

Lillian Corbin · Mark Perry *Editors*

# Free Trade Agreements

Hegemony or Harmony

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*For Zoe Lash*

# Preface

This book is aimed at reaching all people interested in the global evolution of free trade agreements, particularly given the recent turbulence in this realm instigated by the USA. This probably means every thinking person, as who could not be interested in one of the underlying foundations of modern trade? Readers who are stakeholders in the provision of goods or services, or consumers of goods and services, will be interested in our regional developments in free trade. It should be noted that this is a snapshot from early 2018, and the details of current agreements are in a state of rapid change and challenge. The editors ask readers to contemplate the work as a whole and to see how the authors who come from the region and outside have reflected on issues in global trade.

The provenance of this work started with the idea for a collaboration between Beijing Foreign Studies University and the University of New England (Australia) for a conference in the area of free trade agreements. This rapidly developed into a conference in May 2017, ‘Free Trade Agreements: Hegemony or Harmony’, with a theme following the changes and challenges in free trade and whether these can be seen to be advantageous to all parties.

Readers may be surprised at the diversity of approaches to free trade, from the assumption adopted over the last 70 years that such agreements are for the benefit of all parties, the institution of the World Trade Organisation, and its major trade impact, notably including rights over intangibles via its Agreement on Trade-Related Aspects of Intellectual Property. There have been very recent upheavals in the trade realm, from negotiations that have progressed with the Trans-Pacific Partnership without the USA, which withdrew in 2017, to become a new incarnation known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. This new agreement was signed by the 11 participants in March 2018. This year has also seen the introduction of tariffs by the USA, principally on imports from China but also on the European Union, Canada and Mexico. Some commentators see this as a potential new era in trade wars based on a new paradigm of overt protectionism, but how this pans out is yet to be seen.

The assumptions underlying free trade as manifested by free trade agreements are being challenged, and some of the effects of agreements already made are yet to be fully understood by participating nations. Within this work, the editors hope that readers will find materials to challenge preconceived ideas and perhaps see 'free' trade in a different light.

Armidale, Australia

Lillian Corbin  
Mark Perry

# Acknowledgements

Works such as this depend on the direct input from many people and indirectly from many more. Although it is not possible to thank everyone, there are some to thank specifically. Starting at the end, Springer clearly has had a great role in bringing this work to your hands or screen, in particular Thangarasan Boopalan for bringing this project to press. The beginning of this project has its origin in the Free Trade Agreement Conference held in 2017 and co-hosted by Beijing Foreign Studies University (BFSU) and the University of New England, Australia (UNE). In this regard, we especially thank Professor Wan Meng and Associate Professor Lijuan Liu from BFSU for their efforts.

There has been a great deal of work by many people in between these two times, a little over a year. To the many others who helped, including our colleagues and friends at the University of New England, Armidale, NSW, Australia, such as Amanda Kennedy, who often provided assistance without even knowing, a word, a thought-provoking comment, we give our thanks. Of particular importance to this mission has been Dr. Priti Krishna for her encouragement and her own stamina for research that provides daily inspiration.

We thank you all.

Armidale, Australia  
August 2018

Mark Perry  
Lillian Corbin

# Contents

<b>Turbulent Times for FTAs: Australia and the Region</b> .....	1
Lillian Corbin and Mark Perry	
<b>The Trans-Pacific Partnership Agreement and the Regional Comprehensive Economic Partnership: A Battleground for Competing Hegemons?</b> .....	11
Jane Kelsey	
<b>Copyright Overprotection Versus Open Science: The Role of Free Trade Agreements</b> .....	35
Roberto Caso and Paolo Guarda	
<b>South Korea’s Agricultural Trade Dilemma: Open Markets or Protectionism? Beyond the China-South Korea Free Trade Agreement</b> .....	53
Ying Chen	
<b>China’s Response to Protectionism: PPP Under “One Belt One Road”</b> .....	77
Hongyu Fu	
<b>Breeding Exemption in Plants Under Intellectual Property Regimes</b> .....	99
Zhiqian Wan and Mark Perry	
<b>The China-Australia Free Trade Agreement and the Choice of Intellectual Property Interest Balance in the Two Countries</b> .....	119
Henry Yan	
<b>Denouncing Trade Agreements Validating Pharmaceutical Developers’ Term Extensions</b> .....	139
Sunita Tripathy	

