ORF OCCASIONAL PAPER
93
MAY 2016

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ABSTRACT

The Doha Round of negotiations of the World Trade Organization has become a major battleground between developed and developing countries. Begun in 2001, the Doha negotiations have yet to be concluded, leading to widespread frustration on its sluggish pace. Meanwhile, new Regional Trade Agreements have been launched, begging the question: Has trade governance reached a critical junction, with one path leading to the strengthening of the multilateral principles of global trade, and the other, to the abandoning of these principles and the evolution of a different constitution for 21st-century multilateralism? This paper reviews literature and legal text to deduce answers to these questions. It analyses the relationship between the Trans-Pacific Partnership (TPP) and Comprehensive Economic and Trade Agreement (CETA), and trade multilateralism. This paper finds that RTAs can be seen as a strike at multilateralism and this, in turn, can be regarded as either a negative or positive direction, depending on what principles and objectives are held as the legitimate building blocks of trade multilateralism.

INTRODUCTION

The core institution of trade multilateralism is the World Trade Organization (WTO), whose fundamental principles include consensus and non-discrimination. These two principles help to frame the construction of a global trade system and how, in such system, economic welfare is generated and distributed.[1] However, it can hardly be argued that the current

institutions of world trade have been indeed the result of a deliberative process between most, if not all, nations who are participants in international commerce. Nor is it a reasonable claim that whatever economic welfare accrues from global trade is, in fact, distributed in a non-discriminatory manner. Yet, institutionalists like John Ruggie[2] argue that trade multilateralism remains the best available arrangement to achieve the objectives of inclusive growth, "without regard to particularistic interests."

Today, the future of trade multilateralism looks dim. As the Doha Round of WTO negotiations remains stalled and various Mega-Regional Trade Agreements (MRTAs) are being launched, it appears that the very idea of 'trade multilateralism' has reached a critical junction. It may be difficult to see what comes after: Will multilateralism survive or be transformed, and how do the mega-regionals affect it?

This paper offers an analytical review into the prospects of trade multilateralism. Using a review of literature on trade multilateralism and the legal texts of two of the new RTAs, this paper renders an analysis on the future of trade multilateralism from the following perspective: how do MRTAs relate to and affect trade multilateralism, as espoused by the WTO?

The question of how RTAs relate to trade multilateralism is not a new one. After all, new RTAs have been forged since the 1990s. By February 2016 there were 419 RTAs in force, and 625 have been notified to the WTO. A major part of the scholarly debate on their relation to WTO multilateralism revolves around two opposing poles: whether RTAs are the 'stumbling blocks' to further multilateral trade liberalisation, or they are, in fact, its 'building blocks'. Scholarship on the latter interpretation builds extensively on Richard Baldwin's research[3], while Jagdish Bhagwati[4] is a key authority of the other view.[5]

This paper focuses on two of the most recent RTAs—the Trans-Pacific Partnership (TPP), and the Comprehensive Trade and Economic Agreement (CETA) between the European Union (EU) and Canada. It must be noted that in WTO parlance, both of these are RTAs but among researchers and analysts, TPP is often referred to as a 'mega-regional trade agreement' (MRTA). Besides TPP, there are three other mega-regionals: the Transatlantic Trade and

Investment Partnership (TTIP) is being negotiated between the EU and the US, the Trade in Services Agreement (TiSA) is among a group of 20 "really good friends of services", and another is the China-led Regional Comprehensive Economic Partnership (RCEP) in Asia.[6]

The TPP and TTIP account for some 60 percent of world GDP and half of world trade – thus easily justifying the use of the prefix, mega. The RCEP and TiSA are also of comparable economic size to TPP or TTIP. Within the mega-regionals, TPP and TTIP form a group of their own. TPP and TTIP both involve the US and exclude China and India – who are both members of the RCEP. The other difference is that TPP and TTIP are also more extensive in scope and depth,[7] and include non-trade issues like labour and environmental commitments – strongly opposed by the rising powers, China, India and Brazil.[8] With regard to TiSA, the main point of divergence is neither the membership basis nor depth of liberalisation, but rather, the sectoral nature of this agreement specialising on trade in services.[9] For their sheer size, the MRTAs may indeed have much stronger implications on trade multilateralism than the former RTAs.

