INTERNATIONAL LAW AND THE ROLE OF APEC IN THE GOVERNANCE OF ECONOMIC COOPERATION WITHIN THE ASIA PACIFIC REGION*

Paul J. Davidson
Carleton University, Ottawa, Canadá
paul_davidson@carleton.ca

Resumen

Las complicaciones administrativas del proceso comercial en la región Asia Pacífico han conducido a proponer la creación de un Área de Libre Comercio de la región Asia Pacífico, como parte de una estructura de gobierno. En este sentido, el Foro de Cooperación Económica de Asia Pacifico (APEC) puede desempeñar un papel preponderante en cuanto a fijar lineamientos para la cooperación económica y una aproximación libre y abierta para las inversiones. También se sostiene que el marco legal de APEC pueda ser aplicado a actividades económicas que no hayan sido reguladas por otros acuerdos internacionales, lo que ofrecería ventajas tales como la adaptación a las condiciones de cada estado y la estandarización de las regulaciones vigentes. No obstante, este esquema no vinculante, (*soft law*), no excluye, sino que complementa el esquema legal vinculante (*hard law*) de la Organización Mundial de Comercio (OMC).

Palabras clave: APEC, OMC, marco legal, gobierno, cooperación económica, derecho no vinculante, derecho vinculante.

Abstract

The cumbersome administrative process of trading in the Asia Pacific region has lead to propose the creation of a Free Trade Area of the Asia Pacific Region (FTAAP), as part of the governance structure. In this respect, the Asia Pacific Economic Cooperation (APEC) would play a major role regarding the setting of guidelines for economic cooperation and a free and open approach to investments. It is also provided that APEC's legal framework may be applied to the economic activities which have not been regulated by other international agreements, offering advantages as adapting to the real conditions of each state and the standardization of the already existing regulations. However, this non-binding framework, (soft law), does not foreclose, but complements the OMC's binding legal framework (hard law).

Key words: *APEC, WTO, legal framework, governance, economic cooperation, soft law, hard law.*

* This paper is drawn from a paper presented at The Second All China Economics (ACE) International Conference, APEC Study Center, City University of Hong Kong, Hong Kong, on December 12-14, 2007. I would like to thank The Centre for International Governance Innovation, Waterloo-Ontario, Canada, for their support to attend that conference to present the original paper. A deeper and more comprehensive document based on the comments, observations and contributions made at the conference, will be soon published in CIGI's Working Paper series. References should be to the CIGI paper.

Introduction

Governance structures at the international level are necessary to manage the increasing economic interdependence of economies across the Asia-Pacific region, and to reduce its negative effects. At the APEC Economic Leaders' Meeting on November 18-19, 2006, APEC Ministers and Leaders agreed to discuss the feasibility of a Free Trade Area of the Asia-Pacific (FTAAP) region as part of the governance structure for regional economic integration within the region.

The creation of an FTAAP is proposed in part to counter the problem of the proliferation of RTAs/FTAs in the area. The "noodle bowl" of agreements, which currently exists, increases the complexity, the cost, and the administrative burdens of doing business in the region. Tumbarello asserts «The continued proliferation of regional trade agreements (RTAs) risks turning the world trade system into a "noodle bowl" of overlapping and potentially inconsistent and unmanageable RTAs» (2007). Lack of uniformity among agreements can severely hamper trade flows by the sheer fact of the costs involved for traders in meeting multiple sets of trade rules, and dealing with the many bureaucracies that are created.

In considering the formation of an FTAAP, it is necessary to consider the role to be played by APEC in the governance of such an agreement. The paper commences with a brief discussion of the role to be played by APEC in the negotiation and governance of an FTAAP. Rather than a direct role in negotiating and governing an FTAAP, it is argued that APEC should play a governance role similar to that of the WTO in the governance of regional trading arrangements, i.e., of providing part of the agreed international framework within which an RTA may be negotiated.

