

Breaking the South-South FTA Mould: Why China ‘Went OECD’ with New Zealand?

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China and New Zealand were able to sign a Free Trade Agreement (FTA) in 2008, in spite of the large differences in standards under which they were respectively negotiating trade agreements in the international arena. This article starts with a descriptive analysis of these differences between each country's standards in terms of FTA quality. With the description of these standards, which seem to stand on opposite sides of a continuum, we examine why China and New Zealand decided to forego the standards under which they had negotiated previous agreements in order to find a middle ground. This process of convergence showcases how the interests of both parties moved them towards the adoption of a middle ground which enabled them to negotiate a win-win agreement.

Keywords: Convergence, FTA quality, trade negotiations, trade liberalisation, China, New Zealand

INTRODUCTION

Global political economy is a field of inquiry that tends to focus on the projection of power as a purposive action. International relations scholars (with a few exceptions) have neglected how the inward-facing aspects of the state—such as its domestic regulatory capacity—have important consequences in global affairs (Farrell and Newman 2010). When we look at international trade, we observe that profit maximising entities (companies that engage in international trade) will adapt their production methods to fit the standards, regulations and needs of the market in which they can earn maximum profit. Later, their behaviour tends to be reinforced with policies and rules in the domestic markets that converge with the rules developed by the foreign power.

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In this vein, a country that possesses a large and open market can force a convergence of international rules to benefit its own interests without projecting power purposively onto third countries. Thus, negotiating with China would mean, for small countries, a convergence towards Chinese standards.

During the year 2008, China and New Zealand concluded 4 years of intense negotiations towards a free trade agreement (FTA). This was China's first FTA with a developed country and its first comprehensive FTA. At the same time, as is well known, China had used the same FTA template to negotiate trade agreements with its previous partners (Association of Southeast Asian Nations [ASEAN], Pakistan, Chile, Hong Kong and Macau), conducting negotiations on a 'mutually beneficial' basis, rather than in a 'commercially meaningful' way (Jiang 2008). However, the negotiations with New Zealand broke the template that China had used to negotiate with other countries, which included gradual negotiations with complementary economies, low-quality commitments in market access, a high level of exemptions and weak rules of origin (ROO). It represented China's first FTA with a developed country and China's inclusion of higher standards in its trade negotiations.

The research question that guides this case study is rather simple, yet meaningful one: Why New Zealand? Before this FTA, all of China's agreements had complied with the South-South category and had started from a principle of low-quality, high exemption and a gradual liberalisation scheme which was overly protectionist. On the other hand, New Zealand is recognised worldwide for being a leader in the advancement of high-quality trade liberalisation, setting standards for other countries to follow, and being one of the four initial partners of the Trans Pacific Partnership (TPP). China and New Zealand stood at opposite poles when it came to the ideas which lie behind trade liberalisation negotiations regarding the level of commitments that each country should put forth in these. Even though it was the government in Wellington that pushed for this negotiation process—it was not a Chinese decision (Gao 2011)—many other developed countries had also intended to engage China back in 2008, including resource-rich Australia¹ or financial hub Switzerland; yet New Zealand came first. Why? If New Zealand had among the highest standards for FTA negotiations in terms of quality, why did China sign first with this country?

Answering this question requires that we first approach the issue of measuring the quality of trade rules (from the World Trade Organization [WTO] perspective) in order to move to the specific case study which is being analysed here. There are analytical indicators of how an FTA's quality can be conceived according to the WTO regulations. For the purpose of this study, the analysis will centre on the stringency of ROO, the coverage (in terms of trade liberalisation and comprehensiveness of the agreement) and its schedule for trade tariff reduction. With this framework for established comparison, this case study will review China's FTA policy and quality and New

¹These negotiations took nearly 10 years, and the agreement entered into force in 2015.

Zealand's as well. In the final parts of the case study, an analysis of the China–New Zealand FTA will be provided, and with it this article will attempt to answer the research question posed above, as to why New Zealand emerged as China's first OECD (Organisation for Economic Co-operation and Development) FTA partner. The four explanations presented in this analysis relate to the quality analysis of FTAs and do not cover other issues which could be very relevant to the question, such as, each state's strategic intentions, geopolitical interests, economic complementarity or risk aversion. Rather, we argue that there is an evident process of regulatory convergence (Drezner 2007), as well as socialisation into regional rules, which pushed both trading partners towards finding a middle ground in order to accommodate their interests within their underlying trade values.

The chronological framework for this research stops at the time of the signing of the China–New Zealand FTA, as our goal is to look for the process of convergence prior to 2008 which let China and New Zealand agree on a set of norms towards bilateral preferential trade.

FTAS AND THEIR FRAMEWORK

Under WTO regulations, any country that wants to sign bilateral FTAs would be breaking the most favoured nation (MFN) rule and is therefore subject to penalties for giving preferential treatment to a third economy or set of economies. However, Ravenhill (2005) explains that FTAs are the most important exception that the WTO permits to the principle that countries should not discriminate in their treatment of other members. Parties to regional arrangements are obliged to notify the WTO of the details of their agreement. Therefore, FTAs are not illegal under global trade rules, as long as they comply with the established provisions for these. Therefore, every bilateral or regional agreement signed by WTO members must be submitted for review to the organisation.

