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Larry Crump

Cooperation and Closure

in Bilateral Trade Negotiations

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A Central Research Institute of the University of Duisburg-Essen

SPONSORED BY THE

Federal Ministry of Education and Research

Printed by UDZ, Duisburg

ISSN: 2198-1949 (Print)
ISSN: 2198-0411 (Online)
DOI: 10.14282/2198-0411-GCRP-17

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Abstract

Little is known about cooperation between nations engaged in a regional economic association. This study investigates cooperation and closure between Asia-Pacific Economic Cooperation (APEC) member economies engaged in negotiating five bilateral free trade agreements (FTA), including the Australia–Singapore FTA 2003, United States–Singapore FTA 2003, Chile–United States FTA 2003, Australia–United States FTA 2004, and Korea–Australia FTA 2014. This study found that a number of factors bring about or interfere with cooperation at the closure stage. Negotiation closure occurs within FTAs when discussions shift from trade diplomats focused on technical matters to senior national leaders focused on political decisions. Creditable deadline, party stability and instability, and linkage dynamics were also found to support or interfere with cooperation at the closure stage in FTA negotiations. Often FTA negotiations are concluded on the sidelines of meetings sponsored by international organizations including APEC Leaders' Summit and Ministerial meetings.

Keywords

Cooperation and closure, bilateral negotiation, free trade agreements (FTA), Asia Pacific Economic Cooperation (APEC)

Author

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Cooperation and Closure in Bilateral Trade Negotiations *

Larry Crump

Cooperation and the pre-negotiation stage have received some scholarly attention, while only a few studies specifically focus on cooperation and the concluding negotiation stage. This scholarly omission is curious, as one purpose of negotiation analysis is to identify how to manage risk and opportunity through strategic action. We require greater understanding of the dynamics that support the initiation and concluding negotiation stages, as these stages are where opportunity may be gained or lost (Crump 2011). This paper begins by briefly reviewing what we know about the initiating or pre-negotiation stage followed by an exploration of cooperation within the concluding stage, or negotiation 'endgame'.

Janis Gross Stein (1988) links these two stages together by observing that the capacity to explain the final outcome of a negotiation may only be achieved through a clear understanding of the pre-negotiation or initiation stage, as this is when problems are framed and defined, goals are shaped and reshaped, and preferences formulated.

Parties and issues are often included and excluded prior to and during the commencing negotiation stage (Sebenius 1983), issues are analyzed and framed (Putnam and Holmer 1992), linkages between past and present negotiations are examined (Crump 2007, 2010), and a negotiation agenda is adopted and the order of agenda items established (Albin and Young 2012; Pendergast 1990). The location and frequency of meetings, the selection of specific negotiators and related matters are also established during pre-negotiation (Gross Stein 1989; Saunders 1985; Zartman 1989). Such decisions present each party with opportunities that can be gained or lost depending on how decisions are managed during the initiation stage of a negotiation.

This brief review of the pre-negotiation stage provides a context for examining the concluding negotiation stage, or endgame – a stage that requires parties to shift their preferences into priorities and convert negotiation interests and goals into acceptable and unacceptable outcomes. The slight amount of research that focuses specifically on the negotiation endgame exists in a multilateral environment and examines coalition behaviour, negotiation complexity, decision-making, leadership, and negotiation deadlines.

* A first draft of this paper was prepared for an UNDP-funded workshop organized by the Montenegro Ministry of Foreign Affairs in cooperation with Johns Hopkins University in 2015. Revisions to this paper were undertaken while a Senior Fellow at the Käte Hamburger Kolleg / Centre for Global Cooperation Research. The author gratefully acknowledges the support and funding received through the Centre.

1 Negotiation Endgame: Review of Literature

Coalitions may be understood through a three-part sequential framework: coalition building, coalition behaviour and coalition maintenance. Endgame activity is identified within the coalition behaviour portion of this framework, which is concerned with strategizing and transactions, balancing power, and the use of resources and roles – including leadership (Dupont 1996).

Coalitions often serve to reduce complexity, while complexity is often identified as a challenge to be managed within multilateral negotiations (Zartman 1994; Crump and Zartman 2003). Within the endgame, however, complexity is not only identified as a challenge; it is also considered to be an opportunity. Complexity can help break through the last outstanding issues once a long negotiation moves towards closure, as a complicated and vague situation provides negotiators with flexibility regarding how the outcome is portrayed to constituents (Winham 1987).

Final choices in multilateral negotiations are political. Decision-making at the endgame is more a matter of educated political guesswork than a precise calculation of advantage. Many outstanding issues must be woven together into a package deal that provides a basic quid-pro-quo for the negotiating parties. The final stage is concerned with achieving a settlement that is defensible for all parties, and technical notions of a balance – which may have been a primary concern in earlier stages – are less relevant during the endgame (Winham 1987).

Often negotiation delegations experience a transition during the endgame as senior leaders take over, while lower-level technical delegation members – who put much of the deal together – play an advisory role to these senior officials. From several dimensions, leadership emerges as a critical issue during the endgame. Delegation leadership requires that a negotiation team be organized in a decentralized manner to effectively study technical issues, and in a centralized and hierarchical manner to take difficult political decisions. This bi-structural requirement presents organizational challenges for party leadership (Winham 1987).

The endgame within the General Agreement on Tariffs and Trade (GATT) Uruguay Round (1986–94) has been careful examined (Stewart 1999). Publication of the 'Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations' – also known as the Dunkel Draft (named after its author, GATT Director-General Arthur Dunkel) established the foundation for closure in December 1991, but the actual endgame began in July 1993 with the appointment of Peter Sutherland as GATT Director-General. He arrived with a singular and repeated message that the last opportunity to conclude the GATT Uruguay Round would end on 15 December 1993 – when US Fast-Track Authority essentially expired (McDonough 1999).[1] This deadline plus the outline of a realistic agreement

[1] The US Congress renewed fast-track authority (an up-or-down vote on a trade treaty in the US Congress with no amendments) but only for trade agreements entered into prior to 16 April 1994, which effectively required the US President to notify Congress by 15 December 1993 of an intention to enter into a trade agreement (McDonough 1999). This December 1993

through the Dunkel Draft drove GATT parties toward a mid-December 1993 agreement although not all economic sectors achieve closure by the deadline.

The politically sensitive areas contained in the General Agreement for Trade in Services (GATS); including financial services, telecommunications, maritime services, audio-visual services and movement of natural persons continued to be negotiated after the deadline although Sutherland had firmly established the finality of the 15 December 1993 deadline. Nevertheless, GATS closure was elusive. Services negotiations continued beyond the initial deadline, with closure finally achieved just before the GATT Marrakesh Agreement was signed on 15 April 1994 (Reyna 1999).

If a deadline is to be effective it must be perceived as creditable. Sutherland had achieved such creditability by establishing a final date when opportunity would be lost if agreement were not reached. Such creditability was grounded in an argument that contained inherent logic (please see footnote 1). The many GATT negotiators that made-up the GATT Uruguay round responded to this creditable deadline by achieving closure. It is possible these negotiations would have continued to drift – with no agreement in sight – if the majority of negotiators had not responded positively by achieving closure by the deadline. However, once this outcome was achieved, Southerland was not so dogmatic as to refuse GATS gains that were achieved through a second GATT Uruguay deadline, which gained creditability though the finality associated with the signing of 15 April 1994 Marrakesh Agreement.

Knowledge of a second deadline prior to the initial deadline would have certainly weaken the creditability of the original deadline. It is possible that the existence of a second deadline was unknown and only evolved after the first deadline was achieved. Nevertheless, creditability of an original deadline followed by the emergence of a second deadline are interesting dynamics that deserve further examination if we are to understand the role of deadlines in negotiation closure.

