

Part I

Introduction and Overview

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I. Introduction and Overview

Yoshifumi Fukunaga, John Riady and Pierre Sauvé

1. Background and context of the e-book

The World Trade Organization (WTO) will stage its ninth Ministerial Conference (MC9) in Bali, Indonesia, on 3-6 December 2013. The meeting comes at a critical juncture for the multilateral trade body, long mired in the Doha Round stalemate. Beyond offering a critical first test at consensus-building and institutional renewal, the Bali Ministerial affords a unique opportunity to gauge contrasting perceptions across ASEAN and East Asian countries of the continued relevance of the WTO to trade and economic governance within the region and beyond.

Resulting from the collaborative efforts of the Economic Research Institute for ASEAN and East Asia (ERIA), the Universitas Pelita Harapan (UPH) and the World Trade Institute (WTI) at the University of Bern, this policy research initiative has sought to encourage comparative scholarship from ERIA's Regional Institution Network (RIN) members¹ on some of the key questions arising from the forthcoming WTO Ministerial gathering:

- What do ERIA's RIN members expect the Bali MC9 to produce by way of tangible outcomes? Are certain negotiating agenda items ripe for early harvesting?
- How can WTO Members use the Bali MC9 to impart renewed vigor to *multilateral* cooperation (including not only rule-making and market opening but also multilateral surveillance and dispute settlement) in the trade field?
- What priorities should ASEAN and East Asian countries pursue at the Bali Ministerial?
- How relevant does the WTO remain to the process of deepening economic integration in ASEAN and East Asia, and to the trade governance priorities of ERIA member governments more broadly?

¹ One more contribution was made by Simon Lacey from Universitas Pelita Harapan.

- How and in what areas can multilateral advances in Bali best serve and complement ASEAN's march toward the realization of the ASEAN Economic Community by 2015?
- Can the forthcoming launch of negotiations on a Regional Comprehensive Economic Partnership (RCEP) among ASEAN+6 countries facilitate the process of multilateralizing regional advances?
- Can ongoing negotiations towards a Trans-Pacific Partnership facilitate the process of extending regional advances on a multilateral basis?

2. The continued relevance of the WTO

The contributions in this e-book confirm beyond any reasonable doubt that the WTO retains central salience as an anchor of global trade governance. Despite the challenges and repeated roadblocks encountered in the conduct of the Doha Development Agenda (DDA) negotiations as well as the recent surge in preferential economic integration initiatives throughout the region (and indeed much of the world), the great majority of contributors concur that the WTO continues to play an irreplaceable role in the governance of international trade. This was vividly expressed by Chinese RIN Member Prof. Zhang Yunling:

“[I]t is vital to keep the multilateral trading system working and effective since no the other institution can serve the needs of both the developed and developing economies.” (Chapter II.1)

The above viewpoint was reinforced by New Zealand RIN Member Prof. Gary Hawke, whose contribution recalls how the WTO needs to retain its role as a central coordinating institution in global commercial relations. It is by now a widely accepted reality that while preferential trade agreements can usefully pursue a trade liberalization and regulatory cooperation agenda, they cannot solve some of the most intractable challenges in contemporary trade relations. This is notably the case of ever morphing non-tariff barriers, trade remedies, agricultural trade, export support subsidies, etc. Moreover, the prevalence of weak (or weakly enforced) disciplines

across numerous preferential agreements carries genuine risks for global trade. As former UNCTAD and WTO head Dr. Supachai Panitchpakdi pointed out:

“[Too many bilateral deals] could rock the foundations of non-discrimination and transparency upon which the multilateral system is built. These core principles not only help level the playing field between developed and developing countries, but also make the international trading environment a more predictable and less complex place to do business.”²

Several contributors concur that care must be taken, notably through a strengthening of multilateral disciplines and monitoring, to ensure that the continued proliferation of preferential market opening and rule-making initiatives – the so-called “spaghetti or noodle bowl” challenge remains squarely on the radar screen of multilateral diplomacy and that every operational means be explored and pursued for extending regional advances on a multilateral basis.

The various contributions to this e-book strongly suggest that the multilateral trading system is widely seen as being at a critical crossroads, such that the Bali Ministerial will be a centrally important moment in the multilateral trade body’s young life. The Ministerial meeting affords Member countries and WTO’s new management team a unique opportunity to hit the “reset” button and yield a tangible, momentum-inducing, harvest to multilateral diplomacy.