The question is then addressed as to how APEC can contribute to governance of economic cooperation in the Pacific Rim. The WTO forms the "hard" law of the framework for the governance of economic cooperation in the Asia Pacific; APEC can perform an important role in providing a "soft" law component to the framework. Although rules-based governance and international law are often thought of in terms of binding rules ("hard" law), non-binding rules ("soft" law) are playing an increasingly important role in rules-based governance and international law. This 'softer' approach to legalization offers a number of advantages in achieving economic cooperation where a 'harder', binding approach may not be satisfactory for a number of reasons.

Part I. The role of APEC in the Negotiation and governance of an FTAAP

A free trade area is established by agreement among the parties that wish to establish preferential trading arrangements among themselves. Negotiations leading to the FTA will take place within the international legal framework which governs the relationships among the parties, and that framework will impose a certain structure and constraints on the parties. For example, the WTO legal framework has rules regarding the formation of Free Trade Areas and Custom Unions, which establish the parameters within which such unions may be negotiated. However, the WTO, does not negotiate such unions-members of the WTO negotiate the rules of the WTO which provide the framework

within which the negotiation of individual unions takes place. Negotiations for such unions will be conducted by the relevant government officials of the parties involved in such unions (usually trade officials), who will represent their respective countries' interests.

The question which arises in the case of a Free Trade Area of the Asia Pacific is, what role should APEC play in this process? There are a number of possible responses to this question. One response is to argue that the APEC process should be restructured to become an effective vehicle for negotiation of the FTAAP. However, as concluded at the 17th APEC Ministerial Meeting, APEC was not designed to be a forum for negotiations, but rather a voluntary process of cooperation in support of open and efficient markets. APEC is part of the international governance structure for economic cooperation in the Asia Pacific region, not a negotiating forum for free trade agreements.

APEC has developed since its origins, but it has always maintained its voluntary, non-binding process of cooperation, rather than taking the approach of becoming a forum for the negotiation of binding rules. According to Cho (2007),

> This ambitious trade and investment liberalization scheme [the Bogor Goals] certainly exceeds the current WTO level in terms of both scope and depth. This scheme has been made possible only by APEC's soft institutionalization, which is defined by its nonbinding nature and voluntarism.

APEC as an institution to promote economic cooperation should not be comingled with a forum for negotiating an FTAAP. Elek (2007) asserts:

> Since APEC is not designed to be a forum for negotiations, it should not attempt negotiations. This reality was demonstrated by the failure of the so-called early voluntary sectoral liberalisation (EVSL) experiment in 1997 and 1998.

In other cases where a regional organization exists, negotiations for a free trade area involving members of the organization are conducted by the members, not by the organization. For example, in the Americas, the summit process of the Organization of American States is kept separate from the Free Trade Area of the Americas (FTAA) negotiations. This means that the summit process need not be compromised by difficulties in the FTAA negotiations. Likewise, in the negotiation of an FTAAP, APEC should be kept separate from the negotiations by the APEC economies, which want to be part of the negotiations for a free trade area.

APEC's role in the governance of an FTAAP should be at the level of establishing guidelines for economic cooperation, rather than the "day-to-day" governance of an FTA. The type of guidelines is the subject of the following Part.

Part II.A. Governance and the Role of International Law

Good economic governance is essential to facilitate international economic activity. An important component of the governance structure is the legal framework, and consideration must be given to the nature of the legal framework to regulate relations, and whether it is appropriate and well-suited for the types of trade-related problems the countries involved hope to resolve.

There has been a movement internationally to rules-based governance to regulate international economic relations. Although rules-based governance is often thought of in terms of binding rules backed up by an enforcement mechanism, rules-based governance comprises a much broader spectrum; rules may vary from binding obligations to non-binding commitments. From the beginning, APEC has advanced cooperation through voluntary, non-binding commitments rather than binding rules as has been the approach in the GATT/WTO framework.

"Rules-based" governance relies on structures and their functions, and involves the negotiation of rules to govern the cooperation among the actors, and the establishment of mechanisms to achieve compliance with the rules. A legal system is a very important component of rules-based governance. A legal system provides 1) rules for the orderly interchange among members of the society, and 2) provides mechanisms for the settlement of disputes that arise among members of the society, concerning the rules established by that society, and for ensuring compliance with those rules.