The discussion between developing and developed countries regarding the terms of trade has produced different outcomes in the governance of global trade. For the purpose of this study, it is fundamental to notice that there are two ways in which a country can submit an FTA for review to the WTO. The first one is Article XIV of the General Agreement on Tariffs and Trade (GATT), and the second one is the Enabling Clause of the WTO. Any country can submit an FTA under Article XIV; however, only developing and least developed countries can sign FTAs under the Enabling Clause, since it allows for further flexibility and protective measures to safeguard the development of nascent industries. Within that framework, developed and developing countries can negotiate FTAs with different levels of quality, as well as different standards, which the negotiating states decide to include or not to include. We can observe this in Table 1.

Table 1
Comparison of Requirements of Article XIV and Enabling Clause

	<i>Article XIV of GATT</i>	<i>WTO Enabling Clause</i>
Membership	Any country	Among developing countries (special treatment for Least developed countries (LDCs))
Tariff liberalization	Elimination of trade barriers for substantially all trade	Reduction of barriers, with no minimum
Liberalization schedule	10-year framework	No limit
Measurement of impact	Obligation to conduct <i>ex ante</i> and <i>ex post</i> measurement of barriers	No obligation

Source: World Trade Organization (www.wto.org).

These issues will determine largely the quality of an FTA, which can in turn reflect the economic impact of such an agreement (Hamanaka 2013). The analysis of the quality is the goal of this case study, since developing economies have problems complying with high-quality standards due to their internal provisions for economic policy development and their aspiration to develop an industrial base by controlling external trade in order to protect nascent domestic industries. We can expect the FTAs signed under the Enabling Clause to be of lower quality than those reviewed under Article XIV due to the nature of the provisions.

Assessing the quality of an FTA is not an easy task, since these agreements usually run into hundreds of pages and follow years of negotiations covering different topics under which each party aims to ensure an outcome which it considers to be within its win-set. Few research projects have taken up the task of evaluating FTA quality (such as the projects conducted by the Research Institute of Economy, Trade and Industry [RIETI] in Japan), since most tend to focus on their impact based on standard liberalisation assumptions. However, it is possible to conduct such an assessment as they all share similarities in the text itself, and there are points of comparison that can be taken in order to make such an assessment. For the purpose of this case study, we focus on ROO, tariff liberalisation and coverage (refer to Table 2), which are the items most directly related to the ability to achieve preferential market access. 'Although the quality of FTAs can be evaluated with several criteria, the most important component will be the degree of market access. ... Although an FTA specifies tariff elimination for all goods, net impacts on trade will be reduced if exporters (manufacturers) are obliged to pay high costs in complying with complex and stringent ROO (Cheong and Kwon 2005: 21).

A stringent ROO is one where the exporter would rather choose to pay the tariff than to comply with the procedure required to attain a certificate of origin for his exports (due to high costs). In terms of coverage, there are two categories: the first one is used to measure coverage in terms of harmonised tariff code (HTC or HS) lines liberalised, and the second one is to consider more widely the inclusion of service trade

Table 2
Quality of FTAs Basic Assessment

		<i>Stringency of ROO</i>	
		<i>Less</i>	<i>More</i>
Coverage	Wide	High impact	Low impact
	Narrow	Low impact	Limited impact
Schedule	Short term	High impact	Low impact
	Long term (plus exceptions)	Limited impact	Low impact

Source: Cheong and Kwon (2005).

and investment protection clauses in the agreement. Finally, the schedule for tariff reduction or elimination can either be considered a short-term calendar (up to 5 years), a long-term calendar (going up to 10 years) or it may or may not include exceptions, referring to items that will not be liberalised under the agreement.

In light of the above, it is important to keep in mind that the quality of an FTA relates to its potential impact. The final goal is openness and trade facilitation, in order to establish a competitive environment that fosters productivity. Low quality FTAs may sound pejorative, but these kinds of agreements usually relate to the need to protect infant industries (depending on the level of development of an economy), protect existing jobs or take care of issues that may directly affect national security. Thus, the terminology chosen (low quality vs. high quality) is reflective of the terminology used in academia and not of the ability of countries and negotiators to achieve a certain result.

CHINA'S FTAS

'Agreements attempt to serve the specific needs of contracting countries' (Young 2012). This has not been an exception for China. There is ample literature regarding China's FTA strategy, especially how agreements tend to foster its security regarding the flow of natural resources, its division of partners by locations and its usage of economic might to obtain political benefits (Findlay 2012; Halper 2010; Song and Yuan 2012). 'As for [China's] criteria to choose the target countries, two concerns seem to have dictated the choice of the target, namely, enhancing China's political relations with its developing Asian neighbours and to secure its ever increasing energy and raw materials demand' (Nakagawa 2011: 19). In this scheme, the New Zealand–China FTA has been considered as 'resource driven', given China's craving for food and beverages and New Zealand's agrarian export structure.

As we can observe in Table 3, until 2008 China had only signed one FTA under the WTO's Enabling Clause, which is the China–ASEAN FTA of 2005. The rest were signed under the GATT Article XIV, which would give the impression of China

Table 3
China's FTA Partners

<i>Enabling Clause</i>		<i>GATT Article XIV</i>	
ASEAN–PRC	2005	PRC–Macau	2004
		PRC–HK	2004
		PRC–Chile	2006
		PRC–Pakistan	2007
		PRC–NZ	2008

Source: China's Ministry of Commerce (<http://english.mofcom.gov.cn/>).

Note: HK, Hong Kong; NZ, New Zealand; PRC, People's Republic of China.

being a high-quality FTA signatory. However, as we will see, this has not been the case for China.