While the probable harvest on offer is often derided as “Doha-lite” and is indeed assuredly significantly less ambitious than the DDA’s initially lofty (and likely unrealistic) aims, imparting forward momentum in Bali even on a scaled down agenda would likely carry enormous symbolic value at a time when most forms of multilateral diplomacy, including beyond the trade field, face daunting prospects.

As it happens, and as many contributions to this e-book usefully recall, the harvest that is within reach of being reaped in Bali is hardly devoid of commercial significance.

² As quoted by Dr. Erlinda Medalla from PIDS, the Philippines’ RIN Member, in Chapter II.7.

Every effort must thus be deployed to both promote convergence on a concrete set of deliverables in Bali whilst also setting in motion a process of forward thinking able to steer the DDA towards its ultimate conclusion and set the WTO on a future reform path.

3. The Bali Deliverables

3.1 Towards a WTO Trade Facilitation (TF) Agreement

Most scholars in this e-book agree that a WTO agreement on trade facilitation would generate large benefits for East Asia and the world economy. Such a view reflects the highly successful experience and ongoing efforts at implementing various TF initiatives in the region (see **Box 1** below). Arguably more than any other region of the world, countries and firms in ASEAN and East Asia have in recent decades established strong cross-border production networks in which intermediate goods and services cross borders multiple times over short time spans. The manifold trade facilitation initiatives that have been undertaken throughout the region have greatly enhanced the efficiency of production networks and brought significant benefits to economic agents and member countries by reducing transport costs, promoting seamless logistics, adding density to trade routes, and facilitating linkages between goods and service producing sectors.

Beneficiaries of stepped-up TF include not only middle-income countries like Malaysia, Indonesia or Thailand but also the region's lesser developed economies, such as Cambodia and Lao PDR. Thanks to strengthened TF, Cambodia and Lao PDR have experienced significant inflows of foreign direct investment, allowing local producers to insert themselves in regional value chains and expand the remit of pro-poor employment in the formal sector. Both countries have in recent years registered higher growth rates than the ASEAN-6 members, suggesting that the TF-induced expansion of production networks has been an important source of inclusive growth, helping the region address the challenge of development gaps. There is every

reason to believe that a WTO-anchored TF agenda could set a similar process in motion globally, such that TF should also be seen as a core element of the DDA's pro-poor agenda.

Box 1. Trade facilitation initiatives in ASEAN

In their collective march towards the establishment of an ASEAN Economic Community by 2015,³ most ASEAN countries have established national single windows (NSWs), a key first step towards creating an ASEAN-wide Single Window (i.e. a network of 10 NSWs). Seven ASEAN Member States have already operationalized their NSWs, with Cambodia, Lao PDR and Myanmar having initiated the requisite regulatory reforms (e.g., simplifying customs documents) to implement their NSWs. The ASEAN Trade Repository (linking National Trade Repositories) now under construction aims to ensure the transparency of trade-related regulations. ASEAN countries have furthermore signed several regional agreements and protocols to facilitate the flow of goods-in-transit and harmonized the integration area's tariff nomenclature at the 8-digit level (AHTN).⁴ The region's Master Plan on ASEAN Connectivity adopted in 2010 lists a significant number of initiatives on physical connectivity (hard infrastructure), institutional connectivity (soft infrastructure), as well as people-to-people connectivity (movement of people).⁵ ASEAN's concept of institutional connectivity overlaps with the WTO's approach to trade facilitation. At the sub-regional level within ASEAN, the Cross-Border Transport Agreement (CBTA) pursued within the Greater Mekong Sub-Region initiative is durably enhancing cross-border procedures, for instance through single-stop inspections.⁶ The latter initiative has subsequently been adopted by other sub-

³ For a fuller discussion of steps towards the creation of the ASEAN Economic Community, see ERIA (2012). See also ASEAN (2008; 2012).

⁴ In addition to them, ASEAN has undertaken a series of efforts to simplify rules of origin in AFTA and ATIGA. In 2008, new rules of origin were adopted which allowed business to choose between regional value content or change in tariff classification rule. This rule was later adopted in the three ASEAN+1 FTAs (ASEAN-Australia-New Zealand, ASEAN-Japan, and ASEAN-Korea). ASEAN has gone further by setting-up self-certification programs by 2015.

⁵ The three connectivity concepts have been adopted and expanded to APEC in 2013.

