and Regime Consequences; Regimes as Intervening Variables', in S. Krasner (ed.), *International Regimes* (Utica, NY: Cornell University Press, 1983), 5–10; see also K. Raustiala, 'Compliance and Effectiveness in International Regulatory Cooperation', *Case Western Reserve Journal of International Law* 32 (2000) 387, 394 (defining effectiveness in terms of the degree to which treaty rules produce 'observable, desired changes in behavior').

The foregoing views are caricatures that are not based on the actual treaty commitments and experiences of African RTAs.[4] This chapter aims to develop a more accurate account of RTAs than existing analyses. This alternative view is based on the types of commitments contained in the treaties, as well as how the RTAs are understood by their members.

These treaty commitments and understandings show that African RTAs are designed as flexible regimes. Flexibility here refers to the following defining features of African RTAs: first, they are regarded as establishing flexible regimes of cooperation as opposed to containing rules requiring scrupulous and rigorous adherence. Second, African RTAs incorporate as a central feature the principle of variable geometry, adopting steps for meeting timetabled and other commitments. Third, African RTAs adopt a broad array of social, economic and political objectives without giving salience to any set of objectives. Fourth, African RTAs demonstrate a particular preference for functionally specific objectives to undertake discrete projects and to serve as forums for the integrated development of common resources, such as river basins that cut across national boundaries. Fifth, African RTAs demonstrate a remarkable commitment to the equitable distribution of gains from trade and a corresponding weakness in the adoption of non-discrimination trade principles and the related objectives of trade liberalization. Sixth, African RTAs are characterized by multiple and overlapping memberships, exemplifying a classic case of the 'spaghetti bowl'.[5] Multiple RTA membership illustrates the flexibility or open-door membership that African RTAs offer.

Understood as flexible regimes, African RTAs therefore contrast sharply with the views of Jorge Dominguez in the Latin American context. Dominguez has argued that trade integration agreements have 'lax implementation' as a 'rule' governing international relations in the Americas.[6]

4 See A. Philip, 'Preface' to F. Kahnert *et al.*, *Economic Integration Among Developing Countries* (Paris: OECD Development Centre, 1969), 9. Four decades ago, it was argued that regional integration in developing countries could not be expected to 'produce spectacular results in the short or even medium term', and that these efforts would subsequently experience 'delays and frequent breakdowns [which] will soon lead to disappointment and discouragement'. *Ibid.*

5 J. Bhagwati, 'US Trade Policy: The Infatuation with Free Trade Agreements', in J. Bhagwati and A.O. Krueger (eds), *The Dangerous Drift to Preferential Trade Agreements* (Washington, DC: AEI Press, 1995), 2–3. A 'spaghetti bowl' is a metaphor used to describe a system in which criss-crossing strands of bilateral trade agreements create a tangled mess of restrictions and regulations, ultimately disrupting rather than promoting free trade. *Ibid.*

6 J. Dominguez, 'International Cooperation in Latin America: The Design of Regional Institutions by Slow Accretion', in A. Acharya and A. Johnson (eds), *Crafting Cooperation: Regional Interdependence in Comparative Perspective* (Cambridge University Press, 2007), 94–5.

According to Dominguez, lax implementation is 'pervasive and long-lasting across issue-areas and time periods, unpunished by co-signatories and generally accepted even when its existence hampered the procedures or organizations that states sought to create'.[7]

Viewing African RTAs as flexible regimes has the advantage of allowing these RTAs to be understood on their own terms, rather than as treaty regimes on a path toward becoming much like their European or North American counterparts. In so doing, it becomes possible to better and more accurately understand the challenges that these RTAs have been designed to address and that have in turn shaped them. As Tiyanjana Maluwa has argued, African countries have preferred informal institutions to the 'bureaucratic strictures and international rule-making or legislative processes of formal international institutions'.[8] Indeed, as this chapter shows, African RTAs are not overseen by powerful supranational bureaucracies, but rather by relatively weak institutions that leave ample sovereignty to their Member States.