This paper has not reviewed TTIP for the reason that its text is yet to be finalised. TPP was concluded in 2015, and CETA, in 2014. Canada is member of both CETA and TPP, the EU is member of TTIP and CETA, and the US, of TTIP and TPP. These connections provide a clue that the provisions of CETA would not be markedly different from those of the TTIP; in fact, the provisions of CETA are quite similar to TPP. And although this paper does not use CETA as a substitute for TTIP, the former is still utilised as an indicator, not only for the TTIP but moreso for the commonalities between the EU-US-Canada trade policy agendas.

The TPP and TTIP, in particular, have elicited a number of scholarly responses from various disciplines, such as econometrics and geopolitics.[10] While public debates on the TPP and TTIP have also focused on the interphase between the mega-regionals and democracy, little scholarly work has been conducted on that area because of the lack of finalised legal texts. The existing econometric research has not needed nor employed legal texts. Current geopolitical analyses, meanwhile, build on textual proposals but rely on other policy documents and strategies, too. The availability of data has thus constrained the scholarly endeavours meant to decipher the mega-regionals.

Some preliminary analyses do exist, however. For example, Bhagwati et al.[11] argue that the MRTAs intensify the problem of discriminatory preferences in world trade. WTO's former Director General, Pascal Lamy, has also expressed concerns over the potential effect of the MRTAs on how the global trade system is formed. A concern for Lamy arises from the possibility that the norms and standards of the MRTAs – constructed by an exclusive bloc of states comprising the major developed countries (US, EU and Japan) – would become de facto global norms and standards. According to Lamy, "this would return us to the twentieth century dominance of old industrial countries"; this is in violation of trade multilateralism.[12] To what extent does this hold?

The following Section two provides a starting point for reviewing the two RTAs. It is an account of what trade multilateralism is and what it is not. Section three turns the gaze to the two RTAs. It consists of a review of their basic contents while at the same time reviewing their relations to trade multilateralism discussed in section two. Section four discusses the relevance of the RTAs for the global trade regime, and the paper concludes in Section five.

TRADE MULTILATERALISM

WTO Agreements

The Agreement on Establishing the World Trade Organization entered into force on 1 January 1995. The Founding Agreement defines the organisational structure of the WTO, and the actual trade agreements are provided in the first of the four Annexes to the Founding Agreement. This is sub-divided into three: the first on trade in goods (Annex 1A), the second on services (Annex 1B), and the third on intellectual property rights (Annex 1C). The second annex defines the Rules on Procedures Governing the Settlement of Disputes, the third consists of an agreement on Trade Policy Review Mechanism, and the fourth is made up of four plurilateral Trade Agreements which were not signed by all WTO members.[13]

The Multilateral Agreements on Trade in Goods divide into 20 agreements, the most important of which is the General Agreement on Tariffs and Trade (GATT). The rest of the multilateral agreements can be divided into three categories. The first group consists of those that provide interpretations

for certain GATT provisions. One of these provisions concerns Regional Trade Agreements, which is explicated in the Understanding on the Interpretation of Article XXIV of the General Agreement on Tariffs and Trade 1994.

The second group comprises issue-specific trade agreements and regulations, including for example, agriculture and trade in textiles. Agreement related to regulation concern both regulatory barriers to trade (non-tariff barriers) and common regulatory principles. Two important agreements on regulatory issues and non-tariff barriers are the Agreements on Technical Barriers to Trade (TBT) and Agreement on the Application of Sanitary and Phytosanitary Measures (SPS).

And finally, the third type of multilateral agreements on trade in goods concerns restrictions on trade.[14] One of these agreements is Understanding on Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994, which gives the right to pose restrictions on foreign imports when foreign imports threaten national balance of payments. Other agreements of this category are the Agreement on Import Licensing Procedures, Agreement on Safeguards, and Agreement on Subsidies and Countervailing Measures.