# Editors and Contributors

## About the Editors

**Lillian Corbin's** research has focused on legal ethics, practice and education ranging from issues relating to good practice, such as effective assessment tasks in Succession Law and Business Law; through issues relating to contemporary teaching and learning problems, such as intent in breaches of academic integrity; diminishing rates of student attendance; an analysis of the meaning of student engagement; and current trends in legal ethics; through 'big picture' issues, such as the rise of neoliberalism and performativity in the tertiary sector and the opportunities to exercise academic freedom. She examines the role of the lawyer and the meaning of professionalism and the duties that attach to that role. Published output includes a number of articles addressing professionalism, the lawyer–client relationship, communities of practice, duties of civility, duties of mediators and the professional conduct rules.

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## Contributors

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and fighting infringement. All this work involves IP protection areas: trademark and unfair competition, copyright, patent, domain name, IP online protection, etc. He provides or provided legal services mainly for Disney, Marvel, Pernod Ricard, Suning, Unicom, ResMed, Leatherman, Hennessy and other large corporations.

# Turbulent Times for FTAs: Australia and the Region



Lillian Corbin and Mark Perry

**Abstract** Trade agreements have always been a very active contributor to the development of modern history, although the rationale for those agreements has changed over time. Such changes over time reflect the focus of the countries concerned, which, in general, has determined whether the agreements formed favour protectionism and mercantilism or free trade and liberalisation. This tension continues today and continues to revolve around world events and political goals. This chapter initially provides a brief history of trade agreements, and then outlines the focus of each of the following chapters.

**Keywords** FTA history · Protectionism · Mercantilism · Liberalisation  
Economic Nationalism · Trans-Pacific Partnership

## 1 Introduction

Trade agreements have always been a very active contributor to the development of modern history, although the rationale for those agreements has changed over time. Such changes over time reflect the focus of the countries concerned, which, in general, has determined whether the agreements formed favour protectionism and mercantilism or free trade and liberalisation. This tension continues today and continues to revolve around world events and political goals. This chapter initially

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<sup>1</sup>Heckscher Eli F (Nov 1936) Revisions in Economic History: V. Mercantilism. *The Economic History Review* 7(1): 44–55.

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provides a brief history of trade agreements, and then outlines the focus of each of the following chapters.

## 2 A Brief History of Trade Agreements

From the 16th to the 18th centuries the accumulation of wealth, primarily through expansionist colonialism, was the priority of European countries. The approach to trade in this environment drew upon Mercantilism—a theory that a nation could amass wealth and power by limiting exports and maximising exports and supportive regulation.<sup>1</sup> The pursuit of wealth and power played a great part in achieving “the unification of the territory of the State economically and the use of the resources of their countries in the interests of the political power of the State”.<sup>2</sup> In terms of supportive legislation, this usually came through the introduction of tariffs on imported goods, with the intent to dissuade citizens of a country to purchase goods produced within their own country.<sup>3</sup> Often the main utilisers of tariff controls were those countries that at least until very recently, trumpeted the benefits of free trade, namely the United States and the United Kingdom.

In general, countries that adopted trade management as economic policy were very powerful and had absolute control over their subjects.<sup>4</sup> However, historically it has been shown that this approach to trade ultimately resulted in conflict over scarce resources.<sup>5</sup>

It is interesting to note that Mercantilism and Protectionism both seek to achieve economic nationalism—a goal that seeks to prioritise the nation’s interests over those of the individual subjects of the nature and those of other countries. However, there are distinctions. Protectionism seeks to grow domestic markets, and in this regard, so does Mercantilism. But Mercantilism also has an interest in expanding into international markets for domestic products.<sup>6</sup> Although recent commentators suggest that this interest is not necessarily for the nation’s benefit, but for the industrial-

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<sup>2</sup>Ibid., 45.

