



European
University
Institute

ROBERT
SCHUMAN
CENTRE FOR
ADVANCED
STUDIES

Mega-Regionals, Excluded Nations and the WTO post-Bali

Bernard Hoekman

European University Institute and CEPR

Trade and Investment for Tomorrow: Promoting Asia-Pacific Regional Integration, ARTNeT Research Workshop

Macao, China, December 10-12, 2013



Background

- Doha deadlock: ‘Elephants’ cannot agree
 - Negotiating set too small; status quo not too bad (BATNA...); neither US/EU or BRICS in the market for significant liberalization
 - China “fear factor” & geo-politics
- Shift by US (and EU) to “mega-regionals”
- Aim: “21st century agreements” – FDI, SOEs, state aid, IPRs; data protection, digital trade, etc.
 - Focus on regulation as source of trade costs and market segmentation



Further steps down a well-trodden road

- EU: Long-standing strategy
 - ACP—EPAs; Association & Partnership agreements; EU-Korea; EU-Canada; now TTIP,
- US: TPP—2nd major effort (previous: FTAA)
- “Plurilateral” trade in services negotiations
- RCEP, AEC etc. in East Asia
- Tripartite in Africa (SADC, COMESA, EAC); Eurasian Customs Union, many more



MFN vs. non-MFN clubs

- PTAs \neq critical mass “plutilaterals” like the ITA
- Most countries not part of the new PTA initiatives
 - PTAs \neq open regionalism
 - Most are geographic in nature/design
 - A Trade in Services Agreement will be open but it is not going to a multilateral agreement; MFN?
- Impacts of mega-regionals on non-members depends on what is negotiated—unknown at this point
- Experience to date with large regional deals has been very mixed – FTAA, ASEAN+, COMESA, etc.
- Some bilaterals seem to have better track record



Upsides and downsides

- ***Positive***: PTAs as laboratories—forums to make progress on rule-making and new forms of cooperation in areas not covered by the WTO
- ***Negatives***: (i) opportunity cost of “non-WTO”; (ii) trade diversion costs; (iii) global systemic costs
 - Diversion: Most tariffs now low; there are already many PTAs in place that imply preferential access
 - But the new blocs may define different rules of the game and negatively affect excluded countries
 - Diverging approaches likely; multi-tier trading system, especially if mega-regionals succeed and China stays out



Options for “excluded” nations

- Re-vitalize WTO process—finish DDA; expand it; kill it off and start fresh
 - Does the Bali deal signal a change in dynamics?
- Jump on the trains that appear to be moving
 - Conclude/deepen own PTAs
 - Participate in those PTAs that are open (e.g., TISA)
 - Connect with the (members of) mega-regionals
- Kick start the car that is stuck: employ the WTO “machinery” to better effect



Some options to kick-start the WTO option(s)

1. Use WTO mechanisms to learn from PTA experiences
2. Use DSU to enforce key aspects of own PTAs
3. Leverage the transparency function—cut across WTO “silos” by cooperating with business
4. Pursue small group efforts to discuss new areas for cooperation/rule-making
5. Use the WTO plurilateral agreement option — embrace more variable geometry



1. Learning from PTAs

- Much of what is at issue in mega-regionals revolves around regulatory policies
 - Product standards; services policies; border management & security; privacy/data/the Cloud, etc.
- Hard to negotiate using first difference techniques
 - Need agreement on – and application of – principles (“good practices”)
 - And on ‘equivalence’ of norms/certification processes
- But, if PTAs deliver new rules/approaches (big if!), they offer potential for learning & emulation



1. Learning from PTAs

- Knowledge as a public good
- Mandate WTO Secretariat to go beyond documenting PTA coverage/provisions
- Assess and analyze the implementation of PTAs:
 - **Information:** What is actually done? Focus on institutional aspects, not just on legal texts/provisions
 - How does it work? Who does what? What problems arose? How were they addressed?
 - **Impacts:** What are the effects/results? Costs vs. benefits; incidence analysis—distributional effects