The present study will utilize the multilateral understanding gained through this literature review to examine data from a bilateral environment. The study asks: How do negotiations end – when is enough? As a full agreement is unlikely, when and how do parties know when closure is approaching? What dynamics bring about or interfere with closure? Why does agreement emerge at a particular moment in time (which, when, why and how)? Under what conditions do negotiators chose one ending over another (Zartman 2015)? The literature review partially answers these questions.

Specifically, this study will focus on those negotiations that reach an agreement (when not enough is still enough). The focus of attention is on the negotiation of trade treaty agreements in a domain that has received little scholarly attention within the negotiation literature: regional economic associations (Crump 2013). Bilateral trade negotiations conducted by members of the Asia-Pacific Economic Cooperation (APEC) forum will serve as data for this investigation.

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expiration date became the GATT Uruguay deadline that Peter Sutherland effectively promoted.

This paper begins by describing the setting and the research methodology, followed by a brief case synopsis of five bilateral negotiations conducted over the past ten years. The focus of the case presentation is to establish the dynamics that lead to negotiation closure.

We examine the unique features of each case to gain further understanding about the specific dynamics that lead to closure. This study intends to develop a theoretical framework through such analysis. The paper concludes by describing a process model for closure in complex bilateral negotiations. This study also offers direction for future research so that we might further understand the forces that contribute to gaining or losing opportunity in the concluding stage of a negotiation.

2 Research Setting

This study draws on data from bilateral negotiations conducted between members of the Asia-Pacific Economic Cooperation (APEC). Former Australian Prime Minister Bob Hawke first proposed the idea of APEC during a speech in January 1989. Ten months later, 12 Asia-Pacific countries met in Canberra to establish APEC – a non-treaty organization. Nine additional nations acceded to APEC between 1991 and 1998 to establish a 21-member economic association focused on security, stability and prosperity through free and open trade and investment (APEC History 2015). This association seeks to achieve these goals by information-sharing, open communication, technical support and facilitation between members. This association has achieved success and maturity over the 25 years during which it has engaged its members.

Separate and distinct from this regional association are bilateral relationships between APEC members – relationships that are sustained in part through association membership. The present study seeks to understand these bilateral relationships through trade negotiations conducted between APEC members, as one way to monitor APEC economic integration and the dynamic interaction created within a regional economic association.

Not everything that happens within an economic association is multilateral, as it is important to recognize that regional institutions also foster bilateral engagement. The present study uses a bilateral and a bilateral-multiparty lens to understand multilateral or regional dynamics (Crump 2006, 2015), while concurrently seeking to understand the which, when, why and how of negotiation closure. Under what conditions do negotiators chose one type of ending over another?

Each of these 21 APEC members has established multiple and diverse bilateral relationships, although the present study is only concerned with negotiations that produced free trade agreements (FTAs) in force between APEC members.[2] APEC

[2] Free Trade Agreement (FTA) is the most common term to describe these negotiations, but other terms include: Closer Economic Relations, Economic Partnership Agreements, Economic

reports, for example, that its 21 members have 144 enforced FTAs – but that includes all bilateral and regional agreements that have at least one APEC member as a partner, while non-APEC economies are also included in these 144 FTAs (Do FTAs Matter for Trade 2015).

The present study is concerned with trade treaties that include APEC economies only (with no non-members present). Data gathered from 21 APEC member websites (e.g. Ministry or Department of Foreign Affairs and Trade) identified 48 bilateral FTAs between APEC members as of May 2015.[3] Crosschecking between member websites confirmed that these 48 bilateral FTA are currently in force (through crosschecking, we establish that each APEC bilateral partnership was identified by both partners on the national website devoted to FTAs).

In three cases, trilateral relationships are included: economic relations between Canada, Mexico and the United States (via NAFTA) and economic relations between Hong Kong, China and Chile, and Hong Kong China and New Zealand. Trilateral relationships are included in our data set when they only include APEC members.

Table 1 (see next page) lists all 21 APEC member economies and the bilateral FTAs that are currently in force between APEC members (on the horizontal axis and on the vertical axis in alphabetical order). Identification of each treaty occurs from top to bottom, as we move from left to right. For example, we begin by identifying all of Australia's bilateral treaties on the vertical axis, followed by Brunei's treaties on the vertical axis, followed by Canada's treaties on the vertical axis.

A network image of this data is presented as Figure 1.[4] Papua New Guinea (PNG) and Russia (RUS) report that they do not have formal bilateral economic relationships with any APEC member, while the complicated political circumstances of Chinese Taipei (TWN) preclude formal bilateral economic relations with other APEC member economies.[5] Three other APEC members – Brunei (BRN), Indonesia (IDN) and the Philippines (PHI) – each have a formal bilateral relationship with only one other APEC member: Japan (JPN), while Vietnam (VN) has separate FTA relations with Japan and Chile. However, these Southeast Asian countries have multiple economic relationships through membership in ASEAN.

The 14 remaining APEC members are actively engaged in establishing FTAs with other APEC members economies, including Australia with eight FTAs, Canada with five FTAs, Chile with 11 FTAs, China with five FTAs, Hong Kong China with three FTAs, Japan with 11 FTAs, (South) Korea with six FTAs, Malaysia with four FTAs,

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Cooperation Partnership Agreements, Closer Economic and Partnership Arrangement, and related terms.

[3] The APEC Website identifies Free Trade Agreements and Regional Trade Agreements of APEC members at: http://www.apec.org/Home/Groups/Other-Groups/FTA_RTA. This site lists the Website Link for all APEC members' free trade agreements. Generally, these Website Links are directed toward the member government's ministry or department of foreign affairs and trade. APEC members make a distinction between their bilateral and regional trade agreements (e.g. ASEAN) although the APEC Policy Support Unit does not make this same distinction (see Do FTAs Matter for Trade? 2015).

[4] ISO 3166-1 Alpha-2 and Alpha-3 country codes are adopted in Figure 1.

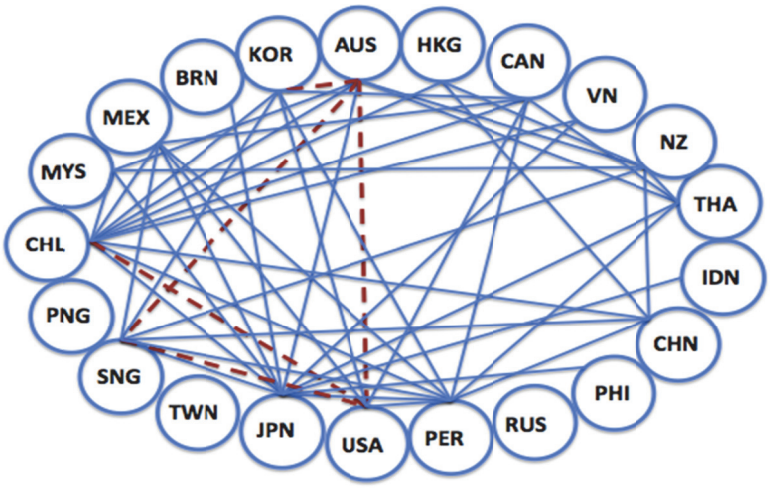
[5] Note that APEC members are never referred to as nations or countries but as member economies, as one way to include both China and Chinese Taipei (commonly known as Taiwan) at the same international table.