<sup>3</sup>The use of tariffs within international trade have been exercised for many centuries. For example, Henry VII of England imposed tariffs on wool exports in the fifteenth century and attempted to discourage raw wool exports to the Netherlands and encourage the import of skilled labour to work the wool. See Chang Ha-Joon (1 September 2002) Kicking Away the Ladder: How the Economic and Intellectual Histories of Capitalism Have Been Re-Written to Justify Neo-Liberal Capitalism. *Post-Autistic Economics Review* 15(1): article 3.

<sup>4</sup>Heilperin Michael A.: *Economic Nationalism: From Mercantilism to World War II*. Mises Institute. 13 July 2010. Excerpted from Chapter 3 of *Studies in Economic Nationalism* (<http://mises.org/resources/5155/Studies-in-Economic-Nationalism>). <https://mises.org/library/economic-nationalism-mercantilism-world-war-ii>. Accessed 1 May 2018.

<sup>5</sup>Investopedia. What is ‘Mercantilism’. <https://www.investopedia.com/terms/m/mercantilism.asp>. Accessed 10 May 2018.

<sup>6</sup>Quora. What are Some Major Differences Between Protectionism and Mercantilism? Morrison Spencer P (22 April 2017) <https://www.quora.com/What-are-some-major-differences-between-protectionism-and-mercantilism>. Accessed 1 August 2018.

ists—something that Smith warned about.<sup>7</sup> Talipi distinguishes Mercantilism from Protectionism as ‘protectionists are happy with their economic pie, they just don’t want to share; mercantilists not only want their pie, but they want some of yours too.’<sup>8</sup>

A more open and liberalised approach to trade was adopted in the Industrialisation Age of the 19th century. Countries, like Great Britain, began to realise that their economic power gave them a superiority that made them less vulnerable to competitors.<sup>9</sup> This understanding was explained by David Ricardo, a British economist, in his book titled ‘On the Principles of Political Economy and Taxation’ published originally on April 19, 1817, where he outlined a theory that he called ‘comparative advantage’.<sup>10</sup> In that book he focussed on the need for workers to show that it made sense for England (experts in textile manufacture) to produce cloth and export that to Portugal, and Portugal (a traditional wine producing country) to produce wine and export that to England. His argument was that Portugal’s wine production expertise meant they had the workers with the appropriate knowledge to produce wine. On the other hand, England had workers with the appropriate knowledge to produce cloth. Therefore, Portugal could make wine much more efficiently than England, and visa versa for cloth, meaning both countries would benefit by trading in the areas where they had competitive advantage.<sup>11</sup>

In the same period, Adam Smith was advocating for free trade, arguing that impediments to trade made products more expensive, and so making a country’s products less attractive to others. He argued that people should purchase the products that are the cheapest and so maximise their own interests and ultimately those of society—the invisible hand argument—first outlined in *The Wealth of Nations*.<sup>12</sup>

Both Ricardo and Smith’s theories were influential and used by politicians to make policy and legislate as a kind of roadmap to deal with uncertainties. For example answering the questions ‘what would happen if import duties on wool were raised? Would protection of manufactures increase agricultural production as well?’<sup>13</sup>

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<sup>7</sup>Quora. How Different is Trump’s Economic Model from Mercantilism? Feigenbaum James (16 March 2017) <https://www.quora.com/How-different-is-Trumps-economic-model-from-mercantilism>. Accessed 1 August 2018.

<sup>8</sup>Investopedia, *supra* note 6.

<sup>9</sup>World Trade Organization (2011) World Trade Report 2011. The WTO and Preferential Trade Agreements: From Co-existence to Coherence. p. 49. <https://www.worldfinance.com/infrastructure-investment/government-policy/top-five-trade-deals-that-changed-history>. Accessed 1 August 2018.