⁶ See Chapter II.1 (Zhang Yunling) for more detail.

regional initiatives within ASEAN.⁷

East Asia has also seen a number of important trade facilitation initiatives. ASEAN Members have entered into several so-called “ASEAN+1” preferential trade agreements (PTAs) with Australia, China, India, Japan, Korea and New Zealand. All of the ASEAN+1 PTAs feature a broad set of trade facilitation provisions covering customs procedures and cooperation; technical regulations, standards and sanitary and phytosanitary measures; non-tariff barriers, especially administrative fees and charges; transparency of laws, regulations and administrative rules; and the use of ICT and e-commerce.⁸ Beyond the ASEAN region, APEC’s supply chain connectivity initiative adopted in 2010 has set a numerical target of a 10% improvement in supply chain performance measured in terms of time, costs and uncertainty by 2015. The Trans-Pacific Partnership negotiations currently underway also feature detailed trade facilitation provisions in a dedicated chapter.

One recent ERIA study has shown that, through the above regional and national efforts, ASEAN countries have successfully improved their trade facilitation and logistics performance, even as they strive to reach global best practice standards.⁹ The above study suggests that trade within ASEAN has derived large benefits from recent region-wide efforts on trade facilitation.¹⁰

Remarkably, all of the above efforts, initiated as they were by a diverse group of developing and least developed countries, are strongly indicative of ASEAN’s deep understanding and belief in the economic and commercial value of sustained investments in trade facilitation. ASEAN’s policy dialogue and ASEAN+1 trading partners, as well as international organizations such as the Asian Development Bank

⁷ Those initiatives are known as the Brunei-Indonesia-Malaysia-Philippines East Asia Growth Area (BIMP-EAGA) and Indonesia-Malaysia-Thailand Growth Triangle (IMT-GT).

⁸ Wong and Pellan (2012).

⁹ ERIA (2013).

¹⁰ *Ibid.* Based on gravity model estimations, the study shows that a 1% improvement in trade facilitation and logistics regulatory index could lead to a 2.5-2.7% increase in intra-ASEAN trade.

and the World Bank, have offered strong support to TF efforts at the national, sub-regional and regional level. Such trade-related technical assistance and economic cooperation initiatives, while not legally binding in nature, are nonetheless key responses to ASEAN's collective determination to improve the region's trade facilitation performance.

One important aspect of trade facilitation is its almost inherently non-discriminatory character. Steps taken to facilitate trade (e.g., simplified customs procedures) stand to benefit exporters and importers all at once. The faster movement of goods across borders and the improved predictability and transparency of trade transactions further underpin the operation and efficiency of sophisticated production networks. ASEAN's and East Asia's successful advances in TF will be disseminated to the other parts of developing world. As ASEAN countries correctly recognize, trade facilitation is far from being a developed country agenda. Quite the contrary, it is developing countries that stand to be the main beneficiaries of a global TF deal at the WTO, as their participation in regional and global supply chains would be significantly enhanced. This, of course, will require technical assistance from bilateral, regional and multilateral donors, as has been the case for ASEAN countries. Any WTO deal on TF must thus feature a complementary set of novel aid-for-trade provisions that are adequately funded.

For ASEAN and East Asia countries, a WTO TF agreement implies a strengthening of the region's TF architecture. Several features of the existing ASEAN TF landscape were embedded in the July 2013 WTO TF text. This includes issues such as single windows and enhanced transparency provisions. A WTO agreement can usefully complete the ASEAN TF regime by codifying best global practices, for instance on advance rulings. All of the above TF components are in line with ASEAN's and East Asia's objective of enhanced trade facilitation and connectivity.

3.2 Agreeing on a package for least developed countries

A second point of emerging consensus among this e-book's contributing scholars is that Bali must deliver a credible package on the most pressing needs of the WTO's weakest members – the least developed countries (LDCs).

These matters are familiar to ASEAN, whose membership includes three LDCs – Cambodia, Lao PDR and Myanmar. Viet Nam was formerly an LDC but two decades of trade-centric reforms have played a major role in the country's graduation to middle-income status. There is increasing evidence that even the poorest countries within ASEAN have been able to steadily increase their participation in – and benefits from – production networks in the region. This has involved the implementation of several supporting measures beyond trade facilitation initiatives. A first crucial component has been the significant reduction and elimination of tariffs through AFTA and the ASEAN+1 PTAs. Second, the adoption of liberal rules of origin allowing for regional cumulation has exerted a decisive trade-facilitating influence on regional integration patterns. First introduced in AFTA, such rules were later adopted in ASEAN+1 PTAs. Yet, it bears recalling that even in the narrower confines of ASEAN and East Asia, the quest for duty-free/quota-free (DFQF) treatment foreseen for LDCs at the WTO's 2005 Ministerial Conference in Hong Kong have yet to be fully realized. Tariffs are indeed maintained on certain products (though accounting for less than 10% of tariff lines, in the case of ASEAN+1 FTAs, at the HS 6-digit level), and stricter rules of origin continue to apply to a range of sensitive products which are often of priority interest to the region's LDCs.