Mexico with five FTAs, New Zealand with six FTAs, Peru with nine FTAs, Singapore with seven FTAs, Thailand with four FTAs and the United States with seven FTAs (please see Figure 1).

Table 1: Bilateral FTAs in force between APEC Member Economies

	Australia	Brunei	Canada	Chile	China	Hong Kong China	Indonesia	Japan	Korea	Malaysia	Mexico	New Zealand	Papua New Guinea	Peru	Philippines	Russia	Singapore	Chinese Taipei	Thailand	United States	Viet Nam
Australia																					
Brunei																					
Canada																					
Chile	x		x																		
China				x																	
Hong Kong China				x	x																
Indonesia																					
Japan	x	x		x			x														
Korea	x		x	x																	
Malaysia	x			x				x													
Mexico			x	x				x													
New Zealand	x				x	x				x											
Papua New Guinea																					
Peru			x	x	x			x	x		x										
Philippines								x													
Russia																					
Singapore	x				x			x	x			x		x							
Chinese Taipei																					
Thailand	x							x				x		x							
United States	x		x	x					x		x			x			x				
Viet Nam				x				x													

Figure 1: Network image of APEC member FTAs



Note: *Forty-eight bilateral relationships (FTAs) are identified in Figure One (as of May 2015) via Connecting Lines for all 21 APEC member economies. The Dash Connecting Lines identify the five cases under investigation.*

ISO 3166-1 Alpha-2 or Alpha-3 country codes are adopted in Figure One: Australia (AUS); Brunei (BRN); Canada (CAN); Chile (CHL); China (CHN); Hong Kong China (HKG); Indonesia (IDN); Japan (JPN); Korea (KOR); Malaysia (MYS); Mexico (MEX); New Zealand (NZ); Papua New Guinea (PNG); Peru (PER); Philippines (PHI); Russia (RUS); Singapore (SGP); Chinese Taipei (TWN); Thailand (THA); United States (USA); and Viet Nam (VN).

This study investigates five of these 48 bilateral FTA negotiations, or around 10 per cent. These five negotiations were selected as a convenience sample to examine negotiation processes and outcomes between APEC member economies with a focus on understand how closure is achieved in FTA negotiations. Figure 1 identifies the FTA cases under investigation within this study via *dashed lines*, while straight continuous lines represent all other FTAs.

The following five bilateral FTA negotiations were investigated in this study to construct five case studies:

- Singapore–Australia Free Trade Agreement of 2003 (SAFTA)
- United States–Singapore Free Trade Agreement of 2003 (USSFTA)
- Australia–United States Free Trade Agreement of 2004 (AUSFTA)
- Chile–United States Free Trade Agreement of 2003 (CUSFTA)
- Korea–Australia Free Trade Agreement of 2014 (KAFTA)

With five cases under investigation, we will utilize comparative case analysis to identify similarities and differences to support the development of a framework to understand how closure is achieved in bilateral free trade agreement negotiations.

In addition, William Zartman (2015) established a multidimensional typology for understanding closure. Zartman begins by identifying two closure situations: Type I where agreement was reached, as not enough was still enough, and Type II where negotiations do not reach agreement because enough was not enough. Zartman establishes a number of contextual factors that contribute to closure including a ‘game of echoes’ or a sensing of how the outcome will be perceived back home in the face of skeptics, the opposition and outright spoilers, and a ‘game of deadlines’ or a recognition that every negotiation has a point at which closure might be expected although formal or informal, vague or precise, felt or explicit, fixed or postponable and externally or internally established.

Zartman (2015) also identifies five different patterns of behaviour to arrive at negotiation closure: dueling, driving, dragging, mixed and mismatched. In dueling the parties face each other down to the wire until one ‘blinks’, which is grounded in a pattern of reciprocal behaviour. In driving the parties push and pull each other gradually to a convergence point, matching concessions and compensation, as the parties work on each other down to an agreement. This too is a pattern of reciprocal behaviour. A third pattern involves the same two patterns but unilaterally and non-reciprocally mismatching occurs in that one party behaves as a duller and the other as a driver. A fourth pattern involves dragging, in which one or more parties realize that they do not like the direction of the negotiation and then work instead to end the negotiations without significant damage. A fifth pattern is

a residual or mixed category in that no pattern is completely pure and consistent and so this category takes this possibility into consideration (Zartman 2015).

When applying this typology to the present study we observe that all five cases under review are Type 1: Agreement was reached, as not enough was still enough. In addition, at the concluding stage, three of the cases demonstrate a pattern of behaviour that is purely driving (SAFTA, USSFTA and AUSFTA), a fourth case demonstrates a pattern of behaviour that is both driving and dueling (CUSFTA), and a fifth case is mixed primarily dueling up to the concluding stage before reverting to a driving pattern of behaviour (KAFTA). We will utilize Zartman's typology in reviewing our five cases.

3 Methodology

This study employed qualitative research methodology in investigating these five FTA cases by conducting field interviews complemented by the collection of documents to construct case studies (see Odell 2001; Yin 1989) including a focused comparison approach to data analysis (Druckman 2002; Zartman 2005).

Three periods of field interviews with trade negotiators, trade policy specialists, diplomats and ambassadors were conducted to construct these five cases. SAFTA, USSFTA and AUSFTA included 86 interviews in Canberra, Geneva, Singapore and Washington, DC in 2004. CUSFTA included 28 interviews in Santiago and Washington, DC in 2006. KAFTA included 28 interviews in Canberra, Seoul and Sejong City in 2014–15. Confidentiality was assured all 142 respondents interviewed to secure data for these five cases.

National governments usually field a negotiation team that includes between 25 and 90 members in bilateral trade negotiations. Teams are normally organized into between 10 and 20 groups (normally one group per treaty chapter). Interviews with the team leader or chief negotiator, group leaders and any other officials who sat at the negotiation table were sought. Embassies play an important role in these negotiations, so interviews were sought with relevant diplomats, technical/policy specialists and ambassadors, although they do not normally sit at the negotiation table. The focus of this field research was on negotiations to draft and sign a trade treaty between two nations. Treaty approval through parliamentary or congressional process is a separate negotiation that is beyond the scope of this study.

Interview notes and documents relevant to each negotiation were organized into cases to establish a comprehensive understanding of each negotiation.

4 Case Material

The following is a synopsis of five negotiations that achieved free trade agreements (FTAs). We devote two or three pages to each case, with special attention paid to negotiation closure. We begin by providing some background on

each case before focusing on negotiation closure. All five cases are examples of Type I – negotiations that reach agreement when not enough is still enough to make an agreement.

Closure for SAFTA, USSFTA and AUSFTA are examples of driving behavioural patterns, CUSFTA offers an example of a mixed dueling and driving behavioural pattern, and KAFTA is primarily dueling up to the concluding stage and then it reverts to driving.

Singapore–Australia Negotiation (SAFTA)

Singapore and Australia announced their decision to commence negotiating a trade agreement on 15 November 2000 on the 'sidelines' of the APEC Leaders' Summit in Brunei.

Background

Singapore's negotiation delegation was led initially by Vanu Gopala Menon of the Ministry of Foreign Affairs (MFA), and many staff assigned to the Singaporean SAFTA team came from Directorate B, Trade Division of the Ministry of Trade and Industry (MTI). The Australian delegation was led initially by Donald Kenyon of the Department of Foreign Affairs and Trade (DFAT), and many staff assigned to the Australian SAFTA team came from the DFAT Office of Trade Negotiations (OTN).