Tiyanjana Maluwa in essence alludes to a point that is very important, and often overlooked by pessimists of regional integration in Africa. These pessimists primarily examine the performance of African RTAs based on how well Member States rigorously conform their behaviour to the formally binding trade liberalization commitments found within treaties and similar agreements.[9] While there is clearly merit in assessing these

7 *Ibid.* at 95.

8 T. Maluwa, 'The Move From Institutions? Examining the Phenomenon in Africa', *Proceedings of the Annual Meeting* (*American Society of International Law*) 100 (2006) 294. Tiyanjana Maluwa used the New Economic Partnership for African Development (NEPAD), as an example of this move away from formal institution-building governed by a treaty or rule system. *Ibid.* at 295. In his view, the design of NEPAD was as a framework of development cooperation and interaction outside the African Union. *Ibid.* Tiyanjana argued that NEPAD reflected a shift 'toward action and results rather than legislation and rule making'. *Ibid.* at 297. In his view African governments are more likely to accede to objective, voluntary and peer evaluation measures than 'punitive and overly prescriptive measures', *Ibid.* at 298. Another example that Maluwa discusses is the African Peer Review Mechanism, a regional effort to have African countries review each other's governance performance. *Ibid.* at 296–7. While the case of Robert Mugabe's Zimbabwe shows some difficulty of voluntary processes, the mechanism has been used in Kenya in 2006 and in South Africa in 2007. See African Peer Review Mechanism, 'Kenya Progress Report on the Implementation of the African Peer Review Mechanism (APRM) National Programme of Action', available at www.nepadkenya.org/Documents/progress_report_jan06.pdf (detailing the progress Kenya has made in implementing changes since its peer review in 2006); African Peer Review Mechanism, 'South African Country Review Report No. 5' (2007), available at www.aprm.org.za/docs/SACountryReviewReport5.pdf (detailing South Africa's progress after implementing the mechanism).

9 See e.g., G.J. Naldi and K.D. Magliveras, 'The African Economic Community: Emancipation For African States or Yet Another Glorious Failure?', *North Carolina Journal of*

rules and institution-building efforts in light of the treaty obligations to which these states have committed themselves, such an approach misses the following crucial insights.

The pessimist approach is based on the false belief, similar to the first generation of African RTAs, that 'integration could be legislated from above, *ex nihilo*', without reference to what was in fact possible on the ground.[10] The failure of first-generation efforts to build RTAs in post-colonial Africa, legislated essentially from above, is in part represented by the collapse of the East African Community in 1977 and by the failure of the Mano River Union economic cooperation arrangement, which had been established in 1973 after its original members, Liberia and Sierra Leone, experienced civil wars.[11] The Mano River Union was revived in 2004.[12] The collapse of the East African Community in 1977 showed the importance of alternative models of cooperation around discrete projects where gains and benefits could be realizable not only in the short term, and where the gains were mutually beneficial to the members as well. In addition, the failure of these first-generation efforts at pan-Africanism showed the limits of ambitious projects driven by the desire to unify in ending colonial rule and apartheid that could not easily be translated into projects of economic cooperation in post-colonial Africa. In fact, long before the collapse of the East African Community in 1977, 'the vision of an African common market in the neo-classical/comparative advantage model had disappeared by 1965'.[13] By the late 1970s, regional

International Law and Commercial Regulation 24 (1999) 601, 603 (concluding that 'the African Economic Community will not succeed without sweeping political, economic and legal reforms', *ibid.*); see also, C. McCarthy, 'Regional Integration in SubSaharan Africa: Past, Present and Future', in A. Oyejide, B. Ndulu and D. Greenway (eds), *Regional Integration and Trade Liberalization in SubSaharan Africa, Vol. 4: Synthesis and Review* (London: Palgrave Macmillan, 1999), 230 (arguing that African countries have adopted over-ambitious regional integration schemes and that this has not been a good policy).

10 J. Ravenhill, 'The Future of Regionalism in Africa', in R.I. Onwuka and A. Sesay (eds), *The Future of Regionalism in Africa* (London: Macmillan Education, 1985), 5, 10.