Starting in 2004, China launched its FTA agreements diplomacy, involving several sets of negotiations. Of these, only its first FTA was signed under the WTO Enabling Clause. Most importantly though, this agreement was the one that China used to develop a template for future negotiations, which it replicated in most of its subsequent agreements. The importance of it is that China developed an FTA model under the Enabling Clause, even though all of its subsequent FTAs were submitted under the GATT Article XIV, which seems to be more demanding in terms of quality. However, China has shifted its FTA quality only gradually. For China, Article XIV has not been an obstacle towards developing its own FTA agenda.

The template of China's FTAs has been characterised as one of moderate trade liberalisation, highly politicised, resource-driven, aimed at achieving progress gradually, not comprehensive in nature (thus, not negotiating investment and service issues as part of the main agreement) and stopping at border issues without negotiating behind-the-border issues which might foster trade (Gao 2011; Jiang 2008; Nakagawa 2011). Therefore, China's FTAs have been characterised overall as having a low quality, given these indicators.

In order to be able to achieve low-quality FTAs under Article XIV of the GATT, China did a good job of bending Article XIV to fit its interests and needs. Negotiating an FTA under Article XIV allows for such flexibility, since its requirements are not defined with much specificity—for example, when it requires that the contracting parties should 'eliminate substantially all trade', without clearly defining 'substantially'. China has been able to comply with such elimination standards by measuring either total trade volume or HS lines liberalised. Either way, a means can be easily found that keeps up with partial liberalisation while complying with substantiality. This means that protective measures are not exempted even when an FTA is signed using the framework established by Article XIV of the GATT.

Moreover, China has chosen to move into FTAs in a step-by-step manner, through the implementation of early harvest lists (EHLs) and with agreements that do not

cover issues on investment, services, migration, environmental issues or extensive technical barriers to trade (TBT) chapters. This gradual pace of negotiation, and its limited coverage, leaves room for the development of flexible negotiations, which make it easier for both parties to reach agreement. The Chinese discourse on ‘mutually beneficial’ agreements generated room for the contracting parties to protect those sectors which they perceived to be more vulnerable to foreign trade exposure (and particularly preferential trade exposure), and it allowed for sector-specific provisions to be discussed (like China’s access to raw materials or its recognition as a market economy).

Two important characteristics of China’s initial FTAs were the non-discussion of behind-the-border issues, alongside flexible ROO and schedules. A strong discourse on sovereignty had stopped China from negotiating issues that might force it to comply with standards inside its boundaries, thus taking away control from the state and handing it over to international regulatory agencies. Very important as well has been the fact that China’s ROO have been very flexible, and its schedule for tariff reduction is long and plagued with exemptions of HS lines. Under these terms, Table 4 shows how China’s FTAs with ASEAN and Chile can be evaluated.

Table 4
Comparative Analysis of China’s FTAs with ASEAN and Chile

FTA	ROOs			Tariff Reduction	
	RVC ¹	CTC ² /TP ³	Certificate of Origin	Schedule	Exceptions (9 Digits HTC)
PRC–ASEAN	40%	None	Stringent and complex (lots of information); border issue: 22 rules	Reduction, not elimination (10 years—EHL)	Avg. 450 (Different for each country)
PRC–Chile	40% (50% for specific chapters)	Simple/Simple	Non-stringent; border issue; 6 rules	Gradual, 10 years, 4 categories (5 for Chile)	216

FTA	Coverage	
	WTO-Plus	IPR
PRC–ASEAN	Services and investment to be negotiated later	No chapter
PRC–Chile	Services and investment to be negotiated later	TRIPS simple

Sources: China’s Ministry of Commerce (<http://english.mofcom.gov.cn/>) and Chile’s DIRECON (www.direcon.gob.cl).

Notes: PRC, People’s Republic of China.

1 Percentage of originating content

2 CTC—Change in Tariff Classification: When a good has been imported from a third country, it must change its tariff classification in order to be able to qualify for preferential treatment under the FTA rules.

3 TP—Technical Process: It requires a specific production process for an item.

As we can appreciate in Table 4, China has established rather low-quality ROO. Its mechanism for establishing the origin of products that contain non-originating materials has been a Regional Value Content (RVC) of 40 per cent. This means that a commodity can obtain a certificate of origin from China if 40 per cent of its value is added in Chinese territory with originating materials. Most GATT Article XIV agreements have tended to establish an RVC of 50 per cent. Moreover, RVC was, back in 2006, not a common rule any longer, since it was easier to establish the origin of a commodity by looking at whether non-originating materials had a change in tariff classification (CTC), rather than measuring value content. China's FTA with ASEAN uses only RVC, while its FTA with Chile uses a mix of both depending on the HS line. This fact speaks of an evolution towards higher quality in China's FTAs, which is also complemented with a reduced stringency in the generation of the certificate of origin and also seen in the comparison between China's FTA with ASEAN and its FTA with Chile.

In terms of tariff reductions, we can also appreciate an evolution towards higher quality in China's FTAs. Both the agreement with ASEAN and the agreement with Chile establish a 10-year framework for tariff reduction (not complete elimination of tariffs), but the amount of exceptions is lower in the case of the agreement with Chile. With ASEAN, every country set its list of exceptions, of which there is an average of 450 HTC exemptions. In the case of Chile, the agreement contemplated only 216 exemptions.