The two sides held ten negotiation rounds, with the first round in February 2001 and the last round in October 2002 (normally a round will last for one week, with meeting sites alternating between Singapore and Australia). Halfway through the process (August 2001 to February 2002) the two sides called a hiatus, as the shift from a multilateral to a bilateral trade policy was controversial for many trade officials. On resuming negotiations, Stephen Deady of OTN led the Australian team and Goh Aik Guan of the Deputy Prime Minister's office led the Singaporean team.

Many trade issues were challenging for the 17 SAFTA working groups. Often we find two or three accepted formulae or templates for a specific trade policy issue. Agreement on the type of template to apply to a given issue minimizes such challenges. For example, in negotiations over goods and rules of origin (ROO), Singapore sought to persuade Australia to adopt a 'change in tariff classification system', but Australia refused and so SAFTA (Chapter 3) uses a 'value added system' based on the net cost of a product.[6] Within trade in services, the two most common templates are a 'positive list for trade in services' or a 'negative list for trade in services'[7] Australia insisted that the treaty adopt a negative list and

[6] Rules of origin (ROO) determine whether a good qualifies for preferential treatment (e.g. a reduced tariff), as it establishes a method for defining where a good was actually made. There are several ROO methods, but the most common are the value added or local content system, and the change in tariff classification or transformation system.

[7] A negative list for trade in services allows for trade in any service unless it is specifically *excluded* in the trade treaty. A positive list for trade in services allows for trade only if a service is specifically *included* in the trade treaty. A negative list is considered to be more liberal in encouraging international trade than a positive list.

Singapore argued for a positive list, but eventually relinquished, so SAFTA uses a negative list for managing trade in services (Chapter 7). Investment, financial services and telecommunications are treated separately within SAFTA (Chapters 8, 9 and 10), but trade policy in the services chapter establishes a foundation for these other chapters. Reports indicate that negotiations in these chapters were more positional than integrative, as each side sought to protect its own interests. When working groups or their co-leaders could not resolve significant issues, the two Chief Negotiators eventually negotiated these issues. Many issues could be resolved but some had qualities that required political deliberations.

Cooperation and Closure

On the edge of an APEC Ministerial Meeting in Los Cabos, Mexico in October 2002, Australian Trade Minister Mark Vaile and Singaporean Trade Minister George Yeo discussed and resolved the remaining issues, including financial services, legal services, investment, and rules of origin. The 117-page SAFTA treaty (not including annexes and side letters) was signed by these Trade Ministers on 17 February 2003 (see Table 2). The process leading up to closure suggests a driving behaviour pattern, while negotiations shifted from the technical to the political level at the end game.

Table 2: Singapore–Australia Free Trade Agreement (SAFTA) outcome

Preamble	9) Financial services
1) Objectives and general definitions	10) Telecommunication services
2) Trade in goods	11) Movement of business persons
3) Rules of origin	12) Competition policy
4) Customs procedures	13) Intellectual property
5) Technical regulations and sanitary and phytosanitary measures	14) Electronic commerce
	15) Education cooperation
6) Government procurement	16) Dispute settlement
7) Trade in services	17) Final provisions
8) Investment	

United States–Singapore Negotiation (USSFTA)

On 16 November 2000 on the sidelines of the APEC Leaders' Summit in Brunei, Singapore and the United States announced that their nations would negotiate a trade agreement.

Background

Professor Tommy Koh led Singapore's delegation and many Singaporean negotiators were drawn from Directorate B, the Trade Division of the Ministry of Trade and Industry (MTI). Ralph Ives led the US delegation and many US negotiators came from the Office of the United States Trade Representative (USTR). There were 40 to 50 negotiators on each side during the negotiation. Each team organized its negotiators into 21 working groups, or one per treaty chapter. Eleven rounds were held, mostly in London, with the first held in December 2000 and the final round held in November 2002. The last substantive issue was resolved in January 2003.

Among the many issues discussed and agreed, a number offered real challenges. From the beginning, the United States insisted that goods be divided into non-textile and textile products. In goods, Singapore sought to eliminate tariffs early and the US sought to delay tariff elimination. In textiles, the United States forced Singapore to adopt the US Yarn Forward Rule (USSFTA Chapter 5).[8]

The US arrived in Singapore with a 21-page initial position on intellectual property rights (IPR). Singaporean negotiators thought that the US position was very much focused on IPR enforcement where little capacity for enforcement exists, an approach that was not seen to be relevant to Singapore. Nevertheless, much of what the United States sought is found in USSFTA (Chapter 16).[9]

In financial services, Singaporean liberalization was a top US priority (USSFTA Chapter 10). For example, the US successfully persuaded Singapore to liberalize its retail-banking sector and to phase out its wholesale bank license quota system for US banks. However, Singapore refused to allow US banks to acquire local Singaporean banks. In telecommunications (USSFTA Chapter 9), interviews indicate that Singapore and the United States created a state-of-the-art agreement between two open market economies. In electronic commerce (USSFTA Chapter 14), both sides sought to explore every opportunity to liberalize trade and succeeded in establishing the first trade treaty ever concluded with electronic commerce provisions.

[8] The US Yarn Forwarding Rule allows a treaty partner to secure raw materials from anywhere in the world, but the yarn produced from this raw material must come from either treaty partner to gain US tariff benefits. Singapore argued that it was highly inefficient to transport yarn from the United States (Singapore does not have a yarn industry) just so Singaporean textile manufacturers can gain tariff benefits when exporting finished products to the United States. The two Chief Negotiators resolved this issue on the final day of the final round, with Singapore's arguments unsuccessful in persuading the United States.

[9] One high-level Singaporean official defended the US position on intellectual property rights (IPR) by stating that Singapore is small and can be bullied by a county like the United States. At the same time, the United States could back up all of its requests with specific examples. Nevertheless, Singaporeans directly involved in IPR negotiations questioned the relevance of the USSFTA IPR chapter to Singaporean conditions.

Cooperation and Closure

USSFTA negotiations moved towards a conclusion when US Trade Representative Robert Zoellick and Singaporean Trade Minister George Yeo met at an APEC Ministerial Meeting in Los Cabos, Mexico in October 2002, followed by meetings between the United States and Singaporean Chief Negotiators. These meetings narrowed the list of outstanding issues from 30 to five issues – competition policy, financial services, investment, intellectual property and textiles. At the final round, in mid-November 2002, Yeo, Zoellick and ten negotiators from each side resolved all but one issue – investment and technology transfer (USSFTA Chapter 15) – which was resolved in mid-January 2003. Singaporean officials reported that Zoellick used anger and threats in concluding negotiations with Singapore although the asymmetrical nature of these negotiations is useful for understanding the final outcome that was achieved. However, the US had not conducted a significant trade agreement since NAFTA (most agree that the 2001 US – Jordan treaty is more of a political agreement than a trade agreement) and so the US arrived in Singapore with few templates (although they certainly had an intellectual property template). The US – Singapore negotiations and the US – Chile negotiations (to be reviewed shortly) provided the US with the templates that they later applied in so many other trade negotiations such as the US – Australia negotiations (to be reviewed next).

US President Bush notified the US Congress of his intention to sign the USSFTA on 30 January, and he and Singaporean Prime Minister Goh signed the 240-page treaty (800 pages when all annexes are included) on 6 May 2003 at the White House (please see Table 3). The process leading up to closure suggests a driving behaviour pattern, while negotiations shifted from the technical to the political level at the end game.

