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**TRADE REGIONALISM AND ITS RELEVANCE
TO THE MULTILATERAL SYSTEM WITHIN THE WTO
IN NEED OF REFORM – THE CASE OF EVFTA**

Introduction

The world trade system has, for some time, been undergoing profound transformations which have been imposed by significant changes taking place in the world economy. There are two mainstays which world trade is dependent upon. It comprises the multilateral trading system under the auspices of the World Trade Organization (WTO) as well as Regional Trade Agreements (RTAs). Therefore, we are dealing with a coexistence of two, seemingly opposite systems: multilateralism and regionalism, which, on the one hand, compete against each other, on the other, however, they are complementary.

It must be stressed that since its inception in 1995, the WTO has performed a central role in shaping the multilateral trading system. Having replaced GATT, it assumed a much broader thematic scope, which was necessitated by the situation in the international market.

It quickly became apparent, however, that creating and reinforcing the multilateral trading system is not an easy task, and multilateral negotiations under the WTO no longer keep up with the ongoing transformations occurring in the world economy. The negotiations stalemate, which was difficult to

overcome, as well as the lack of tangible effects of the initiated activities¹, has led to a negotiations crisis, which, in turn, has revealed the weakness and inefficiency of the system. Nevertheless, the serious crisis on the WTO forum cannot be still be identified only with the negotiations deadlock and the inability to finalize the Doha Development Round, started in 2001. Other areas, beyond the negotiating functions, which require reform and are vital from the perspective of the WTO activities, include the dispute resolution system, the notification system for trade policy means or the manner of conducting negotiations concerning multilateral agreements.

Thus, this situation compels many countries to lean towards alternative activities and protecting their own trade interests in terms of trade policy. Trade regionalism has, therefore, emerged as a key form of economic cooperation between countries in recent years. Mainly for this reason, since the turn of centuries, we have been able to witness a significant increase in the number of regional trade initiatives², predominantly in the form of bilateral or plurilateral RTAs under which more extensive and comprehensive liberalization of trade is possible, as compared to that under the WTO's aegis. As a consequence, the classic free-trade areas are being replaced by more advanced agreements with a broader scope, going far beyond the existing parties' commitments within the framework of the WTO in many areas.

This situation is also reflected in the activities of the European Union, which is seeking alternative ways of improved access to other markets, due the multilateral forum crisis. The undertaken steps are also an answer to the current changes occurring in world trade, including, among other things, growing protectionist tendencies. Among the wide array of trade deals concluded by the EU in recent years, one that merits particular attention is the EU-Vietnam Free Trade Agreement (EVFTA), signed mid-2019, which considerably expands the list of the Union's RTAs and affirms its involvement in the vital region of Asia-Pacific.

The aim of the paper is to analyze and present the essence of EVFTA as a regional trade agreement in the context of relations with the multilateral system under the WTO. The main thesis of the article is a statement that, in the face of the weakening of the WTO's position in world trade, RTAs, such as EVFTA, will constitute an effective alternative for the development of the EU's trade relations with select trading partners. Furthermore, EVFTA may contribute to strengthening the EU's position in the Asia-Pacific region, as well as lay the foundations for the future interregional agreement. Hence, the analysis of

¹ However, the entrance into force of the Trade Facilitation Agreement (TFA) is certainly an exception.

² This situation is referred to as the 'spaghetti bowl effect' illustrating the criss-crossing and overlapping RTAs on a global scale. Cf. J. Bhagwati, D. Greenaway, A. Panagariya, *Trading Preferentially: Theory and Policy*, "The Economic Journal" 1998, Vol. 108, No. 449, s. 1139.

reciprocal trade constituted an important backdrop for the research. The principal method employed to achieve the aims of this article was the analytical and descriptive method. The considerations presented in this paper have been based on the analysis of provisions of EVFTA as well as materials and data from the WTO, the European Commission and the Asian Development Bank. The discussion is accompanied by the information presented in the tabular form. Due to the extent and complexity of the subject, the author has focused on selected aspects of the problem.

Trade regionalism and the WTO multilateral trading system under the conditions of reform

Walter Goode describes trade regionalism as a set of actions by governments to liberalize or facilitate trade in a region by means of trade deals taking the form of Regional Trade Agreements (RTAs) or Preferential Trade Agreements (PTAs).³ On the other hand, to quote the definition employed by the WTO, RTAs refer to any reciprocal trade agreement between two or more partners.⁴ The ever-increasing number of RTAs is a defining feature of the present-day international trade and the WTO members which are involved in them are obligated to inform the organization about the newly-created agreements.⁵ WTO members are, nevertheless, permitted to enter into such arrangements. It is related to the general WTO rule, i.e., the Most Favored Nation (MFN) clause and acknowledging that there are certain exceptions to this rule, the most crucial of which is forming free trade zones and customs unions on the basis of preferential treatment for their members, while, at the same time, respecting the provisions of Article XXIV of GATT.⁶ To be in consonance with this article, an agreement ought to cover “substantially all trade”. One of the most significant provisions of the article, or rather the Understanding of its interpretation of 1994, is the stipulation that the goal of free trade zones or customs unions should be facilitating trade between parties to such agreements, and, at the same time, not raising new barriers in trade with

³ W. Goode, *Dictionary of Trade Policy Terms*, 4th edition, Cambridge University Press, Cambridge 2003, s. 302.

⁴ We may find cases in the subject literature that the terms Regional Trade Agreements (RTAs) and Preferential Trade Agreements (PTAs) are sometimes used interchangeably. According to the WTO, PTAs refer to non-reciprocal trade preferences. The author of the present paper relies on the definition by the WTO, and thus, applies the indicated distinction. Cf. Regional trade agreements and the WTO: Introduction, WTO, https://www.wto.org/english/tratop_e/region_e/scope_rta_e.htm [accessed: 2.04.2020].

⁵ The WTO's rules, WTO, https://www.wto.org/english/tratop_e/region_e/regrul_e.htm [accessed: 21.03.2020].