"Rules-based" governance can be compared to "relations-based" governance. "Relations-based" governance relies on the personal relationship of the parties within the relationship to act as the basis for their cooperation. Formality is avoided, and the maintenance of good relations is relied on for cooperation. As economies grow, and as trade and investment expand, one expects the mix to shift away from relation-based and toward rules-based governance (Dixit, 2002). This trend can be seen in the development of the World Trade Organisation (WTO) framework for regulating international trade, with the negotiation of increasingly detailed trade rules, and its dispute settlement mechanism to resolve disputes over the interpretation/application of the rules.

This move to "rules-based" has often been equated to a system based in binding obligations, with a dispute settlement mechanism which interprets/applies those rules. However, although a rules-based framework for regulating economic cooperation is often thought of from the perspective of a legal framework based in "hard law", it is also important to consider the role of 'softer' legalization, through 'non-binding' commitments. «Non-binding norms have a complex and potentially large impact in the development of international law» (Shelton, 2000). Rules-based governance comprises elements of both "hard law" and "soft law".

The two elements of a legal framework –rules and dispute settlement/compliance mechanism– may be considered as occupying a spectrum representing various degrees of legalization as follows:

1. Rule generation

Type of Norm/Rule:

Non-binding		Binding
Commitment	⟷	Obligation

Precision of Norm/Rule:

Vague		Precise, highly
Principle	⟷	elaborated rule

2. Dispute Settlement/Compliance

Dispute Settlement Mechanism:

Diplomacy	⟷	Formal court

Compliance:

Informal		Formal
Methods	⟷	Methods

The degree of legalization of a rule or a system will depend on where the rule or system falls on the spectrum. The possibilities of combinations across these extremes are multiple, ranging from 'hard' legalization, through multiple forms of 'softer' legalization. There is no clear distinction between 'hard' and 'soft' law, but rather, the continuum indicates the various degrees of 'legalization', from 'softer' to 'harder', depending on where on the continuum the dimensions of the rule or system fall.

In order to be considered a valid form of law, commitments must be complied with despite the language used. According to Gold, «The essential ingredient of soft law is an expectation that the states accepting these instruments will take their content seriously and give them some measure of respect» (1983: 443). Despite the lack of binding rules and enforcement mechanisms present in hard law agreements, soft law is treated by signatories with an equal amount of respect. The issue of compliance has been an issue with recognizing international law as 'law'. However, I think most would agree that international law is 'law'. This issue has been dealt with extensively elsewhere, and I do not propose to deal with it in detail here (see Lloyd, 1964; D'Amato, 1987; Koh, 1997: 2599). The evidence shows comparable compliance rates for both hard and soft law (Johnston, 2001: 710).

To encourage or monitor compliance with non-binding commitments, mechanisms such as managerial approaches may be effective.

> Managerial approaches suppose that states comply with rules in regulatory regimes out of enlightened self-interest and respond to non-coercive tools such as reporting and monitoring (Craik, 2000: 551).

> Monitoring and publicly revealing non-compliance may be the most effective, if not the only, method of inducing compliance in the face of strong disincentives. It may even be possible that some stronger monitoring mechanisms exist in soft law precisely because it is non-binding and states are therefore willing to accept the scrutiny they would reject in a binding text (Craik, 2000: 572; as cited in Peng, 2000: 106).

Part II.B. Governance of International Economic Relations in the Pacific Rim

Economic cooperation in the Pacific Rim, including the formation of Regional Trade Agreements, is governed by the international legal framework regulating economic relations among economies in the Pacific Rim. This international framework comprises both elements of "hard" law and "soft" law.

a) "Hard" law

The best known component of this legal framework is, of course, the WTO, of which most economies in the Pacific Rim are members. The WTO administers a number of agreements amongst its members, which set out certain "rules" for the conduct of international trade. The members of the WTO have agreed to be bound by these rules ("hard" law), and a dispute settlement mechanism has been developed to interpret and apply these rules. The principal obligation is set out in Article I of the GATT which requires that there be no discrimination among trading partners, i.e., MFN treatment.