Table 3: United States–Singapore Free Trade Agreement (USSFTA) outcome

Preamble

1) Establishment of a free trade area and definitions
2) National treatment and market access for goods
3) Rules of origin
4) Customs administration
5) Textiles and apparel
6) Technical barriers to trade
7) Safeguards
8) Cross-border trade in services
9) Telecommunications
10) Financial services
11) Temporary entry of business persons
12) Anti-competitive business conduct, designated monopolies, and government enterprises
13) Government procurement
14) Electronic commerce
15) Investment
16) Intellectual property rights
17) Labor
18) Environment
19) Transparency
20) Administration and dispute settlement

General and final provisions

Australia–United States Negotiation (AUSFTA)

The United States and Australia announced that they would commence negotiating a trade agreement on 14 November 2002.

Background

Ralph Ives led the US delegation and Stephen Deady led the Australian delegation. Many of the 60 to 70 staff assigned to the US team came from the Office of the United States Trade Representative (USTR) and many of the 60 to 70 staff assigned to the Australian team came from the Office of Trade Negotiation (OTN) within the Department of Foreign Affairs and Trade (DFAT). Each team organized its negotiators into 23 working groups, or one per treaty chapter. The two sides held six rounds between March 2003 and February 2004 – two in Canberra and two in Honolulu, with the final two in Washington, DC. Each round lasted one week, except the last round, which lasted three weeks.

The two sides confronted a very brief time period for concluding negotiations. The fact that these negotiations could commence and finish in only 11 months can only be explained by the desire of each side to reach agreement and secure US Congressional treaty approval before the November 2004 US presidential election.

Negotiations over goods did not present substantial challenges (AUSFTA Chapter 2) – the focus was on tariff reduction – but some of the most contentious issues involved specific goods such as agriculture, textiles, and pharmaceuticals. Agriculture was the major AUSFTA issue for Australia. The US claimed that the Australian Import Risk Assessment system served as a non-tariff barrier to trade, while the two sides eventually agreed on an enhanced science-based risk-assessment system (AUSFTA Chapter 7). In specific agricultural sectors Australia achieved no addition sugar exports to the US and its export quota for beef was increased by 70,000 tons. Australia secured small increases across many dairy product categories, resulting in some gains over a long phase-in period.

Australian negotiators did not think that a national health program such as the Australian pharmaceutical benefits scheme (PBS) should be included in a trade agreement, but the US insisted, and so it was (as an annex to AUSFTA Chapter 2). The US was unsuccessful in seeking changes that would increase PBS medication prices, although Australia agreed to enhance PBS processes involving transparency. The US was very unsatisfied with this outcome.

The most contentious services issue involved Australia's right to ensure that local cultural content would be presented on Australia media, while both parties were generally pleased with the outcome they achieved (AUSFTA Chapter 10 including annexes). Within telecommunications (AUSFTA Chapter 12), financial services (AUSFTA Chapter 13) and electronic commerce (AUSFTA 16), the two sides adopted a cooperative framework that further integrates the two economies.

Investment presented two challenges, as the United States sought to dismantle the Australian Foreign Investment Review Board (FIRB) – an agency that reviews all foreign investments in Australia over $50 million. Australia would not relinquish the FIRB, but it did increase the threshold to $800 million for US companies (AUSFTA

Chapter 11). The US was also unsuccessful in providing investors with the right to seek international arbitration in disputes with governments (Investor–State Dispute Settlement, or ISDS) (AUSFTA Chapter 11). In intellectual property (AUSFTA Chapter 17), Australia basically agreed to the same deal that the US gave Singapore. In fact, many templates and much text developed with Singapore in the USSFTA served as a point of departure in AUSFTA negotiations.

Cooperation and Closure

AUSFTA negotiations moved towards a conclusion after missing the initial December 2003 deadline. Negotiations were planned for two weeks but went into three weeks in January and February 2004 in Washington, DC. In the first week, each side sought to narrow the areas of disagreement with their full team. In the second and third weeks, these negotiations were passed up to political leaders on each side, including ministers, secretaries and ambassadors. AUSFTA team leaders also played an active role in this process, and working group leaders were brought in when technical expertise was required, although the focus of talks shifted to a search for political solutions. During the final two weeks, US and Australian political leaders found solutions for agriculture, cultural content in the media, FIRB, investor–state relations, intellectual property and the PBS. The Australian Prime Minister was regularly briefed and made compromise decisions on several issues. The US President was less involved in the process, as the US side was more focused on delivering a treaty that could gain US Congressional approval. Agreement was reached and negotiations concluded on 8 February 2004.

Ann Capling (2005) is rather critical of the outcome achieved by Australia but such an outcome is to be expected in negotiations that are fundamentally asymmetrical in nature. Australia gave into the US on so many of their demands, while achieving so few of their own goals. Nevertheless, the US did not succeed to dismantle the Australian Pharmaceutical Benefits Scheme, did not create a purely free market for cultural content such as movies and television programing, and did not establish an investor – state dispute settlement system through AUSFTA. To say that Australia capitulated to all U.S. demands is inaccurate.

Table 4: Australia – United States Free Trade Agreement (AUSFTA) outcome

Preamble	11) Investment
1) Establishment of a free trade area and definitions	12) Telecommunications
2) National treatment and market access for goods	13) Financial services
3) Agriculture	14) Competition-related matters
4) Textiles and apparel	15) Government procurement
5) Rules of origin	16) Electronic commerce
6) Customs administration	17) Intellectual property
7) Sanitary and phytosanitary measures	18) Labor
8) Technical barriers to trade	19) Environment
9) Safeguards	20) Transparency
10) Cross-border trade in services	21) Institutional arrangements for dispute settlement
	22) General provisions and exceptions
	23) Final provisions

US President Bush notified the US Congress of his intention to sign the AUSFTA on 13 February and USTR Robert Zoellick, representing the United States, and Trade Minister Mark Vaile, representing Australia, signed the 264-page treaty (over 1,000 pages when annexes and side letters are included) on 18 May 2004 at the White House (please see Table 4). The process leading up to closure suggests a driving behaviour pattern, while negotiations shifted from the technical to the political level at the end game.

Chile–United States Negotiation (CUSFTA)

Chile and the United States began trade negotiations in 1994 (as part of the Four-Amigo Talks), as Chilean leaders linked their trade aspirations to the recently concluded North American Free Trade Agreement (NAFTA). Complications between US President Clinton and the US Congress did not allow negotiations to proceed, but talks had begun. When the US and Singapore announced their intention to negotiate an FTA, Chilean leaders immediately reminded the US that they had been waiting for five years. Shortly thereafter, the US was concurrently negotiating two separate bilateral FTA with Chile and Singapore, beginning in November 2000.

Background

Ambassador Osvaldo Rosales led Chile's delegation with 90–100 staff assigned to the Chile CUSFTA team that were drawn from the General Directorate for International Economic Relations within the Ministerio de Relaciones Exteriores. Regina Vargo led the US delegation with 40 – 50 staff assigned to the US CUSFTA

team that came from the Office of the United States Trade Representative (USTR). Each team organized its negotiators into 24 working groups, or one per treaty chapter.

There was a rush to accomplish an outcome prior to US President Clinton's January 2001 departure from office, followed by an extended pause as the US Executive Office underwent a change in administration with CUSFTA negotiations recommencing in mid-2001. Talks continued, and 10 rounds were conducted in Washington, DC and Santiago, Chile before negotiations were suspended in March 2002 because the USTR lacked sufficient guidance from the US Congress. The US Trade Promotion Authority Act (Public Law 107–210, also known as the fast-track authority) was passed by Congress and enacted into law on 6 August 2002. This provided the guidance the USTR required. CUSFTA talks resumed in September 2002.