The difficulties ASEAN Member States have encountered on this front offer a cautionary tale ahead of the Bali gathering, suggesting continued tensions in the run-up to the Ministerial on an issue of considerable symbolic value in a development round.

Like many other deep integration compacts, ASEAN members have achieved much deeper liberalization in the realm of trade and investment in services than is the case under the WTO's General Agreement on Trade in Services (GATS), though the benefits of market opening in services for LDC exporting firms have yet to materialize in a significant manner (nor have the latter countries undertaken significant liberalization themselves). While all three of ASEAN's LDCs have been successfully participating – and contributing (albeit on the basis of novel, variable geometry, provisions) – in regional economic integration in services, the situation elsewhere is far from satisfactory. As Philippine RIN Member Dr. Erlinda Medalla pointed out in her *e-book* contribution, LDCs are typically constrained by acute shortcomings in negotiating capacity. Furthermore, most LDCs are shackled by domestic markets whose size and income level fail to attract negotiating attention from developed and developing countries alike. This results in a process of marginalization and weak involvement in preferential trade negotiations. For Cambodia, Lao PDR and Myanmar, it is the ASEAN (and ASEAN+1 PTAs) that have provided a critical conduit for engaging the region and the world economy. For those LDCs left out from any regional economic integration process, the multilateral trading system embodied by the WTO offers the sole route to expanded market access opportunities in goods and services alike.

The LDC package proposed by LDC Group¹¹ calls for: (i) implementation of the duty-free/quota-free (DFQF) market access Decision taken by WTO Members at the Hong Kong Ministerial Conference in 2005, (ii) a tightening of multilateral disciplines on preferential rules of origin, (iii) operationalization of the LDC services waiver, and (iv) addressing trade distorting subsidies on cotton.

All four elements above are expected to benefit LDCs, albeit to a different degree.¹²

Perhaps the most intractable issue before Ministers on the LDC front - DFQF - would

¹¹ WTO (2013), LDC Package for Bali: Communication by Nepal, on behalf of the LDC Group, Trade Negotiations Committee, TN/C/W/63, 31 May.

¹² See Chapters II.11 (Dr. Biswajit Dhar) and II.12 (Dr. Zakariah Rashid).

clearly benefit LDCs. The challenge remains as it has since Hong Kong to reach agreement on those products representing 97% of tariff lines that are to benefit from DFQF treatment, an issue on which differing views prevail even among LDCs. There are significant overlaps between the priority product lists of ASEAN and their African LDC counterparts, an issue to which the quest for greater flexibility in preferential rules of origin is closely linked.

The benefits to be derived from the services waiver, the contours of which were agreed at the WTO's last Ministerial gathering, appear less straightforward both to identify and produce. While an approach based on relative reciprocity could help LDCs develop their own service sectors, significant export gains continue to be held back in many LDCs as a result of limitations in export (supply) capacity and the concentration of LDC negotiating interests on the mode of supplying services (Mode 4 trade) and categories of service providers (low and medium-skilled workers) that continue to rank among the most problematic to address in a trade policy setting. Still, some (limited) movement on this front, including once more through targeted forms of technical assistance, will be necessary for Bali to be seen as a step forward on the LDC front.

Meanwhile, a deal on cotton continues to be challenging both because of strong forces of protectionist capture in some developed country markets and the concentration of potential gains in a relatively small sub-set of WTO Members, the so-called "cotton-4" countries in West Africa.

Despite the above challenges, the acuteness of which should not be underestimated, agreeing to an LDC package is likely to be a central element defining success in Bali. Moreover, it bears noting that ultimate value of a Bali deliverable on LDCs lies not only in the direct and immediate economic benefits on offer but more systemically in its ability to offer tangible proof of the benefits to be derived from greater LDC

engagement in multilateral trade diplomacy and the international community's recognition of the genuine obstacles that continue to impair such engagement.

Considering the fact that two of the four major proposals advanced by the LDC Group relate to the implementation and operationalization of pre-agreed commitments (DFQF and the services waiver), and bearing in mind the irreplaceable value of the WTO for LDCs, the Bali Ministerial Conference must deliver credible advances. Failure on this defining element of the DDA could well cripple advances on most other negotiating fronts, a risk WTO Members would be well advised to avoid.