However, despite the fact that the aim of the GATT was to do away with discrimination in international trade through the imposition of a general MFN obligation,

the GATT still allows preferential trade to take place in certain circumstances. One of the most problematic exceptions to the MFN requirement is that provided by GATT Article XXIV, which provides an exception for customs unions, free trade areas, and interim agreements leading to them. One justification which is given for this exception to the rule of non-preferential trade is the argument that totally eliminating restrictions on trade among several countries creates a wider trading area and removes obstacles to competition, and thus makes possible a more economic allocation of resources which operates to increase production and raise standards of living within the trading area. Provided that the creation of such trading areas is not to the detriment of other countries' trade, this in turn enhances total world welfare which is the objective of the GATT system.

In order to ensure that customs unions and free trade areas meet these desired objectives, Article XXIV imposes several conditions on the creation of such trading areas. In particular, the arrangements should help trade flow more freely among the territories in the group without barriers being raised on trade with those outside the group. Not all customs unions or free trade areas are "regional", e.g., the Korea-Chile FTA. However, as most agreements are regional, the term "regional" integration/agreement will be used in this paper. In other words, regional integration should complement the multilateral trading system and not threaten it. The GATT rules provide criteria for the formation of customs unions and free trade areas to achieve these ends. The criteria are fundamentally three: (a) commitment to deep intra-region trade liberalization, (b) neutrality *vis-à-vis* non-parties' trade, and (c) transparency.

b) Modern Economic Relations

The current GATT/WTO framework is limited in its scope of regulation. Modern economic relations have become increasing complex. «... [T]rade policy is no longer [just] about trade measures at the border» (Mendoza et ál. 1999). Until the Uruguay Round, the GATT framework was confined to regulating trade in goods, and it was only after initial reluctance, that the framework was expanded to the regulation of trade in services (GATS).

A number of regional trade agreements go beyond the requirements of the GATT/GATS in providing for economic cooperation. A distinction is commonly made between shallow and deep integration: 'shallow' integration referring to the elimination of the traditional border measures, tariffs and non-tariff measures; 'deep' integration referring to policies that are beyond the border. «[A]lmost all of the deep integration features of recent RTAs are outside the WTO rules» (Lloyd, 2002).

To the extent that an RTA deals with activities that are not regulated by an agreement under the WTO or by some other international obligation, parties to an RTA are free to come to their own agreement for regulating these aspects of their relations. For example, most economic cooperation agreements also contain provisions regarding foreign direct investment. There is very little in the way of an international framework that regulates investment. The GATT has very few provisions regulating investment, and these are limited to the "trade related" aspects of investment measures (TRIMs); attempts at a Multilateral Agreement on Investment (MAI) were not successful. Parties negotiating an RTA are thus not constrained by the international

framework in negotiating this aspect of their agreement.

A number of the areas of economic activity of concern in an RTA, which are not regulated by the WTO or other international agreements, deal with contentious issues, which may be difficult to resolve by conventional 'legal' agreements, but could be dealt with by a 'softer' approach. These areas are of particular concern in negotiating 'modern' economic arrangements. APEC can play a role in establishing a framework providing for uniformity in these areas.

c) "Soft" Law and the Role of APEC

APEC is part of the rules-based framework for the regulation of economic cooperation in the Asia Pacific region. Although APEC's approach is to formulate voluntary, non-binding principles, these also form part of the rules-based framework for governing economic cooperation among the members of APEC. While the APEC framework is "non-binding", this framework is evolving into an international framework which regulates conduct among its members. APEC has developed a number of commitments among its members, and while these are "non-binding", they are nevertheless intended to be statements of serious intent, and do have some effect on the conduct of APEC members. Although these commitments have been of a much "looser" nature, they will have an effect on the evolving legal framework for economic cooperation in the region and will contribute to it (Davidson, 2002). The voluntary, non-binding approach constitutes APEC's unique strength, and comparative advantage, and APEC should focus its efforts where its comparative advantage lies. APEC should not forgo the practical opportunities for mutually beneficial cooperation which can be achieved through voluntary cooperation.