11 Kahnert *et al.*, *Economic Integration Among Developing Countries*, 67.

12 US Department of State, Bureau of Public Affairs, 'Background Notes: Sierra Leone (06/09)', www.state.gov./outofdate/bgn/s/125195.htm. In 2004, the domestic turmoil began to settle and the first local government elections in 32 years were held in 311 wards nationwide. Sierra Leone along with Guinea and Liberia formed the Mano River Union (Côte d'Ivoire later joined in May 2008). *Ibid.*

13 M.S. Wionczek, 'Introduction – Present Status and Prospects of Economic Integration Movements in Developing Countries: Political Atomization and Economic Backwardness of the Southern Hemisphere', in M.S. Wionczek, *Economic Cooperation in Latin America, Africa and Asia* (Cambridge, MA: MIT Press, 1969), 1, 8–9; see also United Nations Economic Commission on Africa, 'Background Paper on the Establishment of

trade integration in Africa, Asia and the Caribbean was declared to have been in 'various degrees of serious crisis, in states of stagnation or in processes of disassociation'.[14]

In light of such a legacy of failure, economic and political cooperation could therefore hardly be remedied by a regionalism based exclusively on a neo-classical/comparative advantage model and be expected to succeed. Thus, in the second generation of RTAs that followed the collapse of the first wave of African RTAs, the role of treaty commitments became that of providing a framework for initiatives such as joint ventures or initiatives in areas including trade, investment and capital, while also extending further into transport, security, water, electricity supply and labour movement, as well as agreements for the management of common resources such as river basins.[15] Not only were the range of objectives increased, but flexibility was built into these RTAs by allowing functionally specific objectives and incorporating the principle of variable geometry, as outlined above and discussed more fully in Chapter II.

This contrasts sharply with an approach to regional integration that is primarily or solely focused on trade integration and that requires rigorous formal compliance with liberalization commitments within specific time frames. This does not, of course, preclude such treaty commitments having solemnly binding obligations.[16] Indeed many, if not all African RTAs have exactly those kind of commitments.[17] In short, flexibility is not necessarily incompatible with assuming legally binding commitments. Often these obligations are assumed on the understanding that compliance will

an African Common Market', UN Pub. No. E/CN.14/STC/20 (13 Oct. 1963); United Nations Economic Commission for Africa, 'European Integration and African Trade', UN Pub. No. E/CN.14/STC/4 (23 Aug. 1964) (displaying that the vision of African economic integration was a popular theme in the early part of the 1960s).

14 C.V. Vaitsos, 'Crisis in Regional Economic Cooperation (Integration) Among Developing Countries: A Survey', *World Development* 6 (1978) 719.

15 Y. Yang and S. Gupta, *Regional Trade Arrangements in Africa: Past Performance and the Way Forward* (IMF Working Paper 05/36, 2005), 5.

16 See generally A. Chayes and A.H. Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995). See also H.K. Mutai, *Compliance With International Trade Obligations: The Common Market for Eastern and Southern Africa* (Boston: Kluwer Law International, 2007).

17 See e.g., Art. 47(1) of the Protocol on the Establishment of the East African Community Common Market, signed 20 November 2009, which provides that 'The Partner States undertake to approximate their national laws and to harmonize their policies and systems, for purposes of implementing this Protocol.' Article 47(2) goes on to provide that the 'Council shall issue directives for purposes of implementing this Article', available at www.eac.int/advisory-opinions/cat_view/68-eac-common-market.html (an example of an RTA with binding commitment).

not be stringently enforced because the commitments are balanced against a variety of safety valves, such as the principles of variable geometry and the equitable sharing of the benefits of regionalization.