Finally, in terms of coverage, originally both agreements negotiated only trade in goods, thus not including trade in services or investment protection. Nonetheless, the China-ASEAN FTA started with an EHL, while the agreement with Chile negotiated the chapter on trade in goods all at once. The development of negotiations towards both agreements was gradual, with an agreement by the parties to negotiate the chapters on trade in services and investment at a later stage. The full agreement does not include issues such as environmental regulations, migration or other Singapore issues; they are limited in coverage of behind-the-border issues. Finally, in terms of intellectual property rights, the FTA with ASEAN does not include a chapter on this topic, while the FTA with Chile complies with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement of the WTO, not taking on any WTO+ clauses. This is also an improvement in the quality of the FTAs, from ASEAN to Chile.

NEW ZEALAND'S FTAS

New Zealand has been considered one of the leaders in the pursuit of high-quality FTAs, ever since it started FTA negotiations with economies other than Australia. Even before that, the New Zealand–Australia Closer Economic Relations (NZACER) was regarded by the WTO as the agreement against which all other agreements should try

to benchmark themselves, since its coverage is broad, is clear, greatly increases trade facilitation and is open in nature. Moreover, New Zealand's FTAs have given priority to its largest trading partners (unlike China's strategy), covering a substantial part of New Zealand's trade and focusing on its natural trade area in East Asia. It is important to note that China and Australia are New Zealand's first and second main trading partners, respectively; therefore, the orientation of New Zealand's negotiations had a clear economic prospect, not just a political one.

It is harder to find research on New Zealand's FTA quality than on China's, since most of its FTAs comply with WTO provisions—even goes beyond WTO requirements. Because of this, they have not been considered as being unique or marking a trend. The compliance with Article XIV of the GATT (since New Zealand falls under the category of developed country) is absolute, with full elimination of tariffs, studies *ex ante* and *ex post*² and a 10-year framework for tariff elimination. New Zealand has been considered as a model of free trade (Spence 2016) (Table 5).

The characteristics of New Zealand's FTAs were the following: first, they could be considered to be comprehensive in coverage and wide-ranging in the elimination of tariffs (at a steady, but relatively fast, pace). The government in Wellington had negotiated all of its agreements to include full elimination (not reduction) of tariffs, with no exemptions. This is important in order to push for open access of goods and services into the market. Regarding the schedule for tariff elimination, they tried to keep it as short as possible, aiming to achieve 100 per cent elimination of tariffs relatively soon (i.e., within 5 years on average). In some agreements, they did keep some special safeguard measures (SSGs) for agricultural products, but this is not exclusive to New Zealand's FTAs, since it is rather common for such agreements to include SSGs.

Second, New Zealand negotiated under a mechanism of single undertaking, rather than in a phased manner. Negotiators usually included negotiations on investment and services, and they either approved the whole package or rejected the deal completely. This meant that the counterpart had to agree on terms in all aspects before the overall agreement could be reached. The inclusion of an EHL which would 'test the waters' was not contemplated in New Zealand's negotiation style or strategy.

Third, given that the main goals of FTAs are trade facilitation and preferential access towards fostering an increased trade relationship, the contracting parties should try to establish non-stringent ROO. Thus, New Zealand has tried to make the mechanisms of its FTAs as simple as possible so that they promote, rather than block, trade. That is why, in particular, they try to make ROO as simple as possible, so that the exporter will opt to obtain a certificate of origin rather than paying the tariff. As we look at the analysis of two of New Zealand's FTAs (NZACER and the Trans-Pacific Strategic Economic Partnership or P4), we observe that these generalisations were given concrete

² New Zealand conducts studies which measure its level of bilateral liberalization prior to the FTA (*ex ante*) and continue measuring after it is implemented (*ex post*) to evaluate compliance, as well as monitors the development of the trade relationship.

form in the texts of the agreements, even if there was a trend towards a small diminution in the quality that is also observable alongside. In Table 6, we can appreciate the main points of comparison.

First, what we observe from Table 6 is that New Zealand established non-stringent ROO, since it applied CTC criteria for all goods in its agreement with Australia (which is easier to prove) and also established non-stringent rules to obtain the certificate of origin. We can observe that in the case of the NZACER, New Zealand originally chose an RVC approach for non-originating materials but changed it along the way to simplify bureaucracy. In the case of the P4 FTA, most goods that contain non-originating materials also fell under the CTC criteria, but some were excluded, and had to comply

Table 5
New Zealand's FTAs Until 2008

<i>GATT Article XIV</i>	<i>Year</i>
NZ–Australia	1983
NZ–Singapore	2001
NZ–Thailand	2005
P4	2005
NZ–China	2008

Source: New Zealand's Ministry of Foreign Affairs and Trade (<https://www.mfat.govt.nz/>).

Note: NZ, New Zealand.

Table 6
Comparative Analysis of New Zealand's FTAs with Australia and the P4

<i>FTA</i>	<i>ROOs</i>			<i>Tariff Reduction</i>	
	<i>RVC</i>	<i>CTC/TP</i>	<i>Certificate of Origin</i>	<i>Schedule</i>	<i>Exceptions (9 Digits HTC)</i>
NZ–Australia	Originally 50%	CTC only (currently)	Non-stringent; 5 rules	5 years	None
P4	45%–50% (+ CTC in cases like textiles)	CTC only for most goods	Non-stringent; 3 rules	10 years	None

<i>Coverage</i>		
<i>FTA</i>	<i>WTO-Plus</i>	<i>IPR</i>
NZ–Australia	Services (investment protocol, environment for business, environmental issues, TBT and other annexes added later)	TRIPS + (IPR dialogue)
P4	Services, Investment, TBT, and agro.	TRIPS

Source: New Zealand's Ministry of Foreign Affairs and Trade (<https://www.mfat.govt.nz/>).