Much of APEC's evolving framework is set out in APEC's voluntary guidelines, e.g., the Non-Binding Investment Principles (ETA, 2001) and the agreement on a set of best practice principles for regional trade agreements and free trade agreements –APEC Model Measures for RTAs/FTAs (ETA, 2002)–. The Non-binding Investment Principles (NBIP) of 1994 are principles for strengthening the efficiency of investment administration, eliminating investment obstacles, and establishing a free and open investment environment in the region. The Principles are to be used as a guideline by members to achieve the APEC goal of free and open investment. Although these Non-Binding Investment Principles are non-binding in nature, they are evidence of "soft law" policy and may be a useful "tool" in the role of creating uniform investment provisions to be included in individual RTAs.

As noted, the international community has been unable to agree on a binding multilateral framework for the regulation of international investment; generally the international legal framework for the regulation of international investment at the multilateral or even at the regional level is poorly developed. APEC's Non-Binding Investment Principles are an important component of the governance structure for managing this area of economic cooperation.

The APEC Model Measures for RTAs/FTAs are intended to achieve high standard FTA/RTA agreements in the APEC region and to ensure that RTAs/FTAs are consistent with the WTO. Although not

'binding' on the APEC members, these guidelines are influential, and serve as a guide to some of the issues that need to be addressed by 'new' RTAs, which are much broader in scope than provided for by the rules of the WTO.

d) Advantages of a "soft" approach

A 'soft law' approach to governance offers a number of advantages, including the following:

1. A 'soft law' approach allows for flexibility and diversity. Binding harmonisation can be replaced by non-binding coordination of policies. This approach provides a flexible framework for assisting governments to identify good policies, not a rigid system that aims at harmonisation enforced by binding dispute settlement. 'Soft law' allows states to adapt their commitments to their particular situations rather than trying to devise a 'one size fits all' agreement. APEC is characterized by its diverse membership. 'Soft law' allows accommodation of different economic structures and interests, and renegotiation of agreements as circumstances change. In the implementation of commitments in the domestic law, the flexibility allows each member to mold the specific content of regulation to reflect national or local circumstances.

2. 'Soft law' allows for the possibility of differentiation. Since 'soft law' does not create binding obligations, there is no obligation for all participants to implement the agreed course of action in order to move forward in respect of a certain matter. Some may proceed with the agreed course of action with others joining as they are able. To this regard, compared with the situation in the European Union, Senden holds: «not all the Member States have to agree in order to move forward in respect of a certain matter» (2005). It allows stakeholders to implement the rules 'when and as' they are able, rather than requiring implementation according to a fixed timetable. Elek explains:

> APEC leaders should no longer expect, let alone insist, that large groups of very diverse economies, with diverse domestic priorities, should reach the same goals in any particular year (2007: 6).

3. 'Soft law' does not have the same sovereignty issues which may arise when negotiating 'binding' obligations. Parties may be unwilling to negotiate 'binding' obligations with other parties they are not willing to formally recognise, but may be more willing to consider 'non-binding' arrangements which are for their mutual benefit. APEC's 'soft law' approach is more suitable for accommodating the 'three Chinas' –the PRC, Hong Kong, and Taiwan–.

4. Adoption of non-binding "soft law" may result in the adoption of more progressive norms than would be drafted if a "hard law" format had been chosen. States are less reluctant to agree to certain principles if they are not framed as "binding" obligations. In the latter case, they want to make sure "to cross every *t* and dot every *i*" before committing themselves. Agreement could not be reached in negotiating a Multilateral Agreement on Investment, which was seen as creating a legal framework for regulating investment,

akin to the GATT for regulating trade. However, the APEC members were able to agree on a set of Non-Binding Investment Principles. These Principles may be just as effective a part of the governance framework as a 'hard' MAI would be. As Hillgenberg has noted:

> The fact that, when assessed realistically, the difference between a treaty and the binding 'political' effect of a non-treaty agreement is not as great to a politician as is often thought may also play a role in the decision to opt for a non-treaty form of agreement (1999: 502).