Cooperation and Closure

Agreement was reached at the 14th negotiation round, with some of the most difficult issues concerning US financial objectives. For example, the US was concerned about movement of capital – especially the movement of capital out of Chile. The US also sought to establish a policy that would allow foreign banks to set up in Chile without committing capital – a proposal Chile successfully rejected (see CUSFTA Chapter 12).

Other issues that were finalized in the last round included the phase-out of the 85 per cent Chilean tax on the custom value of cars above the threshold of US$15,740 and the elimination of copper tariffs on the US side – Chile's largest export product (see CUSFTA Chapter 3). These final issues were not traded straight across; rather, they were part of a larger bundle or package of issues that also included advantages for Chilean small and medium-sized companies in the US market, among other issues.

Given the financial nature of these final unresolved issues, negotiations were concluded by the Chilean Minister of Finance and the Chilean Chief Negotiator on one side and USTR leadership and the US Chief Negotiator on the other side. Agreement was reached in principle in December 2002.

The asymmetrical nature of these negotiations is useful for understanding the final outcome that was achieved, although the US had not conducted a significant trade agreement since NAFTA (most agree that the 2001 US – Jordan treaty is more of a political agreement than a trade agreement) and so the US arrived in Chile with few templates. The US – Chile negotiations and the US – Singapore negotiations (previously reviewed) provided the US with the fundamental templates that they later applied to so many other trade negotiations starting with the US – Australia negotiations, which followed directly after US negotiations with Chile and Singapore.

The bilateral process became complicated the following month, shortly after Chile became a non-permanent member of the UN Security Council. Negotiations were practically concluded, and now each side deployed a team of lawyers to engage in "legal-scrubbing" to convert the agreement into a treaty. Concurrently,

the US began to delay this process to pressure Chile to vote in the UN Security Council in support of a US proposal to initiate war against Iraq. Chile did not cooperate on this US initiative, but still had to manage US attempts to link international trade and international security.

Conclusion of the treaty was delayed, but USTR Robert B. Zoellick and Chilean Minister of Foreign Affairs Maria Soledad Alvear Valenzuela finally signed it on the sidelines of a Free Trade Area of the Americas Ministerial meeting in June 2003 (please see Table 5). The process leading up to closure demonstrates a mixed pattern of behaviour that is both driving and dueling.

Table 5: United States–Chile Free Trade Agreement (CUSFTA) outcome

Preamble	12) Financial services
1) Initial provisions	13) Telecommunications
2) General definitions	14) Temporary entry for business persons
3) National treatment & market access	15) Electronic commerce
4) Rules of origin	16) Competition policy
5) Customs administration	17) Intellectual property rights
6) Sanitary and phytosanitary measures	18) Labor
7) Technical barriers to trade	19) Environment
8) Trade remedies	20) Transparency
9) Government procurement	21) Administration of the agreement
10) Investment	22) Dispute settlement
11) Cross-border trade in services	23) Exceptions
	24) Final provisions

Korea–Australia Negotiation (KAFTA)

Korean President Lee Myung-bak and Prime Minister Kevin Rudd announced that FTA negotiations would begin between Korea and Australia in March 2009.

Background

Korean Minister for Trade Kim Jeong-hoon met with Australian Minister for Trade Simon Crean in Canberra to officially launch the first round of the Korea–Australia Free Trade Agreement (KAFTA) negotiations in May 2009. Four rounds followed, in Seoul and Canberra, led by Australia Jan Adams of the Department of Foreign Affairs and Trade (DFAT), and Korean Lee Tae-ho of the Ministry of Foreign Affairs and Trade (MOFAT). Generally there were between 50 and 90 trade negotiators on each side during the five KAFTA rounds that occurred between May 2009 and May 2010.

Much was accomplished in 2009–10 and this can be explained in part because both Korea and Australia had previously negotiated with the US and so that experience had harmonized each nation's trade policy. However, negotiations stalled and then deadlocked for over three years starting in 2010, which can be explained by several factors although it was actually a single substantive issue that halted negotiations: Korea could not accept an FTA that did *not* include Investor–State Dispute Settlement (ISDS), while the Australian Labor Party – which then controlled the Australian government – could not accept an FTA that included ISDS.[10]

ISDS was the "Big Issue" in this negotiation and is controversial in Australia and the issue was also controversial in Korea, as Korea's insistence on including ISDS in KAFTA was based on the US requirement that ISDS be included in the Korea–US trade treaty. Upon accepting this US demand, the Korean government explained to the public that ISDS was a new standard that was widely accepted internationally. To not pursue ISDS in every future Korean treaty would cause complications between the Korean government and their opposition parties, which could have impacted negatively on Korea–US relations. Korea refused to back down in KAFTA because of these domestic complications.

Cooperation and Closure

The September 2013 change of government in Australia broke this deadlock, as the new government wanted to demonstrate to Australia, Asia and the world that it was *ready to do business*, so ISDS was given away by Australia in exchange for a number of Australian offensive interests, including 40 per cent Korean beef tariffs that will reduce to zero over 15 years, and reductions in dairy, grain, sugar and wine tariffs. On full implementation, 99.8 per cent of Australian products will enter Korea duty free. Australia also gained access to the Korea services market on terms that are equal to those Korea gave the US and the European Union in Korea's prior FTAs.

Korea also achieved gains that included duty-free imports of almost all products into Australia within five years, including the immediate elimination of tariffs on Korean automobiles, televisions and refrigerators. Further, Korea achieved some protective measures for its agricultural sector within KAFTA, and Korean investors receive the same treatment granted to US investors in the Australian market.

A team of high-level negotiators led by the Australian and Korean Trade Ministers put this final package together in November and December 2013. The new Australian Trade Minister Andrew Robb visited Korea and met with Deputy Prime Minister Hyun Oh-seok and Minister for Trade, Industry and Energy Yoon Sang-jick in November 2013; at this meeting, progress was made on several politically

[10] Investor–State Dispute Settlement (ISDS) is a set of policies that assure a corporation's right to take a national government to third-party arbitration if that government engages in behaviour (passes a law, changes enforcement of a regulation, etc.) that results in apparent corporate financial loss.

sensitive issues. Minister Robb and Minister Yoon concluded negotiations on the sideline of a WTO Ministerial in Bali, Indonesia in December 2013. Australian Trade Minister Robb and Korean Trade Minister Yoon signed the KAFTA in Seoul in April 2014 (please see Table 6). KAFTA primarily demonstrated a dueling behavioural pattern up to the concluding stage and then it reverted to a driving behavioural pattern, while negotiations shifted from the technical to the political level at the end game.

Table 6: Korea – Australia Free Trade Agreement (KAFTA) outcome

Preamble	11) Investment
1) Initial provisions and definitions	12) Government procurement
2) Trade in goods	13) Intellectual property rights
3) Rules of origin	14) Competition policy
4) Customs administration and trade facilitation	15) Electronic commerce
5) Technical barriers to trade and sanitary and phytosanitary measures	16) Cooperation
6) Trade remedies	17) Labor
7) Trade in services	18) Environment
8) Financial services	19) Transparency
9) Telecommunications	20) Dispute resolution
10) Movement of natural persons	21) Institutional provisions
	22) General provisions and exceptions
	23) Final provisions

5 Case Analysis: Cooperation and Closure in Complex Bilateral Negotiations

These five cases provide a rich database that allows us to investigate the forces and processes that contribute to closure in complex bilateral trade negotiations. We will consider negotiation closure in the context of negotiation party stability and instability, creditable deadlines and linkage dynamics, exchange of politically sensitive issues, and negotiating bilateral agreements on the sideline of a multilateral forum. This analysis will provide the foundation for the development of a process model that supports understanding of closure in complex bilateral negotiations.