Note: NZ, New Zealand.

with RVC criteria. Even though it is minimal, we can appreciate a small reduction in the quality of the agreements when compared over time.

Second, regarding the tariff reductions and the schedule to achieve them, it has been noted that the agreements aimed for a full elimination of tariff lines. The main difference between them is that the NZACER did that in a short-term schedule (5 years), while the P4 aimed for a longer schedule (10 years), complying with the limits of the WTO. Again, the change is not large, but it represents a small decrease in the quality of the FTAs. As of today, almost every FTA that is negotiated worldwide establishes a schedule of 10 years for tariff reduction or elimination.

Finally, in terms of coverage, the NZACER has been a living document, which has evolved over the years, as it can be appreciated by the number of annexes that have been added to it. There is a working committee in charge of keeping it alive over time. This evolution is reflected in the fact that today the agreement includes many WTO+ issues, such as environmental concerns, TBT and migration issues, which were not negotiated as part of the original agreement. Thus, if we consider the agreement in today's context, it reflects the highest possible quality according to WTO provisions. In case of the P4, its coverage is smaller, even though it is still comprehensive. There is, again, a small reduction in the quality of the agreement needed to accommodate developing economic partners such as Chile. Finally, in terms of intellectual property, the NZACER includes WTO+ IPR provisions, while the P4 complies with the TRIPS agreement, but does not go any further.

With this brief analysis, we can tell that there was a diminution in quality in New Zealand's trade agreements as time passed. The increasing quality of China's FTAs and the diminishing quality of New Zealand's FTAs seemed headed towards the realisation of the China-New Zealand FTA which was ratified in 2008; convergence seemed natural, at least in regulatory terms.

NEW ZEALAND-CHINA FTA

'New Zealand's experience negotiating comprehensive agreements, and its good reputation as an economic partner opened the way for this experiment in North-South trade agreements' (Young 2012: 4). As Jason Young points out, the agreement between China and New Zealand was China's first FTA with a developed country, but on the other hand, New Zealand had already negotiated comprehensive agreements with developing countries, such as in the P4 or in the New Zealand-Thailand FTA. More importantly, China was also willing to sign an agreement with an OECD country; 'even though New Zealand wanted the recognition of being the first OECD country to have an FTA with China, and was willing to make certain concessions, China too was willing to push back the gains from the agreement to get it approved by both countries' (Schnabolk 2009). The strategic benefits of this agreement were immense.

Moreover, there was a diplomatic history that pushed this agreement forward, since China tended to ‘reward’ those countries that favour its diplomatic goals. In this sense, New Zealand prides itself in being the country that gave China its four firsts with developed countries:

- First developed country to agree to China’s accession to WTO through bilateral negotiations
- First country to recognise China’s market economy status (MES)—China does require of its FTA partners that they recognise China’s MES. So this is a given requirement for any country that has signed or intends to sign an FTA with China.
- First OECD country to begin FTA negotiations with China—the negotiations started in 2004
- First OECD country to sign such an FTA—concluded in the year 2008

This became China’s first comprehensive FTA (including services, investment, labour, migration, education, etc.), and negotiations were finalised unexpectedly fast, with both parties being easily able to accommodate the needs of each other, looking for ‘mutually beneficial’ ways to safeguard each other’s interests. It was the first time that China discussed issues other than trade in goods in an FTA, since it applied a mechanism of single undertaking. This is not to say that China had not signed comprehensive FTAs earlier, but when Beijing had engaged in these dialogues, it had done so gradually, through different negotiation processes.

The New Zealand–China FTA has been defined as an ‘example of successful crossing of the North–South Divide’ (Young 2012) with New Zealand willing to make concessions and China stepping up its standards. New Zealand had to lower its standards in order to be able to sign an FTA with China. It was not an easy process for a country that stands at the top of high-quality trade liberalisation. ‘Now that the focus on New Zealand–China relations has moved to trade, the New Zealand government appears less and less willing to face up to differences with China’ (Brady 2008). Nevertheless, China did have to concede as well in its approach to FTA negotiations, by raising its standards to meet that of New Zealand. Thus, we could call it a process of mutual regulatory convergence where both actors meet up in the middle, instead of having a full adaptation on one side forced by asymmetry.

Following with the final point of the last paragraph, it was in China’s interest to start negotiating comprehensive FTAs. There is a clear shifting orientation of the Chinese economy towards the development of services (financial services, tourism, construction, etc.). The comprehensiveness of the agreements speaks of China’s shifting economy, trying to develop a higher proportion of services in its economic development. Negotiating trade liberalisation for trade in goods only weakens the potential positive impact of the agreement.

Tim Groser, former trade minister of New Zealand, characterises the agreement as being ‘a significant factor in the dramatic growth in bilateral trade, delivering improved trade facilitation and tangible benefits’. The agreement itself has seen positive results, which are more pronounced for New Zealand than for China. It was such an important deal that the New Zealand government decided to create a specific webpage for the agreement in order to further disseminate knowledge regarding the benefits that New Zealand would obtain. The content analysis, using the same indicators used for China’s and New Zealand’s previous FTAs, can be found in Table 7.