3.3 Agriculture and food security

Agriculture is generally perceived as a further key component of the Bali deliverables. Yet, interestingly, ERIA RIN members have paid relatively lesser attention to this agenda item, particularly when compared to a possible TF Agreement and the LDC package. This is somewhat paradoxical given the fact that agricultural trade, probably more than any other negotiating issue, lies behind the Doha deadlock.

It is also paradoxical when one considers that agriculture dominates the landscape of ASEAN economies, accounting for a large share of output and absorbing an even larger share of the ASEAN workforce. While agro-based products have been identified as one of the priority integration sectors (PISs) within ASEAN, agricultural products (especially rice and sugar) are listed on the Sensitive List and Highly Sensitive List of ATIGA (ASEAN Trade in Goods Agreement) in many countries.

ASEAN has a long record of cooperation in the area of food security. As far back as 1979, Member States signed the Agreement on the ASEAN Food Security Reserve. ASEAN cooperation in this area has intensified noticeably in the wake of the sharp increase in international food prices in 2007/2008, leading to region-wide agreement on two important fronts: (a) ASEAN Integrated Food Security Framework, and (b)

Strategic Plan of Action on Food Security in the ASEAN Region (SPA-FS). The SPA-FS focuses on enhancing food production, promoting greater availability and enhanced accessibility to agriculture inputs, and operationalizing regional food emergency relief arrangements.

The issue of subsidy disciplines is not addressed by these programs since the matter is anchored in the rules of the WTO Agreement on Agriculture and thus a regional forum does not appear tailor-made for such a purpose.

Another important regional initiative is the ASEAN Plus Three Emergency Rice Reserve (APTERR) to which China, Japan and Korea participate alongside ASEAN Member States. Rice occupies a special place in these cooperation mechanisms because, as ERIA (2012) noted, the ASEAN region all at once hosts important importers (e.g., Indonesia, Philippines, and Malaysia) and exporters (Thailand and Viet Nam) as well as potential world suppliers (Cambodia, Myanmar) of rice.

The critical importance of food security to the Bali Ministerial was eloquently taken up in the contributions of Dr. Vo Tri Thanh (Chapter II.7) and Dr. Biswajit Dhar (Chapter II.11). Both contributions recall the differing views the issue elicits among the WTO membership. The notion of allowing targeted subsidy support for the purpose of ensuring food security proposed by the G-33 group has complex implications for the ASEAN and East Asia region.¹³ Some countries in the region have already introduced such subsidies (e.g., India). On the other hand, poorer countries with limited fiscal capacity harbor genuine concerns over the potentially negative distortive effects of such support measures. Food importing countries can doubtless benefit from the ensuing cheaper prices of imported food but domestic producers may also suffer from such subsidies when potentially large public stockpiles indirectly induce exports to third countries.

¹³ Five countries (China, India, Indonesia, Lao PDR and the Philippines) are members to the G-33 group.

India's demand for linking the agriculture-food security nexus to other issues up for decision in Bali, especially TF, represents a genuine risk hanging over the entire MC9. In recalling the need to break this key logjam, Prof. Jin Kyo Suh, the RIN Member from South Korea, has argued that the adoption of a peace clause could represent a feasible and realistic approach. His contribution further recalled how the G-20 proposal on improving tariff-quota transparency procedures would also likely form part of the Bali deliverables on agricultural trade.

As Japan RIN Member Mr. Daisuke Hiratsuka argued in his e-book contribution, and as the ASEAN experience itself has shown, agricultural trade can play a crucial role in poverty alleviation and in narrowing development gaps. Regional efforts, although important within ASEAN, cannot however offer definitive solutions to all negotiating issues at play in the Bali discussions. Accordingly, it is up to the WTO membership to start delivering better and more balanced disciplines on agricultural trade.

3.4 Information Technology Agreement

The WTO's 1996 Information Technology Agreement (ITA) is widely recognized as one of the multilateral trade body's early and lasting success stories. Following a critical mass-based approach within a plurilateral construct, the benefits of which were subsequently extended to all WTO Members on a most-favored-nation (MFN) treatment basis, the Agreement saw major IT-manufacturing countries commit to a process of complete tariff elimination on an MFN basis. Most countries in East Asia are ITA signatories and have benefited handsomely from the arrangement and the opportunity it affords for inserting regional firms into global value chains in the industry.¹⁴ Today, an estimated 86% of smart-phones and 100% of digital cameras are produced in the region. The East Asian region is now the center of EEE (electrical electronic equipment) product manufacturing of the world, and the value

¹⁴ Among ASEAN Member States, Brunei, Cambodia, Lao PDR and Myanmar are not members to the ITA.

chains created extend much beyond the region with strong ties to Central and Eastern Europe as well as North America [Ando and Kimura, 2013].