There are several other examples of flexibility in African RTAs. As noted above, these RTAs adopt flexibility by incorporating rules that provide different obligations between members, as well as differences in timelines to comply with commitments that are based on the varying economic capabilities of their members. For example, in the Treaty for the Establishment of the East African Community, the principle of variable geometry allows the commitments in the treaty to be undertaken at different speeds.[18] The principle of asymmetry allows variations in measures of economic integration, building flexibility right into the framework of RTAs. In the South African Customs Union (SACU), flexibility is achieved in part by allowing protection of new industries from competing goods from SACU and non-SACU countries for a period of no more than eight years for the poorest SACU states.[19] In addition, as noted below, Botswana, Lesotho, Namibia and Swaziland are entitled to tariff assistance for industries of major importance to their economies.[20] Tariffs with regard to such industries may only be decreased with the concurrence of a country that has designated such an industry as being of importance to it.[21] The question

18 See *infra* Chapter III.

19 Section 26 of the South African Customs Union (SACU) Agreement of 2002 provides:

> 1. The Government of Botswana, Lesotho, Namibia or Swaziland may as a temporary measure levy additional duties on goods imported into its area to enable infant industries in its area to meet competition from other producers or manufacturers in the Common Customs Area, provided that such duties are levied equally on goods grown, produced or manufactured in other parts of the Common Customs Area and like products imported from outside that area, irrespective of whether the latter goods are imported directly or from the area of another Member State and subject to payment of the customs duties applicable to such goods on importation into the Common Customs Area. (2). Infant industry means an industry which has been established in the area of a Member State for not more than eight (8) years. (3). Protection afforded to an infant industry in terms of paragraph 1 shall be for a period of eight (8) years unless otherwise determined by the Council. (4). The Council may impose such further terms and conditions as it may deem appropriate.

SACU Agreement, signed 21 October 2002, available at www.sacu.int/main.php?include=docs/legislation/2002-agreement/part5.html.

20 See *infra* Chapter III.

21 SACU Agreement, Art. 26, available at www.sacu.int/main.php?include=docs/legislation/2002-agreement/main.html. Article 26 of the SACU Agreement makes provision for protection of infant industries for Botswana, Lesotho, Namibia and Swaziland. Article 34 provides for the revenue-sharing formula which determines the respective shares of the

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More information

of flexibility in the context of variable geometry is addressed in more detail in Chapter II.

RTAs also provide an umbrella within which bilateral and even inter-regional links are formed among a group of countries along functional lines, and whose benefits are often more immediately available than through trade liberalization. This in turn has spurred 'sectoral planning and coordination'[22] which is now a major feature of African RTAs.

This chapter is the first of three that explore this theme of flexibility. It proceeds as follows. First, I discuss how flexibility enmeshes well in the African context, with examples showing how African RTAs have changed the classic Vinerian customs union model, as well as their adoption of multiple objectives. This chapter also discusses how African RTAs act as forums for integrated development and functionally specific projects. These projects are often nestled or nested within the RTAs and they include cooperation on issues relating to security and common river basin management. The chapter ends with another feature of RTAs' enmeshment in the African context – the view that African regionalism is a bulwark for economic self independence. Chapter II discusses how African RTAs have adopted variable geometry as a mechanism for ensuring equality in the sharing of the benefits of trade liberalization and how the prevalence of this concern has back-grounded the commitment to non-discriminatory trade liberalization. Chapter II also discusses at length the highly significant April 2009 East African Court of Justice (EACJ) Advisory Opinion on Variable Geometry and its implications for African RTAs. Chapter III focuses on another important feature of African RTAs as flexible regimes – multiple memberships in RTAs. It begins by reviewing the phenomenon of multiple membership and the advantages it offers African countries with

members of the total customs, excise and additional duties. See also J. Isaken, 'Prospects for SACU After Apartheid', in B. Oden (ed.), *Southern Africa After Apartheid: Regional Integration and External Resources* (Uppsala: Nordiska Afrikainstitutet, 1993), 182. In addition, South Africa may give sympathetic consideration to increasing the customs duty on imports of competing goods as well as to reducing such duty for materials that are used in the production of goods designated as being of importance by Botswana, Swaziland or Lesotho: SACU Agreement, Art. 2 (stating that one of SACU's objectives is to 'facilitate the equitable sharing of revenue arising from customs, excise and additional duties levied by Member States').