Party Stability – Instability

The stability or instability of a group (a political party in the present study) that actually controls a negotiating party (a national government in the present study)

appears to have a dramatic impact on negotiation-closure dynamics. KAFTA and AUSFTA each support this observation. For example, most of KAFTA was negotiated within the first year, during 2009–10, and then a stalemate turned into a three-year deadlock primarily over the 'Big Issue' Investor–State Dispute Settlement (ISDS). It seemed that there was no room to compromise on this issue, as Korea wanted ISDS included and Australia did not. After Korea elected a new president (although the Korean Saenuri Party remained in control of the Executive Branch) in February 2013, the Australian Trade Minister visited Korea to see whether Korea's ISDS position had changed, and learned to his dismay that the Korean position was still firmly in place.

KAFTA closure only became possible after the Australian Liberal/National coalition replaced the Australian Labor Party in a national election in September 2013. A new Australian Trade Minister visited Korea shortly thereafter, and explained that in the future ISDS would be considered on a case-by-case basis. Essentially the political group that controlled Australia was replaced, which brought about flexibility on a single issue that had deadlocked negotiations. KAFTA was concluded three months later. Australian party instability created the conditions that supported closure.

ISDS was that stumbling block that created a deadlock. William Zartman (2015) notes that when a single issue creates dueling behaviour that issue will tend to take its importance from its representation of the entire relationship. This certainly seems likely but in this case we find that it was more complicated. The Korea government would have had to manage domestic conflict because after they included ISDS in their trade treaty with the U.S. they had explained to the public that ISDS was the new global standard. To then omit ISDS from KAFTA would have raised questions about the government's honesty with the Korean public. The Korean government seemed prepared to 'wait-out' Australia forever.

A second example also demonstrates the dramatic impact that party stability or instability can have on negotiation closure dynamics. At the start of AUSFTA negotiations, US President George W. Bush was concerned that AUSFTA treaty ratification through the US Congress would negatively impact upon Republican Party control of the US government, as US presidential election were scheduled for November 2004. The US agricultural lobby was especially concerned about commencing AUSFTA negotiations. To counter this possibility, the two sides established December 2003 as the AUSFTA deadline – essentially compressing a two- to three-year negotiation into less than a year – this case was absolutely driven based on a game of deadlines. Although the initial deadline was not achieved, negotiations continued non-stop for two weeks in January 2004 with agreement achieved in early February, thus concluding AUSFTA in 11 months of negotiations. Concern that AUSFTA could jeopardize Republican Party control over the Executive Branch drove a negotiation process that dramatically influenced negotiation closure.

A desire to maintain party stability, party instability, and/or the perception or potential for instability appears to influence negotiation closure dynamics by rapidly driving the process toward closure (AUSFTA), by delaying a process that might lead to closure (KAFTA), and by breaking a deadlock (KAFTA) that contributes to conditions that result in negotiation closure. The relationship

between party stability and closure, and party instability and closure deserves further study.

Creditable Deadlines and Linkage Dynamics

AUSFTA is the only case of five that established a creditable deadline although it is noted that a deadline was essential in creating closure in the GATT Uruguay through linkage to expiration of US Fast Track Authority (see Review of Literature). It may be that linkage dynamics is one fundamental force supporting a creditable deadline or a game of deadlines.

Seeking to avoid AUSFTA Congressional approval during a US presidential re-election period resulted in a complex negotiation being compressed into 11 months and created a deadline that forced parties to give up specific offensive interests. The US wanted, but did not secure, an ISDS clause, nor was it successful in dismantling the Australian Foreign Investment Review Board (FIBR); nor was the US successful in dismantling the Australian Pharmaceutical Benefit Scheme. The Australians, on the other hand, had hoped to achieve greater market access for their agricultural goods in the US market. A driving pattern of behaviour came to an abrupt end although each side wanted much more but the risk of delaying closure were perceived to be too great. A delay was unacceptable to the US Executive branch and the Republican Party, as they each feared that AUSFTA could become too costly an issue in the upcoming US Presidential election. Here we observe how a creditable deadline was created through consecutive-future linkage dynamics (Crump 2007).

Deadlines are often created through linkage dynamics, but linkages serve as the foundation for many strategic acts. For example, the US linked CUSFTA closure to decisions occurring within the UN Security Council. In this case, the US indicated that it was prepared to delay FTA closure and perhaps even postpone FTA closure if Chile were unwilling to support the US military agenda within the UN Security Council. This strategy represents a form of brinkmanship in which each side had to carefully calculate its own and the other side's real interests and constraints. This last-minute development added another dimension and substantial complexity to a negotiation that was already rather complex. In the end, the US government realized that the United States required a stable partner in Latin America more than it needed to punish a "recalcitrant" partner. Traditional issue-linkage, as defined within the field of international relations, briefly delayed and almost derailed the CUSFTA closure.

Exchange of Politically Sensitive Issues

SAFTA and USSFTA were concluded through an exchange of politically sensitive issues at the ministerial level, indicating that trade diplomats negotiate trade issues and political leaders negotiate politically sensitive issues. Essentially, there were two negotiating teams operating at two hierarchical levels that were engaged in concurrently linked negotiations (Crump 2010). Negotiations are begun at senior levels and then passed down to a team of diplomats to work out most of the

technical details before being taken back over by senior officials who bring an FTA negotiation to a conclusion. We see this two-level hierarchical dynamic occurring in all five cases although AUSFTA, KAFTA and CUSFTA included additional dynamics during closure (see previous discussion above).

We observe this two-level hierarchical structure within the senior-political level becoming engaged at the initiation and commencement stage and trade diplomats engaged in between although this team of diplomates is always led by a senior diplomat that has strong links to the political level. Within this pattern, we find that political decisions are made with a focus on each side achieving a 'defensible settlement' – a game of echoes. Fundamental is the construction and communication of settlement packages, which may include trades on individual issues or trades involving packages of issues. This system of making trades through a process of give-and-take is fundamental to negotiation and well understood within the literature.

Another way of thinking about the emergence of a defensible settlement package or game of echoes is to understand that senior-political leaders are looking for a "landing pad" that is large enough for a politically safe landing. Where a negotiation actually settles on the landing pad is unclear initially but it is clear that the pad is sufficiently large to hold all the critical elements required for a political settlement and closure.

At the end game this dynamic can be seen to be a game of echoes but it also demonstrates a desire to manage principal–agent relations so that the principal has greater control over the event being managed by a senior agent.

Negotiating on the Sidelines

It is interesting to note the role of APEC in providing a venue for bilateral negotiations, while recognizing that many bilateral negotiations are initiated and concluded at senior levels (presidential, ministerial, etc.) in multilateral meetings. Investigating the fundamental nature of these "sideline" negotiations may offer some understanding of how negotiation closure is achieved.

In our study, several bilateral negotiations occurred on the sidelines of regular APEC meetings. For example, the APEC Leaders Summit in Brunei in 2000 allowed for informal bilateral meetings, which resulted in separate announcements about the commencement of both SAFTA and USSFTA. In the later case, the USSFTA announcement caused Chile to remind the United States that Chile had been seeking a FTA with the US since the conclusion of NAFTA (through the Four Amigo talks).

Negotiations to advance FTAs also occur on the sidelines of Ministerial APEC meetings. US and Singaporean Trade Ministers were able to narrow the range of outstanding issues at a ministerial meeting held in Mexico in 2002. This achievement shifted USSFTA negotiations into the concluding stage, while SAFTA negotiations between Australia and Singapore actually concluded at this same Ministerial meeting.