ASEAN, in its regional economic integration efforts, also places high value on ICT products and has made them a priority integration sector (PIS). The PIS initiative covers not just trade-in-goods but also extends to liberalization of trade in related services and investment. The e-ASEAN Framework (signed in 2000) also addresses issues relating to ICT infrastructure, e-commerce, facilitation of trade in ICT products and services, capacity building and e-Society, as well as e-Government.

ASEAN Member States have further deepened cooperation within the ASEAN ICT Master Plan 2015 (AIM2015). As such, trade and investment in ICT products (goods and services) represents a centrally important element of ASEAN initiatives in this area but the vision ASEAN Member States share extends far beyond trade through various endeavors to promote the production, diffusion and application of high technology industries throughout the region.

Signed in 1996, the ITA currently lags behind the phenomenal innovations that have taken place in the ICT sector in recent years. New products need to be added to the Agreement's scope of coverage, its membership should expand to take in new important industry players and determined efforts need to be directed towards tackling the complex mosaic of non-tariff measures affecting producers and consumers of IT-related goods and services.

Given the global intensity of competitive forces in the sector, any revised ITA ("ITA2") would bring large benefits to manufacturers in the region and beyond and more importantly enhance global productivity levels by accelerating the diffusion and adoption of new technologies.

Again somewhat oddly given the central salience of the ICT sector to the region's cross-border trade and investment dynamism, only a few scholars in this e-book project touched upon ITA2. This is perhaps not so much because they are opposed to the idea of an ITA2. Rather, it might well highlight how many contributors view the ITA as representing a new model of trade governance allowing for greater doses of variable geometry within the WTO system as a whole, an issue of more systemic reform unlikely to be at the center of Bali discussions among ministers.

4. Implications of East Asian integration for the WTO

Several contributions in this e-book recall how the WTO can usefully tap into and attempt to replicate on a global basis many of the useful steps taken by countries in East Asia in responding to the manifold challenges of deep integration and trade governance reforms. First, the process of East Asian integration, and especially the quest to establish an ASEAN Economic Community (AEC) by 2015, has compelled governments throughout the region to seriously address the many barriers impeding the smooth functioning of production networks rather than focusing too narrowly on barriers to trade.

As was discussed above, trade facilitation is a clear case in point. ASEAN's definition of trade facilitation extends much beyond customs procedures (Wong and Pellan, 2012), as it embraces in a holistic manner several key components of related services liberalization (through GATS+ commitments). Indeed, it considers TF as very much a supply chain in itself. In tackling the services dimension of the TF agenda, ASEAN Member States have innovatively abandoned the "request and offer" approach of trade negotiations and instead pursued concerted efforts of market opening via a formula-based approach, as noted in the contribution by Singapore RIN Member Hank Lim.

Here again, production network facilitative services such as logistics have been treated as priority integration sectors commanding greater and earlier liberalization efforts, as befits key input industries. Governments from the region have also started to address a number of related regulatory issues through the 2007 AEC Blueprint, most notably through cooperation in the fields of intellectual property protection and competition policy. ASEAN+1 PTAs follow a similar path.

In turn, the Regional Comprehensive Economic Partnership (RCEP) initiative linking ASEAN Members states to its six key regional partners (Australia, China, India, Japan, New Zealand and South Korea) represents a unique initiative aimed at establishing a harmonized regional PTA linking all ASEAN+1 PTAs. Although ASEAN Member States already have PTAs with all of their +1 partners, the RCEP aims at elevating the quality of the region's existing PTA ecosystem (rather than falling into the least-common-denominator trap) and more importantly at harmonizing the existing ASEAN+1 FTAs.¹⁵ RCEP would be an open accession PTA as agreed by the compact's sixteen Economic Ministers in 2012, and thus may expand the benefits of the integration it sustains beyond the region. If RCEP is successfully concluded without lowering its current level of ambition, it may provide a new way of consolidating, improving and expanding on existing PTAs. Just like the TPP, which also aims at addressing a "21st century trade agenda", the RCEP will do much to multilateralize regional advances and pave the way through policy experimentation for novel rule-making and market-opening steps at the global level. The WTO has thus much to gain from ongoing attempts at deep integration in East Asia.¹⁶

At the same time, there is no denying that genuine risks may derive from the constitution of mega-regional deals like the TPP and RCEP. Such risks include the scope for potentially incompatible rules among them. Equally important are the

¹⁵ Fukunaga and Isono (2013).