22 E.M. Maphanyane, 'SADCC-Future Challenges', in Oden (ed.), *Southern Africa After Apartheid*, 174, 175 (arguing that SADCC initially decided to undertake 'large programmes in agricultures, transport, communications and the energy sector'). Maphanyane further notes that 'the basis of cooperation was the discrete project. This had the effect of making the benefits of cooperation immediate and tangible, and also of building confidence among Member States.' *Ibid.*

such multiple memberships. It then proceeds to examine the resulting 'spaghetti bowl' effect of these multiple RTAs and assesses the transaction costs associated with it.

B Flexibility as enmeshment in the 'African' context

1 *Adaptations of the Vinerian model*

African RTAs, like others in the Third World, exhibit differences from the classic European market-based customs union integration model.[23] Under the European model, economic integration starts with a free trade area, progresses to a customs union, then to a common market, and finally to an economic union, with a political union as the last stage.[24] This classic integration model associated with Jacob Viner[25] came under serious scrutiny as a model for Third World integration many decades ago.[26] The Vinerian model was developed in an industrial context, while many developing countries were agrarian and raw material producing. The Vinerian model, for example, assumed that trade creation or trade expansion would outweigh trade diversion when trade barriers were lifted.[27] This assumption is often undermined, since a majority of African economies have largely similar products without necessarily having comparative cost advantages between them sufficient to overcome this similarity.[28] The resulting lack of complementary trade in effect undercuts gains in trade.

23 C.A. Cooper and B.F. Massell, 'Toward a General Theory of Customs Unions for Developing Countries', *Journal of Political Economics* 73 (1965) 461, 475.

24 B. Balassa, *The Theory of Economic Integration* (Homewood, IL: R.D. Irwin, 1961).

25 See J. Viner, *The Customs Union Issue* (Carnegie Endowment for International Peace, 1950); see also J.E. Meade, *The Theory of Customs Unions* (Westport, CT: Greenwood Press, 1955); R.G. Lipsey, 'The Theory of Customs Unions: Trade Diversion and Welfare', *Economica* 24(93) (1957).

26 See e.g., Cooper and Massell, 'General Theory of Customs Unions', at 461; R.L. Allen, 'Integration in Less Developed Areas', *Kyklos* 14 (1961) 315; G.M. Meier, 'Effects of a Customs Union on Economic Development', *Social and Economic Studies* (Mar. 1960), 29; R.F. Mikesell, 'The Movement Towards Regional Trading Groups in Latin America', in A.O. Hirschman (ed.), *Latin American Issues: Essays and Comments* (New York: The Twentieth Century Fund, 1961); Robson, *infra* n. 74; R.F. Mikesell, 'The Theory of Common Markets as Applied to Regional Arrangements Among Developing Countries', in R. Harrod and D. Hague (eds), *International Trade Theory in a Developing World* (London: Palgrave Macmillan, 1963) (all criticizing the Jacob Viner integration model).

27 See *infra* Chapter III for an extended discussion.

28 Kahnert *et al.*, *Economic Integration*, at 23. Kahnert notes that the traditional doctrine is based on differences in resource endowments which explain differences in factor prices. However, if one abstracts from natural resources in mining and agriculture, developing countries may not show very different resource endowments. In a general way, scarcity of

Under such conditions, firms in African RTAs end up trading with high cost producers within the region, rather than with low cost producers from outside the region.[29] The small size of most of these economies also means that significant economies of scale are not realizable without enlarging the market through regionalism. This is exacerbated by the fact that economic integration in Africa, even while otherwise enlarging market sizes, does not lead to globally significant increases in productivity, productive area, or purchasing power of the enlarged market relative to productive areas and markets in other regions.[30] In addition, African integration arrangements have often resulted in protecting high cost multinational or local firms that have commanded market share by producing for a segmented market within the individual countries and subsequently within a region.[31]

Some economists therefore argue that African economies need structural changes because they do not exhibit the conditions under which integration can confer benefits on them.[32] This is in part because developing countries tend to trade with developed countries more than they do with each other.[33] In addition, their national outputs are dominated by trade with developed economies, mainly in exporting unprocessed

capital and skilled labour, scarcity of entrepreneurial talent, usually considerable amounts of unemployed unskilled labour, and in many cases even no shortage of land resources, are some of the characteristics of developing countries. *Ibid.* On similarity of factor endowments among developing countries, see *ibid.* at 31–5.