WTO agreements define the organisation as a multilateral institution. But what are 'institutions', to begin with? Institutions are official and unofficial rules and norms that give structure and form to different kinds of human action. The concept of 'multilateralism', meanwhile, refers to a specific type of institutional setting. According to John Ruggie, the defining feature of multilateral institutions is that they are based on “generalized principles of conduct”. This refers to the coordination between at least three states, “without regard to the particularistic interests of the parties”.[15] Thus multilateral institutions of governance are not based on the interests of the most powerful states but rather on some generalised interests.[16] Yet a generalised' interest (or idea of 'common good') is perhaps one of the most difficult things to attain among even a small group of actors. This has implications on the efficiency of multilateralism as a form of governance. Muzaka and Bishop, for example, argue that because multilateralism implies conflicts and contestations between the parties, it impedes rule by force or the predominance of particular interests. This, however, does not necessarily mean that generalised interests is easily attained, if at all.[17]

WTO's brand of multilateralism

As set forth in the Founding Agreement, WTO's decisionmaking is based on the principle of consensus.[18] This was reaffirmed in the Nairobi Ministerial Declaration's[19] commitment to "taking decision through a transparent, inclusive, consensus-based, Member-driven process." As an institution of trade governance, moreover, WTO has five functions. The WTO shall: 1) administer the implementation and operation of the WTO; 2) provide a forum for trade negotiations; 3) administer settlement of disputes; 4) supervise member states´ trade policies; and 5) cooperate with the World Bank and IMF.[20]

To carry out these functions, WTO has an interstate conference, the WTO Ministerial Conference, and a General Council. The General Council consists of the member state delegates in Geneva. It also serves as the WTO Dispute Settlement Body and the Trade Policy Review Body, in charge of administering the dispute settlement and supervising trade policies.[21] The founding agreement[22] states that only "[t]the Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements". These interpretative decisions are based on qualitative majority (of three-fourths) but in other cases (unless otherwise decided) the decisions are based on consensus (defined as lack of written objections from any member country).[23]

Hoekman and Kostecki define the fundamental principles of WTO trade agreements as: 1) nondiscrimination; 2) reciprocity; 3) enforceable commitments; 4) transparency; and 5) safety valves.[24] In the context of trade multilateralism, the most relevant of these are non-discrimination, reciprocity, and the safety valves. Enforceable commitments and transparency, for their part, are relevant for governance in general, and as such are excluded here.

Non-discrimination is a legal principle in the three basic trade agreements—GATT, GATS, and TRIPS. It is specified in the clauses on Most Favoured Nation (MFN) and National Treatment (NT). In GATT it is provided that all advantages, costs, and rules imposed by "any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or

destined for the territories of all other contracting parties." Non-discrimination thus prohibits both positive and negative discrimination. National Treatment, meanwhile, grants the same and equal treatment for foreign and domestic actors alike.[25]

The second dimension of non-discrimination relates to the different needs of developed and developing countries. For example, the Nairobi Declaration[26] states that "[w]e pledge to strengthen the multilateral trading system so that it provides a strong impetus to inclusive prosperity and welfare for all Members and responds to the specific development needs of developing country members". Non-discrimination thus not only stands for the neoliberal principle of 'equality before the law' but also reflects the fact that prosperity is unevenly divided among the WTO members. This frame to non-discrimination is most prevalent in WTO provisions of special and differentiated treatment (SDT) for developing and least developed countries. SDT provisions are classified into following six groups (quoted from the WTO[27]):

- Provisions aimed at increasing the trade opportunities of developing country Members;
- Provisions under which WTO Members should safeguard the interests of developing country Members;
- Flexibility of commitments, of action, and use of policy instruments;
- Transitional time-periods;
- Technical assistance;
- Provisions relating to LDC Members.

The third principle—safety valves (including restrictions)—requires elaboration. In an institution where decisions are arrived at by consensus, the logical assumption is that such decisions are non-discriminatory in nature and take into account the different needs and capabilities of the members. In a similar manner, it is reasonable to argue that if and when strong differences in interest exists, the difficulty of agreements rises in correlation with them. These observations can explain the scope and depth of the WTO trade agreements. They often have ambitious goals but are simultaneously subjected to different types of safety valves and restrictions. Restrictions are

of two general kinds, those that have been decided on the multilateral level and those that have been decided on national level.

This paper has already mentioned some of the multilateral agreements on trade restrictions (or market distortions). For example, the aforementioned multilateral agreement on regional trade agreements (understanding on GATT XXIV) is a derogation of non-discrimination, as it gives WTO members the right to conclude trade agreements which grant preferences to exclusive group of states and thus to effectively disregard the most-favored nation principle.[28]

A second example of the restrictions at the multilateral level are the provisions in GATT that allow for trade restrictions to protect sectors such as public health and national security. While this type of restrictions do violate the principle of non-discrimination, they are only reserved for exceptional circumstances. Unlike GATT XXIV provisions, this type of safety valves are not permanent violations and as such do not infringe on trade multilateralism but instead provide a legal framework for protecting citizens or the national interest in extraordinary situations.