In terms of ROO, this agreement included a few items where RVC was used to establish the value of non-originating materials. However, most HS lines considered CTC criteria to determine origin. The rules therefore are non-stringent, in what was China’s first FTA with non-stringent rules, focused on improving the quality, while decreasing New Zealand’s standards a little bit. In terms of tariff reduction, New Zealand carried out its usual full elimination of tariffs, through a 10-year framework. It had to make a concession to China, which exempted 227 HTC lines in order to protect some of its economic sectors. In this regard, the China–New Zealand FTA was very similar to the China–Chile FTA. It showed a little bit of improvement in the quality of openness of China’s market, while keeping up some of its safeguards as well. Finally, in terms of coverage, it also came to terms with China’s and New Zealand’s previous history of looking for a middle ground in quality terms. It became China’s first agreement negotiated under a single undertaking mechanism, thus including in the same negotiation process services and investment among other issues such as education, tourism, migration and labour. In terms of intellectual property, it included a compliance clause with the TRIPS agreement, which is the same as the China–Chile FTA, and the P4. Therefore, there are clear concessions on the part of New Zealand, while China also improved its overall quality of FTAs, approaching higher standards in trade facilitation.

Table 7
Analysis of China–New Zealand FTA Content

FTA	ROOs			Tariff Reduction	
	RVC	CTC/TP	Certificate of Origin	Schedule	Exceptions (9 Digits HTC)
NZ–China	30–50 (only 21 items for NZ)	Good specific CTC/few TP	Non-stringent; 9 rules	10 years	227 for China; 0 for NZ

FTA	Coverage	
	WTO-Plus	IPR
NZ–China	Comprehensive but particular	TRIPS

Sources: China–New Zealand FTA webpage (<http://www.chinafta.govt.nz>); New Zealand Ministry of Foreign Affairs and Trade (<http://www.mfat.govt.nz>).

Note: NZ, New Zealand.

Now, we come to the question raised at the beginning of this article: why New Zealand? The analysis carried out above should shed some light on this question. It is important to keep in mind that China started negotiations with Australia, Iceland (2005) and Norway (2007) prior to signing the FTA with New Zealand; yet, none of these negotiations were finalised before the New Zealand agreement. This analysis points to four possible explanations which are neither exclusive nor comprehensive; rather, they are complementary and leave space for further research.

POTENTIAL EXPLANATIONS

EXPLANATION I—LOOKING FOR A MIDDLE GROUND

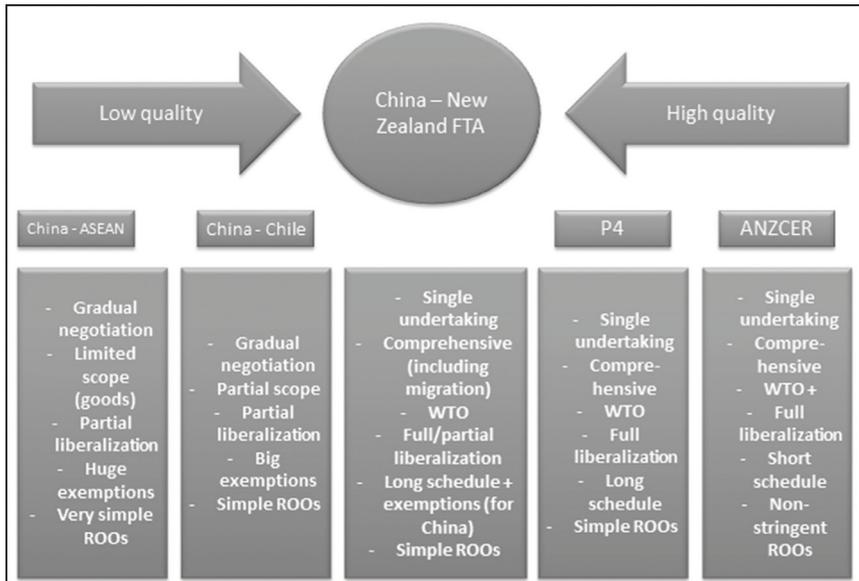
As this analysis has pointed out repeatedly, New Zealand was gradually going through a process of diminution of the quality of its FTAs, while China went in the opposite direction, from low-quality FTAs towards an improvement in quality by moving forward in IPR, trade in services and market access among other issues. In the process of negotiation, a middle ground for negotiation appeared between the champion of free trade and the Asian giant. As we can see in Figure 1, there is evidence of a strong compromise on both sides towards reaching agreement. China conceded on the mechanism of single undertaking, increased coverage and simpler ROO, while New Zealand allowed for China's partial liberalisation and decreased its demands on IPR issues.

This middle ground provided room for negotiating teams to make concessions, which, for example, Australia at that time was not willing to make (Jiang 2008). Importantly, these concessions were actually beneficial to trade, as scholars Tan and Cai (2011) point out when they say that 'our analysis justifies the idea that a free trade agreement between two countries of different development stages has to come along with a progressive process of tariff dismantling for the most strategic sectors, so as to limit the adjustment costs'.