⁶ These exceptions also include the so-called Enabling Clause, which refers to PTAs on trade in services, for both, developed and developing countries.

fellow WTO members. In other words, regional integration ought to complement the multilateral trading system rather than pose a threat to it.⁷

Despite the fact that regional trade agreements appear to stand in contradiction to the WTO rules, the vital issue, in this case, is the opinion of the organization itself, which emphasizes that such agreements may bolster the multilateral trading system. They cannot, however, replace, but rather, complement greater cooperation among WTO members.⁸ They allow a small group of countries to negotiate rules and commitments which go beyond the scope of multilateral negotiations. As a result, by taking advantage of the experience gained in regional agreements, some of them have paved the way for multilateral agreements within the WTO framework.⁹ In this respect, it should be stressed that as the number of RTAs was on the rise, the disputes over defining the role of this process for the organization itself as well as the multilateral trading system did not cease. On the one hand, as previously mentioned, this trend was deemed to be positive, bolstering and complementary for the WTO¹⁰, on the other hand, trade regionalism was considered detrimental and “undermining” the multilateral trading system.¹¹ Jaghdish Bhagwati even described RTAs as “termites of world trade”.¹²

It would, thus, seem that the WTO, while being aware of the growing tendency towards regionalism, also recognizes the problems that it can pose to the global trading system. There are, indeed, a few challenges related to regionalism that the WTO is faced with, however, the most significant one does not concern the abovementioned, permitted MFN exemption, i.e. Article XXIV of GATT. In the situation when each member of the organization is involved in at least one such agreement (some are party to several dozen such deals), it may,

⁷ Regionalism: friends or rivals?, WTO, https://www.wto.org/english/thewto_e/whatis_e/tif_e/bey1_e.htm; *Understanding on the Interpretation of Article XXIV of the General Agreements on Tariffs and Trade 1994*, https://www.wto.org/english/docs_e/legal_e/10-24.pdf [accessed: 22.03.2020].

⁸ *Help WTO keep up the Bali momentum, Azevêdo asks parliamentarians*, DG Roberto Azevêdo speech, WTO, 12.02.2014, https://www.wto.org/english/news_e/spra_e/spra7_e.htm [accessed: 30.03.2020].

⁹ It mainly concerns the issues related to services, intellectual property, investments and competition policies.

¹⁰ In this context, another important issue is the protection against marginalizing the acceding country's position in the world market. See: R. Baldwin, *Multilateralising Regionalism: Spaghetti Bowls as Building Blocs on the Path to Global Free Trade*, “The World Economy” 2006, Vol. 29, No. 11, s. 1466–1468.

¹¹ Putting aside the impact on the shift of trade flows (e.g. by the occurrence of the effect of trade diversion), this situation may destabilize the regulatory function of the system as well as distort its “transparency”.

¹² J. Bhagwati, *Termites in the Trading System. How Preferential Agreements Undermine Free Trade*, Oxford University Press, New York 2008, s. 49–50.

therefore, be stated that we may be dealing with a situation when this exception has become the rule.¹³

Nevertheless, it could certainly be argued that the problem is the shifting of the center of gravity and interest of some countries to regional agreements exclusively. In spite of numerous declarations and emphasizing the importance of the multilateral system by many players in the international arena, their focus on regional agreements has successively destabilized the multilateral trading system and has inexorably led to the weakening of the WTO's position in world trade. Certainly, it was not the only reason¹⁴ which has led the WTO to the moment when only a fundamental reform may be able to allow the organization to regain its relevance in the global market. Nonetheless, in retrospect, it seems that it was the root cause of the problem.

The failure of XI Ministerial Conference arrangements was enough to reaffirm the conviction about the multilateral forum crisis and raised questions concerning the reason for waning of the WTO's position, as well as the fate of the organization acting as the principal negotiations forum in world trade, particularly in the context of the proliferation of RTAs. We have, for some time, been faced with the dilemma over the role that the WTO plays and will play in the future, especially against the backdrop of the WTO's contribution to the development of the world economy and fight against protectionism, which may be a priority issue¹⁵ in the face of the current situation in the global economy (and the expected world crisis caused by the COVID-19 pandemic and the resultant increase of safeguard measures by numerous countries).

The waves of trade regionalism and GATT/WTO – the characteristics of the newly-formed RTAs and reasons for their proliferation

There were three waves of trade regionalism in the post-war world economy¹⁶: the 1950s and 1960s, from mid-1980s to mid-1990s and from the turn of the 20th and 21st century.

¹³ M.G. Plummer, *The Emerging "Post-Doha" Agenda and the New Regionalism in the Asia-Pacific*, "ADBI Working Paper" 2012, No. 384, s. 6.

¹⁴ The problem of negotiations crisis is a complex one and it is related to numerous issues such as difficult negotiations over agriculture, an increase in the number of members representing different interests or the adopted negotiations formula, i.e. the single undertaking principle according to which "nothing is agreed until everything is agreed". See more: E. Majchrowska, *Perspektywy działalności Światowej Organizacji Handlu w obliczu nowych tendencji w handlu światowym – efekty XI Konferencji Ministerialnej WTO*, „Krakowskie Studia Międzynarodowe” 2018, No. 4, s. 241–262.

¹⁵ *Ibidem*.

¹⁶ *The WTO and preferential trade agreements: From co-existence to coherence*, WTO, Geneva 2011, s. 5, https://www.wto.org/english/res_e/booksp_e/anrep_e/world_trade_report11_e.pdf [accessed: 24.03.2020].

The first wave of regionalism in the late 1950s and 1960s had been prompted by Western Europe's aspirations for continental integration, which led to the founding of European Economic Community (EEC) in 1957 and the European Free Trade Agreement (EFTA) in 1960. Over that period, the significant GATT activities were the tariff reduction and membership enlargement efforts within the Dillon Round in 1960–1961 and then, the Kennedy Round between 1964 and 1967.¹⁷

The second wave of regionalism began in mid-1980s, which was a period when the ongoing processes of regionalism in Europe (deepening and widening of integration) coincided with similar tendencies in the region of North America (the signing of CUFTA, later replaced by NAFTA). It was also a period of building integration initiatives in South America (MERCOSUR) as well as Asia (AFTA and APEC).

The third wave of regionalism occurred at the turn of the 20th and 21st century. The participants of this wave were the European Union and the United States, however, other countries, formerly uninterested in the processes of regional integration, e.g. Japan¹⁸ also became active. Nevertheless, it was stressed then that the concluded RTAs were intended to complement activities undertaken in the multilateral forum.¹⁹

While analyzing the current situation related to RTAs in the world, as well as the present course of their development, we may recognize several distinguishing features that indicate a profound change in their structure in comparison to the agreements in earlier decades. It mainly concerns the numerical advantage of bilateral agreements over plurilateral ones, the affiliation of countries to several different regional agreements at the same time, as well as the significant variety and expansion of the thematic scope of those agreements. Furthermore, the present-day RTAs are often concluded between developed and developing countries, often by non-neighboring states, as well as definitely more open to accession of new participants in the future, which is often highlighted in preambles of those agreements, particularly, however, in the case of the plurilateral ones.²⁰

Despite the fact that we may indicate a few reasons for the proliferation of RTAs in the world, the chief cause among all of them is the long-standing

¹⁷ *Ibidem*.