The third type of restrictions (at the multilateral level) is more problematic, because it enables different practices of 'managed trade', that is, different forms of ambiguous interventions by state on the markets in favour of the domestic economy. Examples of WTO agreements of this category are the Agreement on Import Licensing Procedures, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards. Import licensing can be used to restrict market access, agreement on subsidies and countervailing measures can be used to support domestic economy on the pretense that trading partners are guilty of countervailing, and agreement on safeguards legalises the support of domestic economy on the vague pretense that imports can be causing "serious injury" to domestic industry.[29]

While the objective of these provisions is to put in place safety valves for domestic economies for fair and legitimate reasons, they can also be employed unfairly. Legitimate reasons include: a) consumer protection, public health or national security; b) ensure fair competition in face of, for example, subsidised imports; and c) protect domestic industries which would be seriously damaged by foreign imports, such as infant industries.

Domestic agricultural subsidies is a good example of unfair restrictions. In 2000 OECD countries paid about US$ 1 billion in agricultural support – daily. The size of agricultural subsidies in OECD countries was higher than the entire GDP of Africa.[30] Until 2000 the major subsidisers were the developed economies (the US, the EU and Japan) but since 2000 the share in subsidies of emerging countries has increased. In 2014 China took the lead in statistics, with a 41-percent share in the total subsidies. According to OECD estimates, the US, the EU and Japan account for 13, 15, and 9 percent of subsidies, respectively. The US is the top exporter in agriculture.[31]

Thus the subsidised (Western) exports have a government-induced advantage over their developing country competitors. It is in particular the Western subsidies which dramatically violate the principle of non-discrimination. One reason is that the (domestic) subsidies constitute part of the comparably high income of farmers in developed countries. In developing countries, on the other hand, farm incomes remain mostly at the subsistence level.[32]

Agricultural subsidies and restrictions on market access continue to be matters of contention between developing and developed countries in the WTO. Developing countries have argued that subsidies in the West do not comply with any of the legitimate reasons for market distortions but are in place simply for domestic gains. This perception among developing countries has been so prevalent that it helps explain why India and Brazil were able to form a 'developing country alliance' during the Doha Round of negotiations, which effectively countered the moves of the developed countries in the 2003 WTO Ministerial Conference.[33]

WTO agreements also include restrictions that are part of national annexes to the multilateral agreements. The national 'Schedules of Concessions' in GATT, for example, consist of products where tariff or trade restriction is maintained. The national 'Schedules of Commitments' in GATS, on the other hand, include the national commitments for liberalisation; only those services that are explicitly set forth in these lists are subjected to trade. In other words, national lists on GATT include exceptions to trade liberalisation[34] whereas the GATS-lists consist of market opening commitments.[35]

Table 1 summarises the shares of national commitments of each member state to each services sector. The total number of WTO legal documents is in the tens of thousands because of these national lists of concessions and commitments.

Table 1. GATS Scheduled Committments by sector

Services sector	Number of Committments	Committments as share of signatory states (n=150)
Business Services	116	77 %
Communication Services	113	75 %
Construction and Related Engineering Services	87	58 %
Distribution Services	65	43 %
Educational Services	59	39 %
Environmental Services	67	45 %
Financial Services	121	81 %
Health Related and Social Services	58	39 %
Tourism and Travel Services	141	94 %
Recreational, Cultural and Sporting Services	72	48 %
Transport Services	97	65 %
Other Services	10	7 %

Source: WTO 2015: GATS Schedules

WTO as a Platform for Contentions

Both key principles of trade multilateralism in the WTO—i.e., consensus and non-discrimination—are open to interpretations. Following Ruggie's definition one could argue that these institutions of the WTO should effectively inhibit the predominance of particularistic interests. However, the principle of consensus is not directly converted into practice (of deliberations by all on trade policy). In fact, quite the opposite held true until India and Brazil broke the dominance of the US, the EU, Japan and Canada at the 2003 Cancún Ministerial. Prior to Cancún, the Quad of these four developed countries was functioning as the elite of the WTO. Following Cancún, however, the asymmetries of power remain, explained by the different resources of WTO members to sustain delegations in Geneva. It seems safe to concur with Barton et al.[36] in their view that power and influence in the WTO continue to be biased in favour of the (major) developed countries. This despite the fact that the waning of the formerly dominant position of the Western economies and the US has already made space for multiple, albeit still few, poles of power.[37]