EXPLANATION II—SOCIALISATION OF NORMS IN EAST ASIA

As former Prime Minister Helen Clark stated, 'our objective must be to nurture and deepen our Asia relationships so that New Zealand can play an active role in the growth and prosperity of the Asian region' (Young 2012: 5). New Zealand has had an active participation in numerous regional groupings, such as Asia-Pacific Economic Cooperation (APEC), ASEAN+6, P4, TPP, Regional Comprehensive Economic Partnership (RCEP) and the East Asian Summit. Also, New Zealand, as a regional player, has achieved numerous FTAs with ASEAN countries that usually involve lower quality FTA agreements. Therefore, following a theory of socialisation, we could argue

Figure 1
China's and New Zealand's FTA Evolution



Source: Personal elaboration.

that the international and regional institutions have had a co-constitutive effect and not merely a regulative one, as they created new interests and facilitated socialisation among states (Finnemore 1996; Ruggie 1996). Through its participation in regional multilateral dialogues, New Zealand has shifted its views on how it approaches trade regulations, conceiving the need to engage developing economies with a set of rules that allows further freedom of action for them without suffocating their nascent industries.

This being the case, New Zealand has been socialised into decreasing the quality of its FTAs to meet the requirements of ASEAN partners and to converge towards regional norms. Except for the ones with China, Taiwan, South Korea and Hong Kong, all of New Zealand's FTAs in the twenty-first century include ASEAN countries. It is widely known that ASEAN countries have an 'ASEAN way' of negotiating, which is based on consensus and consultation mechanisms, and when applied to FTA negotiations it translates into a gradual, flexible and selective approach. New Zealand, unlike Australia, Norway or Iceland, has shifted its trade norms to comply with ASEAN standards, so has China. This socialisation process therefore, is reflected in the quality of the agreements and has helped New Zealand achieve its goal.

The socialisation process within the region is not only fundamental for understanding this particular FTA but should also be considered—as highlighted by Acharya

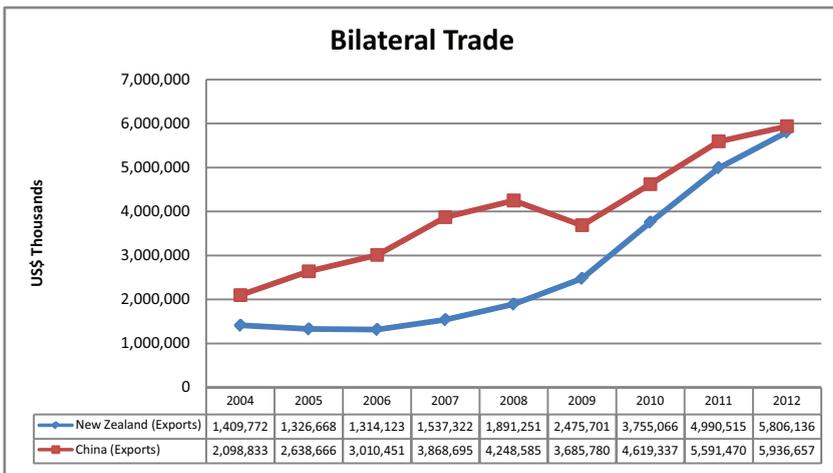
(2013)—as a key component of regional integration and the ongoing negotiation process towards the RCEP agreement. In a stark difference from the TPP process, norm socialisation has created an avenue whereby the different negotiating teams tend to converge towards regionally acceptable standards on different issues ranging from intellectual property to labour mobility. Deadlocks could have emerged among the largest RCEP countries—namely, China, Japan and India—yet the successive rounds of negotiations have been able to hammer out some of the conflicting regulations, with an agreement on norms that flow from the existing international organisations in the region, thereby generating a regional consensus.

EXPLANATION III—ASYMMETRY: THE BEIJING EFFECT

The Beijing Effect can be defined as a convergence of regulatory frameworks towards China’s preferences, given China’s enormous market power. Looking at the agreement from the perspective of its results, it is clear that the gains were much larger for New Zealand than they were for China. In the year 2012, China overtook Australia as New Zealand’s main export market. The trade pattern since 2008 can be observed on Figure 2, and it has clearly shifted from a huge surplus in favour of China to a more balanced trade relationship.

This asymmetrical relationship made it easier for New Zealand to give up certain norms and standards in favour of market gains that have pushed its trade with

Figure 2
China–New Zealand Bilateral Trade (2004–12)



Source: Global Trade Atlas (www.gtis.com/GTA).

China from US\$1.5 billion to US\$6 billion, being one of China's main providers of dairy products. On the other hand, the New Zealand market is 'insignificant' for the Chinese (Brady 2008), being China's 55th largest export market. Thus, this huge asymmetry in market size and the unpurposive projection of Chinese power can also be a potential explanation for New Zealand's decision to shift its trade standards closer to those of China.

EXPLANATION IV—INTERNATIONAL SIGNALLING

The fourth explanation as to why China chose New Zealand as its first OECD trading partner is that it sends out an important signal about China's capacity to negotiate high-quality FTAs and therefore its ability to comply with an MES. Given New Zealand's record on international trade, it was a powerful signal of China's goal of full recognition within the WTO as a market economy. 'This could help set precedents and pressure for other WTO members, particularly the US, EU and Japan, to consider granting China MES before the 2016 deadline' (Nakagawa 2011).

Second, China used its FTA network to reward strategic allies, in moves that were conducive to signalling its 'peaceful rise' and its compliance with the international system. China tried to position itself as an open market, offering opportunities for other economies to access the huge Chinese consumption market, since even New Zealand, the highest quality FTA signatory, had approved an FTA with China and gained access to its market. As part of its international signalling, this FTA fits the needs of China in the aspect of international trade signalling and put it one step closer to its complete recognition as a market economy.