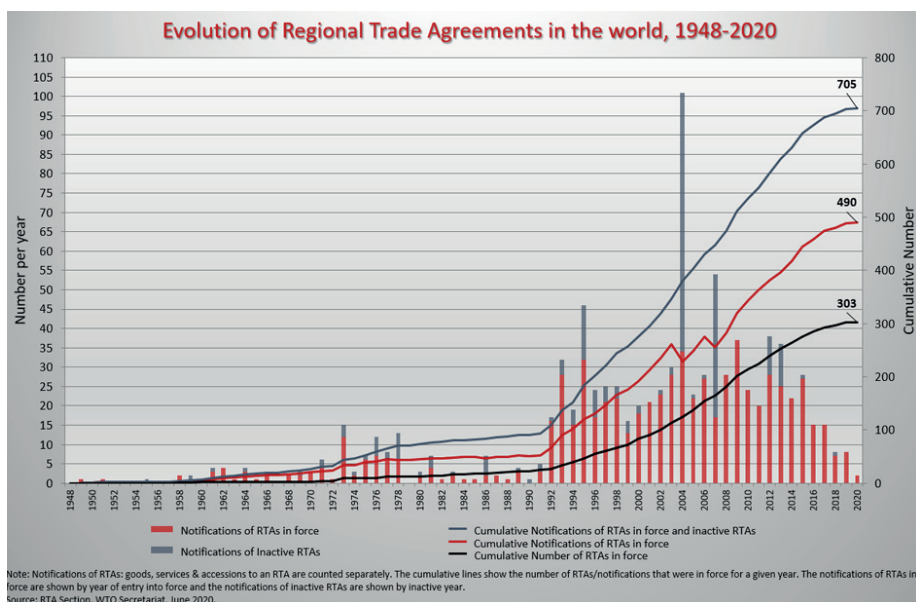
¹⁸ In the same year when Japan signed its first agreement with Singapore, the country announced a new strategy for free trade agreements. Cf. E. Majchrowska, *Umowa o Partnerstwie Gospodarczym między UE a Japonią jako nowy wymiar wzajemnych relacji handlowych. Wnioski dla Polski*, „Krakowskie Studia Międzynarodowe” 2019, No. 2, s. 59–84.

¹⁹ K. Śledziewska, *Znaczenie trzeciej fali regionalizmu w regulowaniu współpracy międzynarodowej*, https://www.ue.katowice.pl/fileadmin/_migrated/content_uploads/15_K.Sledziewska_Znaczenie_Trzeciej_Fali...pdf [accessed: 22.03.2020].

²⁰ *Multilateralizing Regionalism. Challenges for the Global Trading System*, eds. R. Baldwin, P. Low, Cambridge University Press, Cambridge 2009, s. 3.

negotiations impasse in the WTO, which resulted in the necessity to take actions aimed at reforming the multilateral system. As a consequence, RTAs have come to the foreground, and their participants expect further liberalization of trade. It needs to be pointed out that all WTO members belong to at least one trade agreement. This trend is unquestionably characterized by a growing tendency, particularly owing to numerous RTAs that are currently being negotiated, however, we may also observe noticeably diminishing dynamics over the recent years (see Fig. 1).²¹

Figure 1. Evolution of RTAs in the world, 1948–2020



Source: Regional trade agreements, WTO, https://www.wto.org/english/tratop_e/region_e/region_e.htm [accessed: 20.03.2020].

Until 1990, the total number of concluded agreements stood at 30, while, it reached almost 160 up to the year 2000. According to the WTO figures for January 2020, the organization had received 698 notifications of regional trade agreements counting goods, services as well as member accessions separately. If notifications are taken as a whole, the number of agreements physically in force was 483, with 303 of those being active. The agreements primarily took the form of free trade areas (almost 90%), whereas the remaining ones were customs unions.²²

²¹ Regional trade agreements: Facts and figures, WTO, https://www.wto.org/english/tratop_e/region_e/regfac_e.htm [accessed: 23.03.2020].

²² Regional trade agreements, WTO, https://www.wto.org/english/tratop_e/region_e/region_e.htm [accessed: 20.03.2020].

It should be stressed that in the first decade of 21st century, in trade regionalism, the dominant force were bilateral agreements. The second ten-year period saw a substantial rise of interest in Mega-Regional Trade Agreements (MRTAs), most of which are, however, under negotiation.

RTAs as a key element of the EU's trade policy

The EU's trade policy ought to be perceived in the light of two crucial factors. The former is the EU's position of a key trading partner for a number of countries, the latter – the dynamics of change in the world economy.

The trade policy of the EU is based on three levels of operations: an active role in multilateral negotiations in the WTO, deepening bilateral relations with individual countries or regions as well as the so-called non-reciprocal trade preferences. Taking into consideration the decreased effectiveness of multilateral cooperation under the aegis of the WTO, a particularly important role, from the perspective of the EU trade policy, is played by bilateral agreements that go beyond the rigid framework of commodities trading and tariff reduction. This approach is related to the gradual exhaustion of possibilities in the process of trade liberalization itself, therefore, the key players of the world economy, in particular – the EU, aim to identify new areas of cooperation so as to foster further development and strengthen the existing economic ties.²³ The above-mentioned necessity for reforming the multilateral system is not without significance, in this context.²⁴

Therefore, taking into consideration the growing trend regarding the number of concluded RTAs, as well as the current situation in the global market, the WTO's crisis and the EU's position in the world economy, attention must be drawn to the 2015 EU trade and investment strategy – “Trade for All”, which is intended to enable more effective implementation of trade deals as well as create new opportunities in this regard. However, the strategy accentuates the complementary, in relation to activities within the WTO, character of bilateral agreements. It is stressed that the multilateral system must remain the foundation of the Union trade policy since the WTO rulebook is the groundwork of the world trading order. On the one hand, the EU is planning to conclude further regional

²³ B. Michalski, *Porozumienia regionalne w świetle zasad WTO*, Uniwersytet Wrocławski, https://www.ism.uni.wroc.pl/sites/ism/art/michalski_porozumienia_regionalne_w_swietle_zasad_wto.pdf [accessed: 22.03.2020].

