



Greening RTAs: Framing the Discussion

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*Greening RTAs: Opportunities and
Insights from Int'l Experience*

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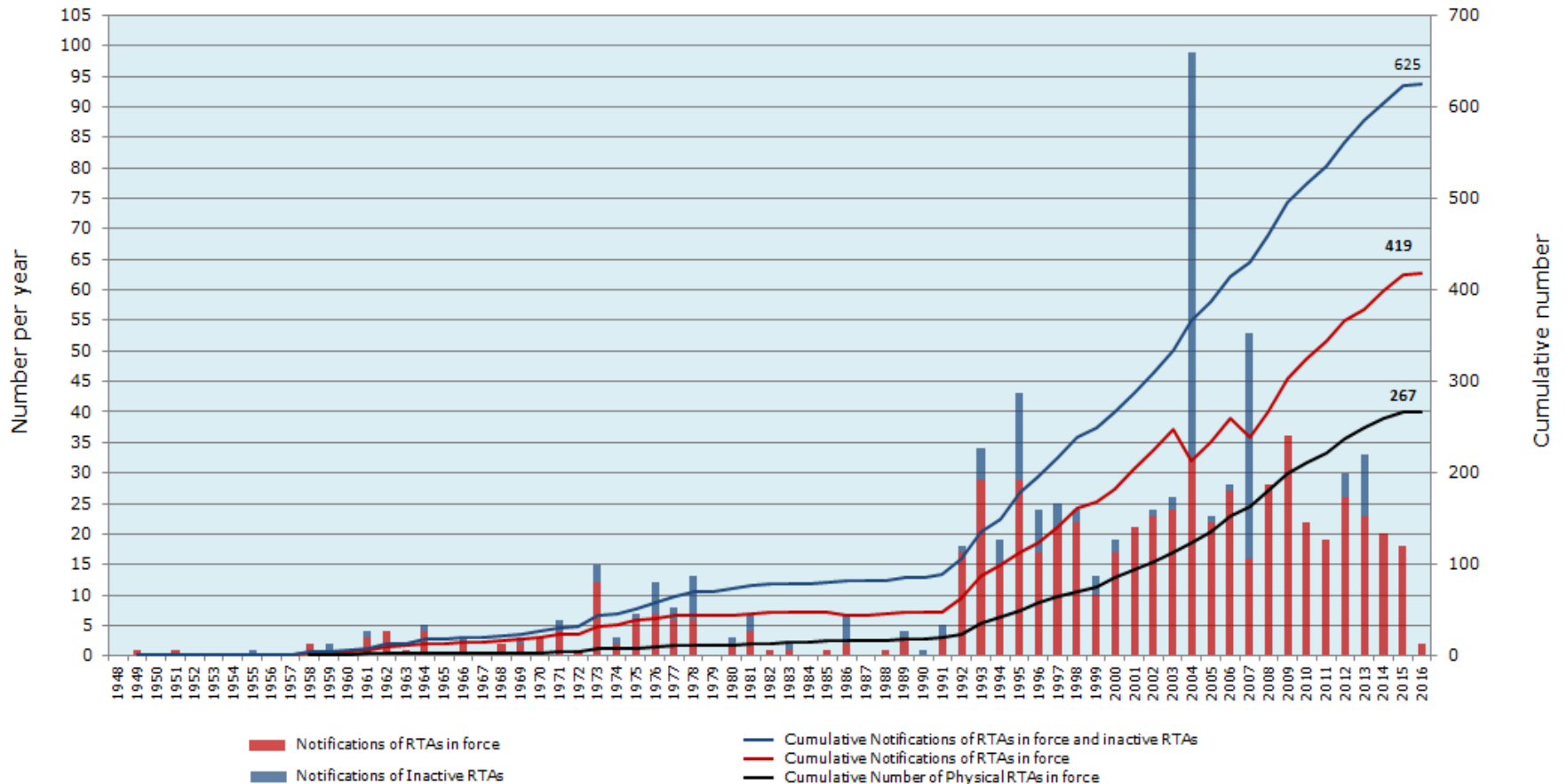
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Context

- Growth in coverage of RTAs, mega-regionals
- Post-2015 Agenda: SDGs, FfD, UNFCCC Paris outcomes
- Long-standing commitments to synergy between trade and environment, trade and sustainable development

Evolution of Regional Trade Agreements in the world, 1948-2016



Note: Notifications of RTAs: goods, services & accessions to an RTA are counted separately. Physical RTAs: goods, services & accessions to an RTA are counted together.
 Source: WTO Secretariat.



Context

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What do we mean by “greening”?



- Are we just talking about environment?
- Or are we talking about sustainable development more broadly? If so:
 - Where do pure development issues fall? Equity, poverty alleviation?
 - How about industrial policy, green economy? (performance requirements, subsidies, IPRs, procurement, etc.)

Two possible paths to “greening” (non-environmental provisions)



- Proactive work to find synergy: liberalization of environmental goods and services; environmental capacity building.
- Removing obstacles (reform): legal “space” for green procurement; green subsidies; green TRIMs.

Is there an environmental “spaghetti bowl effect”?



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- Trade effects of RTAs: exporters frustrated by multiple standards; possible diversion of trade and investment flows.
 - No equivalent environmental effect: direct impacts of environmental provisions in RTAs are on *public* sector, not *private*.
 - RTAs as laboratory for environmental provisions; more potential flexibility for monitoring, review and revision.

Should we look beyond SD and environment and chapters in RTAs?



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- There are plenty of substantive areas:
 - Investment
 - Subsidies
 - Government procurement
 - IPRs
 - Services
 - TBT/SPS, standards
 - Regulatory convergence



Greening Investment

- Non-discriminatory measures of general application in service of environment – not expropriation
- Investor obligations on EIA, CSR, environmental management, etc., as prerequisite for ISDS
- Circumscribe MFN obligations to disallow import of substantive obligations from other agreements
- Process improvements (Appellate mechanism, roster of panelists)
- Performance requirements? (Is it environment, or is it SD?)



Greening Subsidies

- Regional initiatives to reduce or eliminate environmentally perverse subsidies: fossil fuel subsidies, fisheries subsidies
- Rules giving market correcting subsidies (internalizing environmental externalities) special treatment under subsidy rules



Other green provisions

- **IPRs:** Require patent disclosure in line with Nagoya Protocol obligations on access and benefit sharing.
- **Procurement:** Confirm the right to discriminate on the basis of environmental criteria, possibly including PPMs

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- For the same reasons it makes sense to incorporate purely environmental and SD provisions, it makes sense to look for opportunities to green other provisions
 - Caveats: Not all provisions provide such opportunities, and there is no “right” way to green RTAs.



Thank you

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