<sup>10</sup>David Ricardo, *On the Principles of Political Economy and Taxation*, (John Murray, Albemarle-Street, 1817), para 364.

<sup>11</sup>*Ibid.*, para 156–170.

<sup>12</sup>Bishop John D. (1995) Adam Smith’s Invisible Hand Argument. *Journal of Business Ethia* 14: 165–180, 1995; Also see S. M. Soares (ed.), *Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations*. MetaLibri Digital Library, 29 May 2007. [https://www.ibiblio.org/ml/libri/s/SmithA\\_WealthNations\\_p.pdf](https://www.ibiblio.org/ml/libri/s/SmithA_WealthNations_p.pdf). Accessed 1 August 2018.

<sup>13</sup>Liu Glory M. (2018) The apostle of free trade: Adam Smith and the nineteenth-century American trade debates. *History of European Ideas* 44:2, 210–223, p. 215. doi: <https://doi.org/10.1080/01916599.2018.1429709>.

However, given that politicians inevitably have different goals, it is probably not surprising that some of the major trade deals negotiated demonstrate that the goals of economic growth, the creation of new markets, and new employment opportunities may sometimes be achieved through perverse and unequal arrangements.

One instance is where Britain increased their control over a number of trading ports, including Hong Kong, as a result of winning the Opium Wars against China. These wars began because China tried to close its borders to foreign traders (mostly British) from illegally importing opium into China from India. It has been reported that as many as 20,000,000 Chinese people died as a result of opium addiction during the wars (1839–42 and 1856–60).<sup>14</sup> When the fact that this huge loss of life occurred over drugs, the British diverted the public's attention to argue that this occurred for a greater good i.e., that they were upholding the right to free trade. So, rather than acknowledging that this was a drug deal gone wrong, Britain ran a free trade argument i.e., that there should be free trade for all goods between nations.<sup>15</sup>

Other instances, which could be said to be unequal treaties, that were signed in the 19th century can be seen in the Convention of Kanagawa (1854) and the Cobden-Chevalier Treaty (1860).<sup>16</sup> It was in response to US military threats that Japan signed the Convention of Kanagawa (1854). Up to this time (since Japan closed its doors to foreigners in 1683) Japan had only traded principally with the Netherlands and China. While there was an element of threat involved, and the treaty included some conditions that were unfavourable to Japan in that it weakened their sovereignty, overall it can be seen that it ultimately improved Japan's economic situation. This period would eventually known as the Meiji Restoration.<sup>17</sup>

Cobden-Chevalier Treaty (1860): This treaty was the first to include the 'most favoured national clause', a clause that is now a usual inclusion in global trading legislation. It is also to support the argument that trade can promote peace between countries. The treaty came about to end the naval arms race between the UK and France. It effectively significantly reduced tariffs between the two countries and doubled the value of exports of Britain over a decade.<sup>18</sup> This momentum moved away from trade and towards protectionism (i.e. by the introduction of external tariff barriers) at the end of the 19th century. Three events in particular generated this move i.e., the worldwide depression 1873–1877; the efforts of Italy and Germany to establish themselves as nations; and the United States' refusal to be participants in Europe's non-discriminatory treaties, causing European traders to see the US as 'free riders'. Furthermore, the world's economic powers all invoked policies of colonial expansion at the end of the 19th and beginning of the 20th centuries. They did this to

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<sup>14</sup>Larson Jonathan (1993) The History of 'Free Trade'. <http://www.elegant-technology.com/TVAfretr.html>. Accessed 1 August 2018; Also see Shuyong Liu (1997) Hong Kong: A Survey of Its Political and Economic Development over the Past 150 Years. *The China Quarterly*, 151: 583–592.

<sup>15</sup>Larson, *supra* note 13.

<sup>16</sup>World Finance (undated) Top 5 Trade Deals that Changed History. <https://www.worldfinance.com/infrastructure-investment/government-policy/top-five-trade-deals-that-changed-history>. Accessed 1 August 2018.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.