²⁴ The EU is considering ways to modernize the WTO and to that end, has undertaken cooperation with other members of the organization. As a result, as early as September 2018, the EU presented its comprehensive approach for the modernization of the World Trade Organization. See more: *European Commission presents comprehensive approach for the modernisation of the World Trade Organisation*, European Commission, 18.09.2018, https://ec.europa.eu/commission/presscorner/detail/en/IP_18_5786 [accessed: 2.04.2020].

free trade agreements, and, on the other, it also stresses the necessity for giving the multilateral negotiations in the WTO framework a new impetus. Nevertheless, in order for the WTO to regain the position of the leader of liberalization of world trade and its role of the pre-eminent forum for trade negotiations, the WTO needs first to conclude the Doha Development Round, which, as it has become apparent, will not be possible without reforming the system.²⁵

The EU trade policy concentrates, on the one hand, on developed countries, with the notable examples of the existing deals with Canada (CETA) and Japan (EPA), which are to clearly demonstrate a stance against the growing protectionist tendencies in the world economy.²⁶ No less important are developing countries, which are playing an increasingly large role in the world economy. It mainly concerns the dynamically developing economies of the Southeast Asia such as Vietnam, which are becoming a key market for exporters and investors from the European Union. The EU's pivot to Asia is by no means an isolated case. A number of countries have currently adopted the policy of trade diversification and focusing greater attention on Asian markets, since they have enormous economic potential. Furthermore, Vietnam is a neighbor of China and maintains close relations with the USA. Taking into account also the present situation in the world economy, it is crucial for the EU to strengthen the ties with this country.

In 2007, the EU initiated negotiations on forming an interregional free trade zone with the Association of Southeast Asian Nations (ASEAN), which, as a whole, is the third-largest trade partner of the EU outside of Europe – following the USA and China. The negotiations over a trade deal, however, got suspended after two years, chiefly due to the slow progress of the talks. In their place, it was proposed to begin bilateral negotiations with individual members of the group, while, at the same time, maintaining the strategic goal of concluding an interregional deal.²⁷ The first on the agenda were the bilateral talks with Singapore, then Malaysia (2010), Vietnam (2012), followed by Thailand (2013), the Philippines (2015) and Indonesia (2016).²⁸ Signing the agreement with Vietnam represents an important step towards a potential free trade deal between the EU and ASEAN.

²⁵ The strategy stressed the necessity of taking actions within the framework of the WTO but also maintaining bilateral contacts. Thus, emphasis is placed on concluding the ongoing trade negotiations, in particular, with countries of the greatest economic potential, as well as better implementation of the agreements in force, with a particular focus on non-tariff barriers to trade. Cf. European Commission, *Trade for all. Towards a more responsible trade and investment policy*, Publications Office of the European Union, Luxembourg 2015, doi: 10.2781/472505 • 10.2781/1753.

²⁶ See more: E. Majchrowska, *Umowa o Partnerstwie Gospodarczym...*, *op. cit.*, s. 62–63.

²⁷ European Commission, *Proposal for a Council decision on the conclusion of the Free Trade Agreement between the European Union and the Socialist Republic of Viet Nam*, COM(2018) 691 final, Brussels, 17.10.2018, [https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2018/0691/COM_COM\(2018\)0691_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/com/2018/0691/COM_COM(2018)0691_EN.pdf) [accessed: 25.03.2020].

²⁸ *Overview of FTA and Other Trade Negotiations*, European Commission, http://trade.ec.europa.eu/doclib/docs/2006/december/tradoc_118238.pdf [accessed: 25.03.2020].

As it is stressed in the abovementioned “Trade for All” strategy, intensifying trade relations with ASEAN remains a key priority for the EU.²⁹

It should, therefore, be noted that the wide array of trade deals concluded by the EU increases year by year. This is a decidedly upward trend, primarily owing to a large number of RTAs which are currently under negotiation. As regards the EU, the number stands at over fifty regional agreements, of which almost a quarter is, at the moment, being negotiated or is awaiting entry into force.³⁰

Vietnam as a trade partner of the EU in the light of the WTO membership

The second half of 1980s was a period in which the Vietnamese market opened to the world, as a consequence of, among other things, the so-called Doi Moi reforms (which translates as “revival” or “wind of change”). As a result, over the last two decades, Vietnam reached the average annual growth rate of its GDP of almost 6% and, importantly, this growth was also very stable, even during the 2007/2008+ world economic crisis (see Table 1).³¹

Table 1. Increase of Vietnam’s GDP in selected years, over the period of 2000–2018 (% of GDP)

Year	2000	2005	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
(%)	6.8	7.5	5.7	5.4	6.4	6.2	5.2	5.4	6.0	6.7	6.2	6.8	7.1

Source: *Key Indicators for Asia and the Pacific 2019*, Asian Development Bank, September 2019, <http://dx.doi.org/10.22617/FLS190428-3>.

A vital element of the stronger relations of the Vietnamese economy with the global economy was its joining the ranks of the WTO in January 2007. It needs to be stressed that Vietnam’s road to accession was extremely complicated, which was related both, to the difficult political and economic situation, as well as the system of foreign relations. Nevertheless, the membership in the organization constituted a crucial aspect since it was a significant driver for both, the development of this country’s economy, as well as the international trade system.³²

²⁹ „[...] an ASEAN strategy based on individual agreements as building blocks towards a region-to-region EU-ASEAN framework [...]”; European Commission, *Trade for all...*, *op. cit.*, s. 31.

³⁰ Regional Trade Agreements Database, WTO, <http://rtais.wto.org/UI/PublicSearchBy-MemberResult.aspx?MemberCode=392&lang=1&redirect=1> [accessed: 25.03.2020].

³¹ As for the GDP structure in 2018, services constituted 45.7% of GDP, industry 38.0%, and agriculture 16.3%. See: *Key Indicators for Asia and the Pacific 2019*, Asian Development Bank, September 2019, <http://dx.doi.org/10.22617/FLS190428-3>.

³² See more on the subject: *Zagraniczne inwestycje bezpośrednie w gospodarkach Azji Pacyfiku*, ed. K. Starzyk, Sempër, Warszawa 2001, s. 175–178.