2. Broaden use of the DSU?

- Most PTAs have limited enforcement options (ignoring ISDS for FDI under BITs)
- In principle, 2 parties that agree to go to the WTO to adjudicate a PTA dispute have substantial freedom to do so
- May be particularly useful to countries with limited capacity for specific issues that are important economically – e.g., trade facilitation



3. Recognize policy silos: leveraging transparency

- Sector-specific regulation may not consider economy-wide/trade effects
- Start a process to help cut across “silos” created by sector-specific approaches
- Enhance the relevance of the WTO by working with the business community
- Focus on trade (competitiveness) impacts of policies



3. Recognize policy silos: leveraging transparency

- E.g., “supply chain councils” (F&D Dec. 2013)
 - Involve business in a process to identify and analyze the main policies that affect a supply chain
 - Much of this will revolve around services and regulation
 - Leverage firm-level and industry association data on supply chain performance/frictions
- Role for WTO secretariat to address incentive constraints; a trusted intermediary for business and governments?



4. Small group cooperation

- Revisit the past: working groups; work programs
- Nothing prohibits sub-sets of WTO members to form groups to discuss specific policy areas
 - E.g., the groups that were formed on the Singapore issues
 - E.g., suggestion by Costa Rica at 2013 public forum to launch a group focusing on FDI policies
- Opportunity to interact with other international organizations and business & NGOs
 - E.g.: a GVC group
- Multilateral or plurilateral? Formal or informal?
 - An OECD type model? Or, keep it informal and just inform WTO membership as a whole periodically?



5. Plurilateral agreements (Annex 4 WTO)

- Plurilateral agreement option offers vehicle for moving forward on new issues
 - Incl. multilateralization of *specific features* of PTAs
- A way of leveraging the knowledge/learning option
 - Allows those not interested to stay out
 - Ensures openness: no-one can be kept out
 - Ensures transparency: WTO machinery (Committee, etc.)
 - If there are binding commitments, gives access to DSU



5. Plurilateral agreements (Annex 4 WTO)

- Many possible policy areas:
 - Border management; logistics/supply chains; investment policies; business and professional services; Mode 4/visa cooperation
- Necessary conditions:
 - Relax consensus rule—viz. approach towards Enhanced Cooperation Agreements in EU
- Will require leadership by countries that are not core members of mega-regionals
 - China? Costa Rica? Cameroon?
 - Whoever takes initiative, will need a coalition



5. Possible concerns about plurilaterals

- Creates a multi-tier system – variable geometry
- New rules written by sub-set of WTO members
 - Precedent setting effect; may preclude expansion over time
- Undercuts MFN
- Resource burden on WTO
- All valid. But:
 - We already have a multi-tier system
 - Rules are being written in the (mega) PTAs – why not do some of this at WTO? Why force countries to use PTAs?
 - MFN will apply for market access issues covered by WTO (that is why sectoral deals must be critical mass deals); for WTO-X issues there is no MFN
 - Members can be charged for costs for servicing by WTO



Conclusion: Two questions and a big unknown

1. Clear need for more variable geometry. For it to happen some countries need to make a case for it in the WTO and build coalitions to so. Who will take the lead?
2. Can it be done in the WTO? Or is all this simply too far out of the comfort zone and modus operandi of the organization and better done elsewhere?
 - Much depends on what will be achieved in the mega-regionals—still very much an open question.
 - At end of the day China and US/EU need the WTO – see Wolfe 2013 EUI working paper



Research program/agenda

- New project involving SAIIA (S. Africa), KIEP, IPEA/Vargas (Brazil), CPD (Bangladesh), Cordell Hull Institute (US), EUI, World Bank and others
- Series of roundtables informed by research on post-Bali agenda for the multilateral trading system from the perspective of “the rest of the world”
- Examples of questions/focus areas:
 - “Mechanism design” for regulatory cooperation;
 - When is this needed (what spillovers are a driver)? What can/should be learned from PTA successes and failures (e.g., TABD; MRAs)?
 - How to work with business on supply chain impact of policies?