APEC's consensus-based and non-binding approach has allowed APEC to be forward-thinking and encouraged member economies to strive for the best possible outcomes, rather than binding members to the lowest acceptable levels.

5. 'Soft law' allows for the participation of non-state actors in the governance process, a role that is possible only rarely in traditional law-making processes where states are concerned with creating *binding* obligations. The increasing participation by non-government actors is a feature of "modern" international law. APEC emphasizes the role of non-state participants in the governance process, e.g., the role of the APEC Business Advisory Committee (ABAC). In fact, it has been the private sector, as much, if not more than, the governmental sector, which has been the primary advocate for promoting regional integration.

6. Soft law can be useful in addressing the difficulties in reconciling the approaches of the 'East' and the 'West'. APEC's membership is characterised by its diversity, comprising members from both the 'East' and the 'West'. The Western view adopts an institutional approach emphasizing legalistic structures, agreements, and contracts, and operating under fixed schedules and time frames; the 'Eastern', or 'Asian', approach is evolutionary, cautious and conservative, resting upon consensus building and peer pressure. Both approaches, however, can be seen as part of a 'rules-based' approach to governance encompassing a spectrum of 'legalisation', from 'harder' to 'softer'.

e) Compliance

Because APEC does not have binding rules, it is not feasible to establish a formal, binding dispute settlement mechanism. The question, therefore, arises of how to obtain compliance with non-binding commitments? As noted, managing commitments through supervision and incentives may be just as effective as a binding dispute settlement mechanism. One way that APEC accomplishes this is through peer review.

> While commitments are non-binding in a court of law, the peer review process ensures that if one economy does not appear to be honoring commitments there will be pressure for compliance (Woodhead, 2007).

Conclusion

Rather than constituting itself as an FTAAP, APEC should remain focussed on what it can do, rather than what it has not been designed to do. Just as the WTO provides part of the framework for the governance of economic cooperation, rather than a forum for negotiating individual trade agree-

ments, APEC also provides part of the framework. APEC should concentrate on the role it could play in contributing to the framework for a broader APEC-Trade and Investment Area (APEC-TIA). Although APEC and the WTO share a common purpose –maximising the gains from freeing up international trade– each grouping has its own unique mode of operation designed to attain that goal, and its own comparative advantage. The comparative advantage of APEC is its voluntary process of international economic cooperation.

In order for states to converge in economic cooperation, it is necessary to have a system of rules to guide their conduct. In some cases these rules may take the form of 'binding' obligations negotiated by the parties. However, in some cases it may be more appropriate, or even necessary, to take a 'softer' approach to developing guiding principles.

Although regionalism requires a strong international legal framework, this framework should not be restricted to 'hard' law, but should utilize 'soft' law where appropriate or necessary. «[H]ard law and soft law are not alternatives. Rather, they serve different purposes and complement one another» (Bayne, 2004: 347). They can act together to provide more effective governance of relations among states.

References

ASIA PACIFIC ECONOMIC COOPERATION (APEC). 2005. *Busan Roadmap to Bogor Goals*. Document 2005/AMM/002anx1rev1. Agenda Item: IV, V, p. 13. 17th APEC Ministerial Meeting Busan, Korea, Nov. 15-16.

BAYNE, Sir Nicholas. 2004. Hard and Soft Law in International Institutions: Complements, Not Alternatives. In Kirton, John J., and Trebilcock, Michael J. (eds.) *Hard Choices, Soft Law Voluntary Standards in Global Trade, Environment and Social Governance*. Aldershot and Burlington: Ash Gate.

CHO, Sungjoon. 2007. Is a Free Trade Agreement a Royal Road To Prosperity? Demystifying Trade Regionalism. *Static and Dynamic Consequences of a KORUS FTA*. May, 1. Vol. 4 in KEI Special Studies Series, published by Korea Economic Institute of America. <http://keia.org/2-Publications/2-4-Adhoc/FTAConferenceVolume2007/FTAConferenceVolume-Contents07.html>, (accessed Nov. 16, 2007).