Since 2008, Vietnam has been ranked as a lower middle-income economy. More importantly, the poverty rate in Vietnam dropped from approximately 75% in 1990 to about 6% in 2018. Despite numerous challenges and impediments to running a business activity by foreigners, Vietnam is widely regarded as a country with an enormous economic potential.³³

Vietnam is one of the 10 members of the Association of Southeast Asian Nations, and, following Singapore, the second largest trade partner of the EU among all the states belonging to that group. ASEAN, as a whole, holds the third position, following the USA and China, among the key non-European trade partners of the EU. Thus, ensuring improved access to the dynamically growing market of these countries is, without doubt, a priority for the EU. After the suspension of negotiations on the interregional deal, the agreement with Vietnam is intended to lay the grounds for the future trade deal between the two groups.³⁴

The EU's trade relations with Vietnam are characterized by an increasing surplus in the trade balance in favor of the Union's partner, which is, indeed, something typical for the EU's trade relations with the countries of the Asia Southeast.³⁵ In 2018, the volume of EU exports to Vietnam exceeded the value of EUR 11 bn (which constituted 0.6% to the total EU exports) and was higher by over EUR 8 bn in relation to its value from 2008. The value of imports, on the other hand, grew over this period by almost EUR 30 bn. The EU's trade deficit with Vietnam in 2018 amounted to EUR 27 bn, i.e. nearly EUR 22 bn more than in the previous decade (see Table 2).

Vietnam holds the 16th position (as of 2018) among the EU's key trade partners (it ranks 31st export market and the 10th source of imports) with its share at 1.3% of the Union's total turnover. The leading EU exporters to Vietnam are Germany, the Netherlands, the Great Britain, Italy and France, whereas the largest importers are Denmark, Great Britain, Italy, Spain and France. As a bloc, the EU is ranked fourth largest trade partner of Vietnam (2nd exports market and 4th imports source), following China, South Korea and the USA. However, it must be pointed out that it is the countries of the Asia-Pacific region that is Vietnam's primary target market. Among Vietnam's top ten trade partners, the only partner outside the region in 2018, besides the EU, was the USA, ranked 1st and 6th in Vietnam's exports and imports of goods, respectively.³⁶

³³ Ministerstwo Rozwoju, *Umowa o wolnym handlu między Unią Europejską a Socjalistyczną Republiką Wietnamu*, gov.pl, <https://www.gov.pl/web/rozwoj/umowa-gospodarczo-handlowa-ue-wietnam-evfta> [accessed: 10.03.2020].

³⁴ Countries and Regions: Vietnam, European Commission, <https://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/> [accessed: 25.03.2020].

³⁵ Countries and regions, European Commission, <https://ec.europa.eu/trade/policy/countries-and-regions/> [accessed: 15.03.2020].

³⁶ European Commission, *European Union, Trade in goods with Vietnam*, https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_vietnam_en.pdf [accessed: 15.03.2020].

Table 2. EU trade in goods with Vietnam (2008–2018)

Year	Imports			Exports			Balance bn EUR	Total trade bn EUR
	Value bn EUR	% Growth between current and previous year	% Extra-EU	Value bn EUR	% Growth between current and previous year	% Extra-EU		
2008	8.628	–	0.5	3.383	–	0.3	-5.245	12.012
2009	7.852	-9.0	0.6	3.765	11.3	0.3	-4.087	11.617
2010	9.625	22.6	0.6	4.683	24.4	0.3	-4.942	14.308
2011	12.993	35.0	0.8	5.193	10.9	0.3	-7.800	18.186
2012	18.622	43.3	1.0	5.370	3.4	0.3	-13.253	23.992
2013	21.255	14.1	1.3	5.778	7.6	0.3	-15.477	27.034
2014	22.189	4.4	1.3	6.180	7.0	0.4	-16.009	28.369
2015	29.998	35.2	1.7	8.430	36.4	0.5	-21.568	38.428
2016	32.948	9.8	1.9	9.498	12.7	0.5	-23.450	42.446
2017	37.030	12.4	2.0	10.606	11.7	0.6	-26.424	47.636
2018	38.195	3.2	1.9	11.108	4.7	0.6	-27.087	49.303

Source: European Commission, *European Union, Trade in goods with Vietnam*, https://webgate.ec.europa.eu/isdb_results/factsheets/country/details_vietnam_en.pdf [accessed: 15.03.2020].

Trade between the EU and Vietnam is dominated by industrial products. In 2018, they constituted over 88% of total exports to Vietnam and close to 90.5% of imports from this country (excluding fishery products). Vietnam mainly exports to Europe such goods as telecommunications equipment, food and clothes, while the Union's list of exports to this country chiefly includes machinery, transport equipment, chemicals and agricultural products (see Table 3).

Table 3. Commodity structure of trade flows between the EU and Vietnam – top five most vital groups of products (HS section) in 2018

Imports from Vietnam		Exports to Vietnam	
HS section	% Total	HS section	% Total
XVI Machinery and appliances	52.7	XVI Machinery and appliances	30.8
XII Footwear, hats and other headgear	10.6	XVII Transport equipment	16.4
XI Textiles and textile articles	9.8	VI Products of the chemical or allied industries	15.6
II Vegetable products	5.9	XVIII Optical and photographic instruments, etc.	5.1
XX Miscellaneous manufactured articles	3.9	IV Foodstuffs, Beverages, tobacco	4.5

Source: European Commission, *European Union...*, *op. cit.*

The European Union has also been Vietnam's significant investor since the country opened its economy to the world, particularly after the country's accession to the WTO, in 2007. Investments from EU countries mainly concern such sectors as manufacturing, electricity production, transmission and real estate. In 2018, Member States invested in nearly 140 projects in Vietnam, amounting to the total of USD 1.1 bn of registered capital. The cumulative foreign investment originating in the EU, in 2018, reached USD 24 bn, which makes the EU the sixth largest investor, following Japan, South Korea, Singapore, China and Hong Kong.³⁷

Economic cooperation between the EU and Vietnam goes beyond the traditional trade flows. Trade in services has been growing and accounts for circa 70% of GDP in Europe and 45% in Vietnam. Reciprocal trade in services is also developing dynamically. The value of trade in services between the EU and Vietnam reaches close to EUR 4 bn per year.³⁸

Table 4. EU-Vietnam trade in services (bn EUR)

Year	EU Imports	EU Exports	EU Trade Balance
2015	1.9	1.7	-0.2
2016	1.7	1.9	0.2
2017	1.8	2.3	0.5

Source: Countries and Regions: Vietnam, European Commission, <https://ec.europa.eu/trade/policy/countries-and-regions/countries/vietnam/> [accessed: 25.03.2020].

