

Open Regionalism in East Asia

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Introduction

In the trade world of 2009, we can expect all the action to be in the regional arena. Regional trade agreements are the engine of innovation in developing new forms of economic and trade cooperation and liberalization. In particular, these agreements are the test beds for new forms of “WTO Plus” agreements and initiatives. The way things are going in Geneva, it might take the world at large decades to take up these ideas in the World Trade Organization.

A word about the Doha Round. The Round is cruelly being kept alive when it should have died years ago. Those who think that the new Obama Administration will come to the rescue of this deeply flawed exercise are, I believe, going to be disappointed. Trade policy is unlikely to be a priority for Obama. In Washington, the National Association of Manufacturers, the Coalition of Service Industries and the farm lobby groups have all gone on the record with their views that what was on the table in Geneva in July is no longer an acceptable basis for a Doha result.

I don't expect to see the Obama team launch a series of protectionist actions. Larry Summers and others are all too aware of the dangers of repeating the mistakes of 1932. But there is no percentage in trying to revive Doha and without active American leadership, the negotiation has little chance of success.

I should say at this point that there is no guarantee that the Obama Administration will be much interested in regional trade negotiations either. The political experts do not expect to see the Colombian or Korean FTAs approved any time soon and even Washington's participation in the Trans-Pacific Partnership is in question. Mr. Kirk has said he will work with the Congress to assess continued US participation in the TPP.

But the American position and the lack of Doha action are reasons why the rest of us will continue to be active on the regional front in 2009. I think this is a good thing.

Think about it – if it were not for the activity on the regionalism front, the world would have seen no new trade liberalization or reform since 1997 when the last of the successful WTO services sectoral negotiations were concluded.

In a way, the rise of regional trade agreements in recent years reflects the acceptance of what many have called the “critical mass” approach to international trade negotiations. There is a distinction, however, between RTAs as critical mass agreements and the critical mass agreements that have been negotiated in the past at the WTO. The WTO critical mass

agreements - like the 1996 ITA - have all been applied (in terms of their liberalizing results) on an MFN basis.

RTAs are preferential or discriminatory. This is admittedly not an ideal situation. On the one hand, restricting the applicability of the agreements' concessions makes them easier to negotiate than a 153-party single undertaking WTO result. But the price that is paid could be in the realization of trade diversion and the further undermining the non-discriminatory WTO system. That would be bad.

So the point of all of this is that, if we are going to be practical about the world we live in, we should seek to promote in the regional trade agreement's culture provisions that contribute to "open regionalism". Promoting open regionalism will help to "multilateralize" the liberalization and reform of RTAs.

Today, I will be commenting mainly on what is going on in the region encompassed by countries that are members of the East Asian Summit group. Through a variety of agreements and cooperative arrangements, the EAS partners are pursuing a number of regional initiatives that have as their *de facto* if not always *de jure* impact the promotion of open regionalism.

What characterizes trade agreements that promote open regionalism?

- First, their reference and incorporation of international norms and standards, including the rules of the WTO but also of other important international bodies.
- Second, their openness to treating products or services circulating in trade within the regional agreement according to the positive rules of the RTA, irrespective of the possibly third party origin of the products or services. This is simply good governance at work in a practical fashion.
- Third, in those cases where RTA parties adopt measures designed to promote mutual recognition or equivalency agreements, it is important that they make clear that these kinds of agreements should be open to participation by any other government that can pass the threshold test.
- Fourth, where border measures – apart from tariffs – like trade facilitation and risk assessment techniques, are adopted for application to the RTA trading partner, they should also be applied on an MFN basis wherever possible. This is another form of consistent regulation.

The ASEAN Example

The ASEAN countries have been engaged for years in a kind of regional integration that often promotes open regionalism. For example, for the past several years, ASEAN has had a very active program in services designed to develop and promulgate mutual recognition agreements that would recognize the qualifications of professional services providers, allowing them to practice their profession in ASEAN member countries outside of their home country. To date, agreements have been negotiated and implemented to facilitate the movement of engineers, nurses and other health care professionals. A work program specifies other priority sectors to be tackled in the future. As we will see later, the negotiation and implementation of such measures among ASEANs has made them more willing to work with third parties in expanding open regionalism.

Another example of open regionalism in ASEAN is the new ASEAN Trade in Goods Agreement or "ATIGA" that should be implemented this month if things go according to plan. ATIGA

provides a comprehensive and updated approach to liberalizing intra-ASEAN trade in goods and, in addition to laying down general rules and principles, sets out future work programs aimed at fostering greater economic integration.

One area of ATIGA where the open regionalism aspects are particularly clear is that of its provisions in respect of technical barriers to trade – or product standards. ATIGA's starting point is a reaffirmation of the WTO TBT agreement combined with a mandatory preference – where possible – for the use and incorporation of international standards and technical regulations.

Where international standards are not appropriate, ATIGA lays out a work program approach designed to develop agreements on equivalence (in respect of conformity assessment) or mutual recognition (in respect of differing technical regulations). ATIGA is clear that resulting approaches will apply to all goods in circulation within ASEAN irrespective of their origin. Through the experience they gain in ATIGA's cooperative framework, ASEAN Members are likely to become even more open to negotiating and accepting similar reciprocal recognition deals with others. In fact, the experience to date with the so-called "ASEAN Plus One" agreements seems to bear this out in practice.

ASEAN – Australia – New Zealand (AANZFTA)

Just a couple of weeks ago, trade ministers from ASEAN member states and Australia and New Zealand signed the newly negotiated and barely-pronounceable AANZFTA.