¹⁶ While the TPP is also an open accession PTA, Prof. Gary Hawke has nonetheless raised a number of concerns over the design of the TPP's accession clause. See Chapter II.6 (Prof. Gary Hawke).

systemic risks that mega-regionals imply in regard to incentives for continued engagement in multilateral trade diplomacy.

There is currently no truly credible mechanism to ensure (and enforce) the compatibility of PTAs with multilateral rules. APEC members have started to call for greater transparency of ongoing negotiations but its own geographical remit cannot naturally extend to the newly launched Trans-Atlantic Trade and Investment Partnership (TTIP). The WTO is without doubt the natural go-to place to minimize the risks potentially arising from mega-regional incompatibilities. As New Zealand RIN Member Prof. Gary Hawke correctly pointed out:

“A central role of the WTO would be to ensure that the rules agreed by these mega-agreements are not incompatible, and continually simplifying them where possible into a single set of rules.” (Chapter II.6)

Also, Dr. Erlinda Medalla from the Philippines correctly stressed:

“Production networks and the supply chain extend beyond the region. Their dynamism cannot be sustained without orderly global trade, best managed under the WTO framework.” (Chapter II.10)

5. Looking ahead

Almost all the contributors to this e-book share strong concerns over the systemic implications of a failed Bali meeting. For example, Korean RIN Member Dr. Jin Kyo Suh noted:

“The inability of Members to secure a credible package will not only mean failure in Bali but spell the end of the Doha negotiations and seriously jeopardize the multilateral system as a whole.” (Chapter II.2)

Contributors agree that the failure of the Bali Ministerial would translate into a seriously weakened WTO and prompt recourse to more mega-regional deals,

bringing with them non-negligible risks of serious fragmentation along regional and preferential lines.

A contrario, should the Bali MC9 be concluded successfully, the WTO would regain much needed momentum as a negotiating forum and global trade legislature. Yet even such an outcome cannot guarantee a bright future for the world trade body absent its embracing of a forward-looking reform agenda. Accordingly, many contributors concur that the Bali Meeting should also mark the launch of a longer-term journey of governance reforms able to impart the necessary flexibility required for the WTO to remain relevant and attuned to a world of ever heightened diversity of collective preferences and development levels.

The WTO will long continue to provide a critically important global public good: the legal infrastructure through which the global governance of trade relations is made possible. Yet, like any living organism, the WTO needs to adapt to a fast changing environment for it to continue to bear fruits more effectively, more efficiently and more promptly. Simply put, the WTO must practice what it preaches: to adjust to – and embrace – the tectonic structural changes buffeting global commerce today, with new actors and technologies ushering in a new geography of trade.

This e-book features several novel ideas calling for a new operating system in the WTO. One such idea is to promote greater recourse to plurilateral negotiations involving coalitions of like-minded countries who share a common wish to move forward, either in a closed manner or on an MFN basis once critical mass thresholds are met.¹⁷ As noted earlier, the 1996 ITA has provided a tested model of the latter approach. Another model of plurilateral governance, one that limits reciprocal benefits solely to those undertaking its obligations, is the WTO's Government Procurement Agreement. Meanwhile, the ongoing Trade in Services Agreement

¹⁷ Nakatomi [2013] also emphasize the possibility of plurilateral deals in the WTO.

(TiSA), initially conceived along ITA lines but conducted outside the institutional remit of the WTO in the manner of a GATS Article V PTA in services, offers a third model of variable geometry approach.

A second major governance challenge confronting WTO Members concerns the critically important question of how decisions are made in the trade body. This chiefly concerns the vexatious questions of how consensus is reached and whether negotiations should proceed on the basis of a single undertaking approach – where nothing is agreed until all is agreed. The sheer size of the WTO membership and the diverse collective preferences such size naturally entails is increasingly seen as one of the many reasons for the DDA's deadlocked situation.