Vietnam fulfils the majority of its obligations towards the WTO, in accordance with the schedule adopted at its accession to the organization, in 2007.³⁹ Over the recent years, the Vietnamese government has made great strides in liberalization of trade with the ASEAN countries. In 2015, ASEAN Economic Community (AEC) was inaugurated, which is part of a larger project (ASEAN Community – AC) encompassing, besides the economic problems, also issues related to politics, security and culture. Trade cooperation between ASEAN and third countries is undergoing gradual liberalization, predominantly, thanks to free trade agreements with China, South Korea, India, Australia and New Zealand, as well as the economic partnership with Japan (ASEAN+6). Vietnam has also signed separate FTAs with Chile, Japan, South Korea and the Eurasian Economic Union (EEU – a customs union of Russia, Belarus, Armenia and Kirgizstan). It is

³⁷ Ministerstwo Rozwoju, *op. cit.*; *Guide to the EU-Vietnam Trade and Investment Agreements*, Delegation of the European Union to Vietnam, Updated in March 2019, s. 19, https://trade.ec.europa.eu/doclib/docs/2016/june/tradoc_154622.pdf [accessed: 15.03.2020].

³⁸ *Ibidem*, s. 51.

³⁹ WTO, *Trade policy review – Vietnam*, WT/TPR/S/287/Rev.1, 4.11.2013, https://docs.wto.org/dol2fe/Pages/FE_Search/ExportFile.aspx?id=120527&filename=q/WT/TPR/S287R1.pdf [accessed: 30.03.2020].

also a party to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).⁴⁰

EVFTA as an example of a comprehensive regional trade agreement in the light of WTO regulations

The EU and Vietnam established diplomatic relations in the 1990s. The Delegation of the European Union to Vietnam, has been operating there since 1996, which entails visits of the economic and development nature. In 2004, the EU and Vietnam finished the bilateral negotiations of Vietnam's accession to the WTO – the first two-sided deal Vietnam had with a significant WTO member – and the Agreement on Market Access which had facilitated reciprocal market access three years before Vietnam joined the ranks of the organization at the beginning of 2007.⁴¹ The accession to the WTO contributed to the increased opening of the Vietnamese market, which, as it has been illustrated in the previous section of the paper, was also conducive to improving relations with the EU.

In 2012, the EU and Vietnam signed the Partnership and Cooperation Agreement (PCA), which was ratified in 2015 and replaced the agreement of 1995.⁴² Bilateral trade and investment negotiations with Vietnam were launched in 2012 and completed in 2018. The European Union and Vietnam signed a trade agreement (EU-Vietnam Free Trade Agreement, EVFTA) and the Investment Protection Agreement on 30 June 2019, in Hanoi. EVFTA will come in force after the successful ratification procedures by the EU and Vietnam. It is estimated that the procedures will be completed by the end of 2020.⁴³ Owing to the fact that the scope of the agreement falls under the exclusive competence of the EU, its entry into force does not necessitate the signature and ratification by Member States. The provisions of the agreement will be binding for members of the EU upon the day the agreement comes into effect. The situation looks different in the case of the Investment Protection Agreement, which requires ratification by national parliaments of EU Member States.⁴⁴

⁴⁰ Ministerstwo Rozwoju, *op. cit.*; Free Trade Agreements, Asia Regional Integration Center, <https://aric.adb.org/fta-country> [accessed: 3.03.2020].

⁴¹ *Guide to the EU-Vietnam...*, *op. cit.*, s. 12

⁴² EU-Vietnam Framework Agreement on Partnership and Cooperation (PCA) entered into force in October 2016; Ministerstwo Rozwoju, *op. cit.*

⁴³ The European Parliament approved the free trade agreement between the EU and Vietnam on 12.02.2020. See: *Commission welcomes European Parliament's approval of EU-Vietnam trade and investment agreements*, European Commission, 12.02.2020, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2114> [accessed: 20.03.2020].

⁴⁴ From the day of its entry into force, the EU-Vietnam Investment Protection Agreement will replace the bilateral agreements between Vietnam and EU Member States. This agreement will be the third agreement of EU (following the EU-Canada Comprehensive Economic and Trade Agreement and the EU-Singapore Free Trade Agreement), which implement the Investment Court

In the course of negotiations of the free trade agreement with Vietnam, the European Union aimed to achieve two primary goals: first, to ensure that EU economic operators have best possible conditions for access to the Vietnamese market, second, to set another, valuable reference point (after the deal with Singapore) for negotiations conducted by the EU in this region.⁴⁵

It must be borne in mind that the agreement is not only a trade deal. Indeed, it is related to limiting and then eliminating the existing barriers. However, the most significant matters concern the so-called WTO+ or even WTO-x. The agreement, therefore, goes way beyond the existing WTO obligations of the parties in such areas as services, procurement, non-tariff barriers as well as the protection of intellectual property, including geographical indications. In all those areas, Vietnam has accepted new commitments that greatly exceed what the country was obligated to as part of other deals, including CPTPP.⁴⁶

Both countries are WTO Members, therefore, they are obliged to notify the fact of signing such an agreement to the organization and also define under which provisions of the WTO agreements the RTA is notified.⁴⁷ Thus, the agreement refers to WTO provisions, which was emphasized in the preamble and reflected in many places in the agreement where its Parties invoke provisions of agreements signed under the WTO but the scope of these provisions was extended and specified. EVFTA is composed of 17 extensive chapters, 16 annexes (including, among others, EU and Vietnam's customs tariffs rates), 2 Understandings and 4 Joint Declarations.⁴⁸

It was emphasized in the preamble that, taking into account the rights and duties arising from the WTO Agreement, the parties establish a free trade area, pursuant to Article XXIV of GATT 1994 and Article V of GATS. It was acknowledged that the agreement will complement and promote regional economic integration efforts. It was also indicated which WTO agreement the parties refer to in particular sections of the agreement.⁴⁹ The goal of the agreement has been defined as the progressive liberalization of trade in goods and improvement of market access over a transitional period starting from the agreement's entry into force.⁵⁰

As a result of EVFTA, access to the Vietnamese market for exporters and investors from EU Member States will be simplified, primarily by lifting or limiting non-tariff barriers as well as eliminating customs duties on many types of

System to resolve disputes between investors and states. See: European Commission, *Proposal for a ...*, *op. cit.*

⁴⁵ *Ibidem.*

⁴⁶ *Ibidem.*

⁴⁷ As mentioned above, in that case notification under GATT Article XXIV and GATS Article V.