A MATTER OF LAYERING

The above-mentioned explanations do not intend to cover all the causal relations that led China to select New Zealand as its first OECD comprehensive trade liberalisation partner. Several other explanations—both from the perspective of power and from the perspective of institutional development—can be pinpointed as plausible causal explanations. But what we see from the analysis presented above is that most of the explanations currently available to understand the process of convergence within the region's trade liberalisation initiatives tend to have a 'layering' component. The socialisation process, the search for a middle ground and also the asymmetry analysed above can all be considered as part of a larger norm layering process, taking into consideration that the FTA of the Asia Pacific (FTAAP) is, as of now, nothing but a future project; the RCEP is still under negotiation; and the recently signed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) does not include

the world's largest economies, namely, the United States and China. Thus, the region has resorted to a series of bilateral preferential trade agreements in order to foster trade liberalisation, without having agreed upon a common template for these negotiations. The result is what Bhagwati called a 'spaghetti bowl' (1995) whereby international norms rely upon the convergence of several FTAs which streamline the region's actors, deriving from a process of layering of norms.

Research on layering has progressed within historical institutionalism to address regulatory changes through international influences. Layering refers to the attachment of new elements to existing institutions as a function of either pressure or adaptation to an external reality. One of the ways by which it moves forward is through the analysis of policy feedback, which refers to the 'propensity of state institutional reforms to create client groups that then have a strong incentive to push for their maintenance' (Farrell and Newman 2010). Policies themselves create incentives for concentrated interests to organise and become clients of the bureaucracies involved in policy stability and change. Feedback loops can force a process of layering when there is a divergence of regulatory frameworks, which seemed to be the case when China and New Zealand decided to start FTA negotiations.

Layering itself has been researched extensively by Mahoney and Thelen (2010), and several researchers have looked at both the reasons for layering and the outcomes of this process (Bruszt and McDermott 2014; Parker and Parenta 2008). Thus, when looking at processes of trade liberalisation, where a regional binding framework is non-existent, but there is empirical evidence of regulations and negotiations processes converging towards a common denominator, layering holds value as a theoretical tool which should be taken more seriously, as it may help resolve some of the puzzles currently apparent within the region.

CONCLUSIONS

Through these prisms, it made perfect sense for China to regard New Zealand as a desirable first OECD FTA partner, since through a process of socialisation in the region, the government in Wellington faced pressure to reduce its demands in the quality of trade norms, while China raised its norms to generate more positive international signalling regarding the non-threatening character of its rise and its full acceptance of the international system. This convergence served New Zealand's interests in terms of market access, while it also served China's signalling strategy towards convincing international audiences of its 'peaceful rise' through the provision of public goods and moved it closer to being recognised worldwide as a market economy. Thus, we should look at China's FTA diplomacy as a process rather than a fixed position, whereby the country seems to be slowly converging towards internationally agreed-upon trade

rules with OECD standards, which China takes on a slow step-by-step basis, given its status as a developing country. It is through this process that we can also understand the ‘upgrading’ of trade agreements between China and its trade partners, particularly New Zealand and Chile (both OECD countries), as these two economies are currently looking to upgrade their FTAs towards a more comprehensive coverage and higher quality rules.

In terms of convergence, the concept of layering is particularly useful. Changes in regulations do not always come from exogenous shocks; they may also derive from a gradual process of institutional layering (Van der Heijden 2011). The need for China to move towards higher standards in FTA negotiations, as well as the need for New Zealand to achieve preferential access to its largest export market, seems to have moved both parties towards a convergence in trade regulations, perhaps setting a standard for the Asia-Pacific region in the future.

The key to the FTAs in this region was finding a middle ground between high and low quality, striking the balance for which developing economies crave. This was related to the need to increase intra-regional trade, as well as to keep in place economic policies which were more protectionist for sensitive or strategic sectors. The establishment of regional supply chains facilitates development of not only trade relations but also anew consensus regarding norms in the region. The future clash between the CPTPP norms (which seem too high for part of the region, particularly China) and the reality of economic development will see a process of downgrade socialisation of the CPTPP as an agreement, or its failure to be the leading normative influence in the Asia Pacific. It is in this context that China’s rise has come with a strong push from Beijing towards regional multilateralism, be it China’s renewed effort to discuss the FTAAP or its impetus to conclude RCEP negotiations. China wants an increased role in the regional order, an attitude which has been characterised as multilateral balancing vis-à-vis the United States (Kolmas 2016); the impact that this balancing behaviour will have on rule convergence presents an interesting prospect for further research at a point in time when China presents itself as the defender of globalisation, and the United States retreats to a more protectionist stance fostered by ‘America First’ policies. Will China push for higher standards in trade regulations? Or will Beijing settle for the middle-ground quality standards which it currently champions in its own FTAs?

Finally, China’s FTAs speak of its increasingly complex economic reality with the development of a strong service sector and its full accession to the world economy. In this process, China, as it has always done, has attempted to test its new capabilities with small economies first, thus opening the way to higher quality norms on a gradual basis. The gradualist approach, with which it moved towards the opening up of its economy in the 1970s and the starting of its FTA drive with the China–ASEAN FTA and its EHLs saw a new phase when it moved towards the developed world and with the improvement of the normative structure of China’s trade. New Zealand positioned itself well in this trend and obtained large gains from giving up certain norms.

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