CRAIK, A. Neil. 1998. Recalcitrant Reality and Chosen Ideals: The Public Function Of Dispute Settlement In International Environmental Law. *Geo. Int'l Envtl. L. Rev.* Vol. 10.

D'AMATO, Anthony. 1987. Is International Law Really 'Law'?, chapter 1. In D'Amato, Anthony. *International Law: Process and Prospect*, pp.1-26. Dobbs Ferry: National Publishers Inc.

DAVIDSON, Paul J. 2002. *Rules-Based?- APEC's Role in the Evolving International Legal Framework for Regulating International Economic Relations*, paper presented at the APEC Study Centre 2002 Conference, Merida, Mexico. May 22-24.

DIXIT, Avinash. 2002. *Lawlessness and Economics: Alternative Modes of Economic Governance*. Dec., 11. Gorman Lectures. London: University College. <http://www.econ.ucl.ac.uk/downloads/Lec1.pdf> (accessed Aug. 6, 2007).

ELEK, Andrew. 2007. *The Asia Pacific Region: economic integration in the 21st century*. Paper prepared for APEC 2007 SOM 2, APEC Trade Policy Dialogue - Strengthening Regional Economic Integration, Adelaide, Australia, Apr. 22, 2007/SOM2/TPD/002.

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA). 2001. *Trade Act Participant Report (TAPR), Document II.B.3.a*. U.S. Department of Labor. Washington, D. C.

——·2002. *Trade Act Participant Report (TAPR), Document III.A.A1*. U.S. Department of Labor. Washington, D. C.

GOLD, Joseph. 1983. Strengthening the Soft International Law of Exchange Agreements. *The American Journal of International Law.* N.º 77.

HILLGENBERG, Harmut. 1999. A Fresh Look at Soft Law. *Economic Journal of International Law*. Vol. 10.

JOHNSTON, Douglas M. 2001. Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System. *The American Journal of International Law*. N.º 95.

KOH, H.H. 1997. Why Do Nations Obey International Law? Review Essay. *The Yale Law Journal*. N.º 106.

LLOYD, P. J. 2002. *Implications for the Multilateral Trading System of the New Preferential Trading Arrangements in the Asia-Pacific Region.* PECC Seminar on Developing Patterns of Regional Trading Arrangements in the Asia-Pacific Region: Issues and Implications. Vancouver, BC, Canada. Nov. 11-12. <http://www.pecc.org/publications/papers/trade-papers/1_SII/9-lloyd.pdf>.

LLOYD, Dennis. 1964. *The Idea of Law.* Harmondsworth: Penguin.

MENDOZA, M.R.; LOW, P. and KOTSCHWAR, B. (eds.) 1999. *Trade rules in the making: challenges in regional and multilateral negotiations.* Washington, D.C.: Organization of American States; Brookings Institution Press. (In 'An Overview' by editors).

SENDEN, Linda. 2005. Soft Law, Self Regulation and Co-regulation in European Law: Where Do They Meet? *Electronic Journal of Comparative Law*. Vol. 9.1. <http://www.ejcl.org/>, referring to Article 11 EC and Title VII of the EU Treaty.

SHELTON, Dinah. 2000. Law, Non-Law and the Problem of "Soft Law". Introduction in Shelton, Dinah (ed.) *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System.* Oxford and New York: Oxford University Press.

PENG, Shin-Yi. 2000. The WTO Legalistic Approach and East Asia: From the Legal Culture Perspective. *Asian-Pacific L. & Pol'y J*. Vol. 1. N.º 13.

TUMBARELLO, Patrizia. 2007. 'Noodle Bowl' Risk of Trade Pact Overlap. *IMF Survey Magazine.* Jun., 25. <http://www.imf.org/external/pubs/ft/survey/so/2007/CAR0625A.htm#top> (last accessed, April 1, 2008).

WOODHEAD, Geoffrey. 2007. IAP Peer Reviews: APEC Member Economies Make Progress. *APEC E-Newsletter*. Mar. Vol. 12. The APEC Secretariat's Finance Direction.