⁴⁸ EU-Vietnam trade and investment agreements [EVFTA], European Commission, 24.09.2018, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1437> [accessed: 30.03.2020].

⁴⁹ Article 1.4 of EVFTA – WTO Agreements.

⁵⁰ Article 2.1 of EVFTA – Repaired Goods.

goods. Changes to tariffs also include imports to the EU of commodities originating in Vietnam. The agreement stipulates full liberalization of duties on 99% of trade between the EU and Vietnam.⁵¹ The remaining 1% will be partially liberalized by adopting the tariff rate quotas. When the FTA enters into force, 65% of customs duties on EU goods imported to Vietnam will be lifted (the remaining duties will be gradually eliminated over the period of maximum 10 years) and 71% of duties on Vietnamese commodities imported to the EU will also be lifted (the remaining duties will be gradually removed over the following 7 years, at the latest). The transition periods will be applied to the most sensitive goods such as textiles and footwear.⁵²

The European Union will not open its market completely to Vietnamese imports in the case of the sensitive agricultural products. For these products, duty-free quotas have been adopted.⁵³

In accordance with the agreement, duties will be eliminated on a number of vital EU exports:

- almost all duties on machinery and equipment will be fully lifted once the agreement comes into effect; other duties will be lifted after 5 years;
- motorcycles of a cylinder capacity exceeding 150 cc will be fully exempt from customs duties after 7 years, whereas motor cars – after 10 years;
- duties on car parts will be liberalized after 7 years;
- approximately half of pharmaceutical products from the EU will be exempt from duties once the agreement comes into force, the others after 7 years⁵⁴;
- upon entry into force of the agreement, all duties on textiles will liberalized;
- nearly 70% of chemical products from the Union will be exempt from duties on the day the agreement comes into effect, the remaining products in 3,5 or 7 years;
- duties on wine and spirituous beverages will be liberalized in 7 years;
- frozen pork from the EU will be exempt from customs duties seven years after the agreement comes into force, whereas beef after three years;
- dairy produce after five years, food preparations after maximum 7 years;

⁵¹ Article 2.7(1) of EVFTA – Reduction or Elimination of Customs Duties: “Except as otherwise provided for in this Agreement, each Party shall reduce or eliminate its customs duties on goods originating in the other Party in accordance with its respective schedule included in Appendices 2-A-1 (Tariff Schedule of the Union) and 2-A-2 (Tariff Schedule of Viet Nam) of Annex 2-A (Reduction or Elimination of Customs Duties)”.

⁵² Ministerstwo Rozwoju, *op. cit.*; *Guide to the EU-Vietnam Trade...*, *op. cit.*, s. 26–27.

⁵³ They will include rice, corn, garlic, mushrooms, eggs, sugar and products with a high sugar content, amongst others.

⁵⁴ Article 2.21(1) of EVFTA – Elimination of Sector-Specific Non-Tariff Measures: “The Parties shall implement their commitments on sector-specific non-tariff measures on goods as set out in Annexes 2-B (Motor Vehicles and Motor Vehicles Parts and Equipment) and 2C (Pharmaceutical/Medicinal Products and Medical Devices)”.

- duties on poultry will be gradually reduced to 0 per cent over the following 10 years.⁵⁵

In addition to lifting import duties, Vietnam will also eliminate export duties, which are currently in force in the reciprocal trade with the EU. What is more, the country will not raise the rates of these duties, which will be maintained by way of exception.⁵⁶

Vietnam has committed itself to increased adherence to international standards in rulemaking. The agreement also includes a chapter concerning sanitary and phytosanitary measures so that trade in plant and animal products could be facilitated.⁵⁷

The agreement will open the Vietnamese market of services and public procurement to economic entities from the Union. EU companies will be eligible to participate in the public procurement procedures of Vietnamese ministries and state enterprises, as well as the two largest Vietnamese cities, i.e. Hanoi and Ho Chi Minh City.⁵⁸

The agreement affords a high level of protection of intellectual property rights, e.g. in terms of enforcement of these rights, but also includes specific provisions related to copyright, providing for its improved protection.⁵⁹ EVFTA guarantees protection of 169 agricultural products and foodstuffs, wines and spirits (include, among others, *Champagne*, *Feta*, *Polska Wódka* / Polish vodka, *Wódka "Żubrówka"* / bison grass vodka), which are protected in the EU by means of geographical indications, pursuant to Article 22 and 23 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).⁶⁰

The agreement also contains a comprehensive chapter on trade and sustainable development, according to which trade is intended to foster labor law, environmental protection and social development, as well as contribute to sustainable forest management and fishery management. This chapter also defines commitments pertaining to the application of international standards as well as those connected with efforts leading to the ratification of a number of international conventions. The agreement includes commitments to implementing the basic standards of the International Labor Organization (e.g. those related to the freedom to join independent labor unions, prohibition of child labor or abolition

⁵⁵ In the multilateral context, the Parties share the objective of the parallel elimination and prevention of the reintroduction of all forms of export subsidies and disciplines on all export measures with equivalent effect for agricultural goods. Cf. EVFTA and *Guide to the EU-Vietnam...*, *op. cit.*, s. 26–27.

⁵⁶ Annex 2-A to EVFTA, Section B – Tariff Rate Quotas.

⁵⁷ Chapter 6 of EVFTA – Sanitary and Phytosanitary Measures.

⁵⁸ Chapter 8 of EVFTA – Liberalization of Investment, Trade in Services and Electronic Commerce.

⁵⁹ *Guide to the EU-Vietnam...*, *op. cit.*, s. 44.

⁶⁰ *Ibidem*, s. 48 and Annex 12-A to EVFTA – List of Geographical Indications.

of any forms of forced labor) and UN conventions on, among others, combating climate change or biodiversity conservation.⁶¹

Due to the fact that an increasing number of EU economic operators are selecting Vietnam as their hub to service the Mekong region⁶², the agreement will provide them with the most favorable access conditions to the Vietnamese market.