In his e-book contribution, New Zealand RIN Member Prof. Gary Hawke recalls that the real challenge lies in the evolving nature of the world's economic integration agenda: “[the single undertaking] cannot be accommodated in a rolling agenda of collaboration in which new issues arise and are incorporated.” (Chapter II.6) Two related issues in governance reform concern, first, the basis on which decisions are to be taken by Members: consensus vs. majority voting and, as Chinese RIN Member Prof. Zhang Yunling noted, how best to ensure that a more equitable sharing of leadership arises in global trade governance, one that is able to assign a progressively larger role to emerging economies.

While it is almost certain that Ministers in Bali will not delve deeply – if at all – into the thorny issues of WTO governance reforms, most contributors of this e-book feel that such discussions are very much needed, such that strong signals on the desirability of tackling them by the time of the next Ministerial gathering should be sent already in Bali. Indeed, the e-book contributors almost unanimously call for a far-reaching change in mindsets. New Zealand RIN Member Prof. Gary Hawke says it well when

arguing that “[the WTO] should also begin to adapt to the contemporary world by seeing its field of responsibility as ‘economic integration’ rather than ‘trade’.”

The above sentiment is echoed in Japanese RIN member Mr. Daisuke Hiratsuka’s call to situate trade policy discussions against the backdrop of the new geography of global commerce that production fragmentation and trade in intermediate goods and services is making possible (Chapter II.4). His contribution stresses the analytical importance of the “trade-in-value-added” (TiVA) concept. Taking a TiVA lense, imports and services become “essential ingredients” of competitive exports. This in effect turns the conventional mercantilist view of trade upside down. In the new reality of production networks and value chains, he recalled how “[e]ven a small economy can invite a few production processes to start industrialization by improving connectivity.” That is exactly what is happening in the ASEAN and East Asia region.

Responding to such new trade horizons, which Professor Richard Baldwin (2011) has famously called the “second unbundling”, WTO members must embrace production network enhancing policies to reduce “services link costs” (Kimura and Ando, 2005). Such an approach is one that, not surprisingly, assigns a key integrating role to trade facilitation, trade in services and cross-border investment. Seen through this enlarged, interconnected, lens, other issues such as intellectual property protection, product standards, and competition policy all become considerably more salient, not so much in the conventional sense of international negotiations but as key domestic policy measures that need to be aligned in such a way as to increase the scope for meaningful insertion in production networks.

Finally, and doubtless also unlikely on the plates of Ministers in Bali but critically in need of their future attention, is how the WTO retains relevance in regard to the increasing panoply of PTAs, particularly the recent trend towards mega-regional

constructs.¹⁸ While the WTO lays down the fundamental legal requirements that PTAs have to meet in order to be deemed WTO compatible (i.e., Article XXIV of GATT and Article V of GATS), there have been very few instances in which the legality of PTAs has been questioned before the WTO's dispute settlement mechanism. Although the Committee of Regional Trade Agreements (CRTA) does afford opportunities for all WTO members to discuss and learn about newly notified PTAs, not all agreements are fully reviewed, particularly those negotiated between developing countries. While the Trade Policy Review Mechanism (TPRM) assesses the PTAs of WTO Members and thus enhances the transparency surrounding the process of preferential market opening and rule-making, it cannot meaningfully analyze advances on "new issues" (e.g., investment) that fall outside the WTO's current substantive remit. Accordingly, the WTO's capacity to discipline potentially harmful or distortive forms of preference granting remains significantly constrained. It is doubtless for this reason that several contributors to this e-book argued in favor of strengthened multilateral surveillance and disciplines targeting PTAs. As Myanmar's Drs. Sandar Oo and Zin Zin Naing noted: "[the TPRM is] underexploited and its role should be extended to help the WTO better address new and essential issues of the international economic order such as the uncontrolled proliferation of PTAs [...]" (Chapter II.10).

In their Australian RIN contribution, Malcolm Bosworth, Greg Cutbush and Jenny Corbett go further by emphasizing the importance of the TPR process to enhancing the transparency of trade rules more broadly rather than focusing solely or primarily on PTAs) (Chapter II.14).

Despite their proliferating nature, regional integration initiatives often remain opaque for non-members. Drawing on its analytical capacity and the legitimacy that flows from its global membership, the WTO is here again uniquely placed to supply such

¹⁸ See for example Chapter II.7 (Dr. Erlinda Medalla)

good governance-enhancing benefits. Yet to do so, its own disciplinary remit may need to be expanded and keep up with the many new issues taken up by preferential trade and investment agreements. That Ministers in Bali seem likely to eschew such a debate in no way lessens the need for continued institutional and legislative adaptation if the WTO is to retain its role as the world's undisputed anchor of global trade governance.

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