29 One consequence of trade liberalization under regional integration schemes in developing countries is a rise in non-tariff barriers. See Vaitsos, 'Crisis in Regional Economic Integration', at 746.

30 A. Hazlewood, 'Problems of Integration Among African States', in A. Hazlewood (ed.), *African Integration and Disintegration* (Oxford University Press, 1967), 1, 6.

31 See *infra* Chapter II (discussing reasons for adoption of variable geometry); see also Allen, 'Less Developed Areas', at 317–34 (discussing the conditions under which the Vinerian customs union model is feasible).

32 M. Bye, 'Structural Changes Required by Growth', in Harrod and Hague (eds), *International Trade Theory in a Developing World*, 161; see also Vaitsos, 'Crisis in Regional Economic Integration', at 751 (arguing that the traditional theory of integration influenced by Ricardian comparative advantage theory and neo-classical economics did 'not address itself to the issues of major interest on development, namely how the process of integration will dynamically change the structural conditions of production and technology, the process of inter-commodity and inter-activity (rather than simply inter-country) substitution, the dynamics of resource diversification going beyond the questions of specialization, the composition of investments and expectations, the capacity for absorbing externalities, etc').

33 According to Yang and Gupta, 'Regional Trade Arrangements in Africa', at 18. 'For many RTAs, intra-arrangement trade as share of their total external trade remains below intra-African trade as share of total African external trade', *ibid.* at 15.

raw materials.[34] The argument here is that African economies need more than the increase in market size created by a common market because the increase in market size may be marginal relative to other limitations for firms, such as high production costs and very low levels of income that make the effective size of regional markets small.[35]

Thus, as noted in Chapter II, a primary goal of trade integration in Africa became that of promoting large-scale production with a view to shifting trade patterns from external sources.[36] The idea was that such a production shift would in turn result in foreign exchange savings that could then be used to produce what was imported from outside Africa from the newly established production facilities within Africa.[37] In retrospect, this adaptation of the Vinerian model turned out to be pie in the sky – yet it is an idea not wholly abandoned in African RTAs even today.[38]

Import substitution policies were another initial response to this classical customs theory, particularly in the 1960s and 1970s.[39] These policies have increasingly been abandoned through multilateral treaty commitments, particularly since the 1990s.[40] The Vinerian customs union theory was also adapted through a variety of devices to avert unequal integration gains between integrating economies, a theme addressed

34 *Assessing Regional Integration in Africa* (Economic Commission for Africa, 2004), 19 (noting that 'in 1995, primary products accounted for 64% of African exports').

35 Hazlewood, 'Problems of Integration' at 9 (making reference to the view that 'the present cash market of most African countries individually is not larger than that of a moderately sized European town').

36 See *infra* Chapter II.

37 See R.H. Green and A. Seidman, *Unity or Poverty: The Economics of Pan-Africanism* (London: Penguin Books, 1968), 265; S. Linder, *Trade and Trade Policy for Development* (Praeger Series on International Economics and Development, 1967) (suggesting that trade creation would hurt poor economies because it would disrupt the desired country distribution rules and suggesting ways of overcoming such losses through establishment of common industries in the 'least-cost' partner); see also F. Andic, S. Andic and D. Dosser, *A Theory of Economic Integration for Developing Countries, Illustrated by Caribbean Countries*, vol. I (London: Allen & Unwin, 1971).

38 See *infra* nn. 59–79 (discussing functional specificity, RTAs as forums for integrated development of common resources, the equitable distribution of gains from trade and the principle of variable geometry).

39 See Economic Commission for Latin America, 'The Latin American Common Market', UN Pub. No. 59.II.G.4 (New York: UN, 1959).

40 F. Roessler, 'Domestic Policy Objectives and the Multilateral Trade Order: Lessons from the Past', *University of Pennsylvania Journal of International Economic Law* 19 (1998) 513, 516 (discussing the replacement of import substitution policies with trade liberalization via multilateral agreements).