It is estimated that once the agreement is fully implemented, the value of uncollected customs duties may reach EUR 1.7 bn. The projections are based on average import volumes expected in 2035, in the case of the absence of the agreement, and represent the annual loss in revenues due to the elimination of customs duties levied by the EU on imports from Vietnam. The outcomes with regard to the Gross National Income have been estimated at EUR 13 bn for the EU, whereas for Vietnam at EUR 7.6 bn.⁶³

Stronger economic ties with this country will constitute a solid foundation for enhanced integration with wider Asia-Pacific value chains, and improving these relations remains a priority for the EU. The agreement will, thus, contribute to boosting competitiveness of the EU goods also in relations with those countries which have concluded FTAs with ASEAN or have bilateral trade deals with individual members of this group, and which are also important trade partners of the EU.

Conclusions

The ever-expanding and progressive crisis in fulfilling its key roles by the WTO, leading this organization towards sweeping reforms, is the primary reason behind the proliferation of Regional Trade Agreements (RTAs) all over the world. A growing trend in this regard could be observed in actions taken by the European Union, which, in the face of the said stalemate is searching for alternative ways to secure its trade interests. Furthermore, the current situation in international trade (related to, among other things, the American protectionism) compels the EU to strengthen collaboration with other, more predictable, trade partners.

The complementary character of the EU's RTAs, in relation to the negotiations within the WTO framework, has been reflected in the provisions of EVFTA. It may, thus, be concluded that, in reference to the multilateral system, the agreement conforms with the provisions of Article XXIV of GATT, since it covers "substantially all trade" and is also compliant with the WTO rules. Similarly, the condition from Article V of GATS, i.e. "substantial sectoral coverage" has also

⁶¹ Chapter 13 of EVFTA – Trade and Sustainable Development.

⁶² Owing to its good connectivity and a central location within ASEAN. Cf. E. Majchrowska, *Asian Development Bank and its Impact on Improving Security in the Asia-Pacific Region*, „Bezpieczeństwo. Teoria i Praktyka” 2019, No. 4, s. 119–134.

⁶³ European Commission, *Proposal for a...*, *op. cit.*

been met since “‘services’ means any service in any sector [...]”.⁶⁴ Importantly, from the perspective of the analysis, references to the WTO agreements and rules may be found in virtually every chapter. Building upon the work of the organization, reaffirms that the rules of the system created under the WTO, admittedly, not quite perfect, often become the foundation for cooperation between countries, also in the regional dimension.

By including issues not yet suitable for discussion at the multilateral level and going beyond opening markets, RTAs, such as EVFTA, will serve as a stepping stone for the future liberalization by building grounds for the next stage of multilateral liberalization.

It, therefore, appears that the coexisting systems of trade policy – multilateral and regional – despite being two dissimilar, rival systems, will still play an important role in the global economy. The EU holds a prominent place in both of them. However, given the current weakening of the WTO’s relevance, RTAs are becoming Brussels’ main focus. Having regard to the role played in the world economy by the EU, this discriminatory solution complicates the situation in the multilateral trading system, yet, it certainly strengthens the EU’s position in negotiations.

On the other hand, however, in the situation when economic entities of the world economy are more interconnected than ever, and the overlapping RTAs are making the global trading system increasingly intricate, it would be difficult to imagine world trade without the WTO. Nevertheless, the success in reforming the primary functions of the organization will depend heavily on the resolve of its members.

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⁶⁴ Except services supplied in the exercise of governmental authority; Article 8.2 – Definitions, (1)(o) of EVFTA.

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Regionalizm handlowy i jego odniesienie do wymagającego reformy systemu wielostronnego w ramach WTO – przypadek EVFTA

Rozszerzający się i postępujący kryzys w wypełnianiu kluczowych funkcji WTO, prowadzący organizację w kierunku gruntownej reformy, jest głównym powodem proliferacji regionalnych porozumień handlowych (Regional Trade Agreements, RTAs) na całym świecie. Zwykły trend w tym zakresie można zaobserwować również w działaniach podejmowanych przez Unię Europejską. RTAs stanowią coraz bardziej istotny element polityki handlowej UE, a szczególnie zauważalne jest w tym kontekście zainteresowanie regionem Azji Pacyfiku. Celem artykułu jest analiza i przedstawienie istoty umowy o wolnym handlu między UE a Wietnamem (EU-Vietnam Free Trade Agreement, EVFTA) jako regionalnego porozumienia handlowego w kontekście relacji z systemem wielostronnym w ramach WTO. Zawarta z Wietnamem umowa o wolnym handlu może przyczynić się do umocnienia pozycji UE w regionie Azji Pacyfiku, a także stanowić

podwaliny dla przyszłej umowy międzyregionalnej UE i ASEAN. Dzięki uwzględnieniu zagadnień nienadających się jeszcze do dyskusji na szczeblu wielostronnym, RTAs, takie jak EVFTA, będą również stanowiły podstawę dla następnego etapu wielostronnej liberalizacji handlu. Czerpanie z dorobku organizacji potwierdza zatem, że reguły systemu stworzonego w ramach WTO, z pewnością nie do końca doskonałego, stają się często podstawą współpracy również w wymiarze regionalnym.

Słowa kluczowe: EVFTA, regionalizm handlowy, RTAs, UE, WTO

Trade Regionalism and its Relevance to the Multilateral System Within the WTO in Need of Reform – The Case of EVFTA

The ever-expanding and progressive crisis in fulfilling its key roles by the WTO, leading this organization towards sweeping reforms, is the primary reason behind the proliferation of Regional Trade Agreements (RTAs) all over the world. The growing trend in this regard could also be observed in actions taken by the European Union. RTAs constitute an increasingly more significant element of the EU's trade policy, with the region of Asia-Pacific being of particular interest in this context. The aim of the paper is to analyze and present the essence of EU-Vietnam Free Trade Agreement (EVFTA) as a regional trade agreement in the context of relations with the multilateral system under the WTO. The free trade agreement concluded with Vietnam may contribute to strengthening the EU's position in the Asia-Pacific region, as well as lay the foundations for the future interregional agreement between the EU and ASEAN. By including issues not yet suitable for discussion at the multilateral level, RTAs, such as EVFTA, will serve as a stepping stone for the future liberalization by building grounds for the next stage of multilateral liberalization. Building upon the work of the organization, reaffirms that the rules of the system created under the WTO, admittedly, not quite perfect, often become the foundation for cooperation, also in the regional dimension.

Key words: EU, EVFTA, RTAs, trade regionalism, WTO