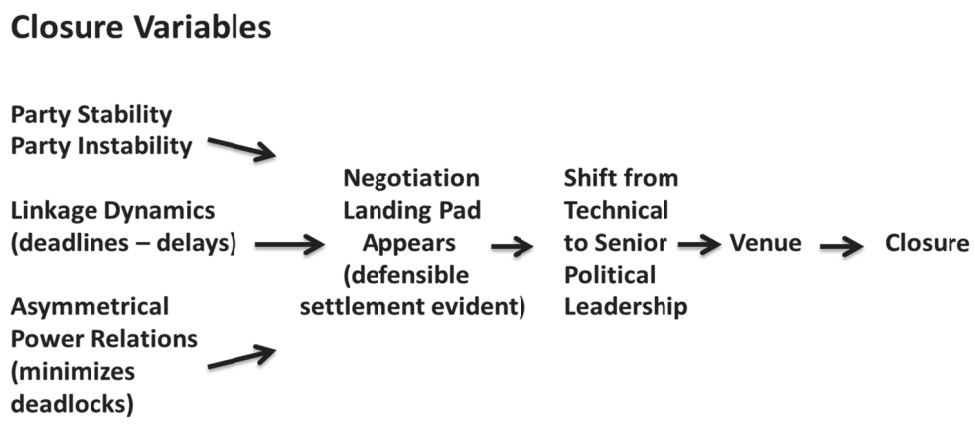
APEC is not the only 'sideline venue' where high-level bilateral negotiations occur. CUSFTA was signed on the sidelines of a Free Trade Area of the Americas meeting in Miami in 2003, and KAFTA negotiations were concluded on the sidelines of a WTO Ministerial in Bali in 2013.

Bilateral negotiation initiation and closure occur on the sidelines of multilateral and regional gatherings, as this is when and where national leaders and their ministers and secretaries meet.

Figure 2 presents a model that summarizes what has been learned through the present investigation. Closure variables are identified to the left in this process model. Any one of these variables can bring about closure, although it is also possible that the presence of each closure variable may not be sufficiently potent to bring about closure independently, as closure in a complex negotiation is complicated. On the other hand, each variable may contribute to the establishment of a negotiation landing-pad – a defensible settlement or game of echoes at a political level. An international or regional organization, such as an APEC Ministerial, may serve as the final venue for bringing together key leaders on each side to achieve closure.

Case analysis examined the closure venue for complex bilateral negotiations, and the normal give-and-take that brings about closure within a two-part (technical and political) hierarchical system. We have also considered deadlines, linkage dynamics and party stability and instability as variables that support negotiation closure.

Figure 2: Cooperation and Closure in Complex Bilateral Negotiations[11]



[11] The author is grateful to Dr Rainer Baumann for useful comments at a GCR Colloquium that refined this model of negotiation process.

6 Conclusion: Cooperation and Closure

In this study, we examined cooperation and closure in five bilateral free trade negotiations that only include APEC members as negotiating parties: Australia, Chile, Korea, Singapore and the United States. Where and when does negotiation closure occur? As a regional association, APEC regularly serves as a venue and meeting place for Presidents, Prime Ministers, Secretaries and Ministers. Often, negotiations are initiated and concluded, and cooperation achieved when senior leaders meet.

Specifically, closure is possible when two or more parties negotiate to a point where a defensible settlement or game of echoes for all parties is evident. This potential defensible outcome establishes a negotiation 'landing-pad' – a landing pad that simply requires a venue for closure. Regional and global summits and ministerials often serve as a venue for bilateral negotiations that occur on the 'sidelines'.

SAFTA negotiators, for example, built a landing-pad prior to the Los Cabos Mexico APEC Ministerial in October 2002, so Australian and Singaporean Trade Ministers were able to bring closure to SAFTA on the sidelines of that APEC Ministerial. US and Singaporean Trade Ministers met at that same venue and were able to reduce the number of outstanding issues from 30 to five issues. Perhaps a USSFTA landing-pad was built at the Los Cabos APEC Ministerial, as USSFTA negotiations concluded two months later in Singapore.

After a very complicated endgame, the United States and Chile concluded CUSFTA negotiations on the sidelines of the Free Trade Area of the Americas Ministerial in Miami in June 2003. Australia and Korea concluded KAFTA negotiations on the sidelines of the WTO Ministerial in Bali in December 2013. In each case, sub-process negotiations had progressed to the point where a landing-pad was established and then the final piece of the puzzle was a venue that brought relevant senior political leaders (i.e. Trade Ministers) together to finalize the deal. This shift from technical agents to political agents provides greater control to the principal in concluding negotiations.

It might be useful to study the planning that occurs to create these 'sideline' bilateral negotiations. Advisers to ministers, secretaries, presidents and prime ministers must have protocol or some guiding principles for establishing sideline meetings. Who approaches who first, how is the agenda established, who is included and excluded, who is available (in person or via video conference), what is the role of Chief Negotiators and what is the role of Committee Chairs (for issues in dispute) in sideline meetings? Pulling away from a multilateral gathering to conduct a bilateral negotiation may be more than a scheduling exercise. Do strategic opportunities or constraints exist within side meetings that are held at a multilateral or regional venue, compared with holding a bilateral meeting independent of a regional or international setting? Do strategic opportunities exist that might provide one side or the other with an advantage? We do not know, and such questions may well be worthy of study.

Negotiation linkages are especially effective in creating closure in negotiations as such dynamics can establish creditable deadlines although linkages have also been found to delay negotiation closure. A creditable deadline may be the most efficient means for bringing about closure in a complex setting, but what constitutes a creditable deadline? There exists some kind of inherent logic that seems to link the negotiation to some external event or process. When a creditable deadline can be established – usually though some external event or process – it can create a game of deadlines.

Linkages can also delay closure, as was observed in the CAFTA case. In this example, the goals of the more powerful party expanded beyond the agreed-upon trade agenda to include questions of security within the UN Security Council via issue linkage. Significant research has been conducted on issue linkage, although much of this work is grounded in an international relations tradition (Crump 2007, 2013). There could be utility in studying issue linkage as a tactic within a negotiation tradition. Issue linkages and deadline linkages were observed in the present study, while it is possible that other linkage forms could contribute to negotiation closure.

Deadline linkages are also associated with party stability. Party stability means that those groups that control a negotiating party are able to maintain control over that party. For example, in AUSFTA we find an entity (the US Republican Party) that was so concerned with losing control of the US Executive Branch (the branch that controls trade negotiations) that it compressed an FTA negotiation that typically takes two to three years into just 11 months. In this case, the Republican Party feared that its agreement with Australia would damage its re-election goals, so it sought to distance these negotiations from the election by concluding the negotiations well before the traditional US campaign period. This external event created a game of deadlines.

Party instability means that those groups that control a negotiation party lose control over that party. Party instability can be observed in KAFTA negotiations, where a negotiation deadlock was finally resolved because the Australian Labor Party was removed from office, thus allowing the Liberal/National Coalition Party to take control of the Australian government (the negotiating party) and implement more flexible objectives. Again, party stability – instability served as a factor in creating closure. Gaining further understanding about the relationship between group control or loss of control over a negotiating party would enhance our knowledge of closure dynamics.

Many research opportunities exist that can help us to understand how complex negotiations achieve closure. Initially, it is useful to recognize that negotiation closure exists as a sub-process within our understanding of negotiation process. The present study has offered a preliminary model that is based on to few cases that may be unique to a particular context. Developing a valid context-free process model of closure in complex negotiation will require a larger and more diverse data set.

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