This is a huge new agreement covering an area with a combined population of 600 million and an estimated GDP of US\$ 2.7 trillion. Twenty-one percent of Australia's trade is accounted for by the other countries in AANZFTA. The new agreement also has some very interesting and sometimes ground-breaking innovations.

Although there are still some details left to be worked out in other ASEAN agreements with members of the East Asian Summit Group, the signing of the AANZFTA for all practical purposes completes the "ASEAN Plus One" process that now links the ten ASEAN countries with their most important trading partners in China, Korea, Japan, India, Australia and New Zealand.

There are a number of features of AANZFTA that contribute to open regionalism.

The new agreement's approach to rules of origin contributes to open regionalism through regional cumulation and a co-equal approach to the use of either a regional value content approach or change in tariff classification. These flexibilities recognize the increasing trends to global production chains in the region and open the door to goods with substantial non-regional content. A number of the other so-called ASEAN + 1 agreements also incorporate this helpful approach to rules of origin.

Like the approach in ATIGA, the TBT chapter of the new AANZFTA encourages mutual recognition and equivalence agreements on technical regulations and conformity assessment procedures. Mutual recognition agreements are flagged in the FTA as a desirable option for movement of people and professional qualifications issues. The services chapter also incorporates an MFN obligation allowing the parties' access to the others' markets to be expanded and improved as other, third party, agreements, expand market access over time.

AANZFTA's Electronic Commerce chapter encourages openness through its reference to the adoption, as soon as possible, of domestic regulatory frameworks for electronic commerce that are based on relevant international standards, including in relation to electronic authentication of documents and transactions.

Although the track record is not perfect, a number of ASEAN agreements with other countries in the EAS grouping also make similar contributions to open regionalism. In addition, many of the EAS members outside of ASEAN have their own RTAs under negotiation or in operation that promise to add to this overall "openness" thrust in the East Asia region. For example, the provisions of the New Zealand – China FTA as they apply to product standards and SPS measures are likely to operate in practice to lead to a progressive resolution of existing SPS barriers to trade on an MFN basis.

CEPEA and the EAFTA

The two main initiatives flowing out of the East Asian Summit framework in recent years are that of the "Comprehensive Economic Partnership for East Asia" (or CEPEA) and the earlier "East Asian Free Trade Area" (EAFTA). The latter initiative groups ASEAN with China, Japan and Korea, and the former also includes Australia, India and New Zealand. While a number of experts are concerned that EAFTA as an RTA could have significant trade diversion impacts in the EAS area, the CEPEA initiative has many aspects that foster open regionalism.

EAFTA would essentially be a RTA that would exclude India, Australia and New Zealand from whatever preferential impact it would have beyond that of the ASEAN Plus One agreements EAFTA members had previously negotiated independently. Given that potential EAFTA members also have non-ASEAN agreements with each other, the EAFTA would appear to be a step backwards (restricting rather than opening regionalism in the EAS area).

The initiative aimed at a Comprehensive Economic Partnership in East Asia (CEPEA) agreement is accepted as having three "legs": cooperation, facilitation and liberalization. As such, it offers considerably more scope for integration than the EAFTA framework and does not bear the same burden of the EAFTA's discriminatory impact on some EAS member countries.

In contrast, CEPEA offers many opportunities both to EAS countries and those outside of the grouping. For example, the CEPEA Study Group has identified potential cooperative work aimed at developing coordinated responses to the current global economic crisis.

Another area that has seen regional cooperation in recent years is work on ICT projects, including e-commerce. Through the ASEAN-Australian Development Cooperation Program, considerable work has been undertaken aimed at developing the legal infrastructure for e-commerce in ASEAN. Cooperation in CEPEA would build on the work foreseen in AANZFTA's e-commerce chapter. The outcome of the CEPEA work would certainly contribute to multilateralizing regionalism since the legal frameworks implemented would doubtless be implemented on an MFN basis.

The trade facilitation leg of CEPEA also is likely to produce direct benefits for those outside of the EAS region. Improved customs procedures and region-wide adoption of risk management techniques, electronic documentation and single window operations would benefit everyone trading with countries in the region.

If one considers that trade liberalization rules in CEPEA would necessarily have to be built on the foundation of preceding agreements like ATIGA, AANZFTA and the other ASEAN Plus One agreements, it is easy to see how CEPEA-wide liberalization would promote open regionalism.

- The frequent reference to international norms and standards in these foundation agreements,
- the preference shown for mutual recognition and equivalency agreements in regulatory regimes for both goods and services and;
- a general preference for consistency in regulation all contribute to open regionalism.

If the AANZFTA is impressive by its size and trade weight, CEPEA would be much more impressive. Nearly fifty percent of the globe's total population lives in the countries that would be covered by CEPEA – almost seven times the number of people living in the EC or NAFTA zones.

Not surprisingly, economic modelling has demonstrated that the GDP and welfare gains to be expected from an ASEAN + Six CEPEA are much more impressive than those from the narrower EAFTA. Strong growth in an area the size of CEPEA would have important beneficial spillover effects for those outside the region as well.

Concluding Remarks

Now to try to wrap up. The regional approach to trade negotiations appears to be with us to stay – at least for the medium term. The fact that the WTO negotiation is still going nowhere only adds to this situation. But it is not necessarily a bad situation.

In effect, the “Coalition of the willing” or the many different “coalitions of the willing” around the world are using RTAs to push the envelope while the WTO system remains unable to produce a sensible result. It has to be seen as a good thing that these regional agreements are moving the economic integration agenda forward in a positive direction.

Those who worry about the potentially negative impact of regional arrangements should take comfort from the fact that here in the East Asian Summit region, the agreements that are being negotiated and promoted foster a culture of open regionalism.

Thank you for your attention.