Compared to GATT, however, WTO may yet be called a shining example of multilateralism. GATT, after all, was governed by an executive council where

voting power corresponded to economic power. It was a US-led institution in close resemblance to the twin institutions of the Bretton Woods, the International Monetary Fund (IMF) and the World Bank (WB).[38] In contrast, WTO is governed by the Ministerial Conference and the General Council in which all members (with a permanent delegation in Geneva) take part. Moreover, since 2003 Japan and Canada, the two developed country members of the WTO elite, have according to Kristen Hopewell[39] been replaced by Brazil, India and China.

One criteria for trade multilateralism is the principle of consensus: that the global trade regime is built in agreement between the members and not for the particularistic interests of neither developing nor developed countries. As a formal principle it is two decades old and the practice of it has already resulted in landslides of power at the core of the WTO – albeit not without major political battles. Sustaining global governance in a post-hegemonic world elevates the importance of multilateralism as a form of governance. If and when the shift to a post-Western order implies that rule of law replaces the rule by force – as envisioned by institutionalist theory, the change will be for the better. But if anarchy of competing alliances takes the stage, that shift will likely be for the worse. A key concern then is the ability of existing multilateral institutions to live up to that task, not only to sustain the legitimacy and efficacy of global governance but also to improve it. At the same time, landslides of power and influence have rendered multilateralism an object of increasing contentions and critique.[40] In the introduction this paper quoted Pascal Lamy, who has voiced fears that mega-regional trade deals might be used to bypass the multilateral arena. In section four this paper provides support for Lamy's concern.

The principle of non-discrimination was part of the GATT 1947 but it is questionable as to what extent it has been applied. Muzaka and Bishop, for example, argue that both GATT 1947 and the WTO agreements were unable to solve the different expectations between the various economic and political interests of the signatories of GATT 1947 and the WTO agreements.[41] Following the Uruguay Round, many developing countries grew disillusioned with the effects of liberalisation and began demanding that their development concerns be given attention at subsequent negotiations (i.e., Doha Development Round).[42] Nobel laureate, Joseph Stiglitz has earlier

argued that some developing countries had actually lost from joining the WTO.[43]

When the Doha Round was launched in 2001, developed and developing countries had generally different expectations of the outcome. Developing countries wanted to improve the SDT provisions, retain restrictions on access to their domestic markets, while improving non-reciprocal access to developed country markets. From the perspective of non-discrimination, these demands can be seen as legitimate. Developed countries, however, had a different agenda. While they affirmed the special needs of particularly the least developed countries, they still wanted improved access to the developing and emerging markets.[44] According to Muzaka and Bishop,[45] trade multilateralism and the Doha Round in particular, is characterised by the lack of shared social purpose between the members of the WTO. The agenda consisted of further liberalisation of services commitments and tariff concessions, market access for agricultural products, stricter rules of subsidies and exceptions (trade distortions), and the so-called 'Singapore issues'.[46]

The difficult issues included services liberalisation, agricultural market access, and the four Singapore issues—investments, competition, transparency in public procurement, and trade facilitation. The controversy concerning investments was inherited from an OECD proposal for a Multilateral Agreement on Investments, which would have shifted investment disputes from the multilateral fora to an independent panel under the International Court for Settlement of Investment Disputes (ICSID). Secondly, it would have transformed the nature of disputes. From being state-to-state disputes and ultimately of diplomatic nature they would have become legal battles between investors and states of technical nature.[47]

These contentious issues, however, were only indirectly referred to in the Doha Declaration – as a reference to existing bilateral and regional laws on investment.[48] Some researchers also argue that a MAI-type agreement was not even on the agenda.[49] That interpretation is difficult to accept, because TPP, TTIP and CETA all include a modification of MAI-type investor-state dispute settlement. This indicates that even if MAI did not emerge on the Doha agenda it was on the developed country agenda all the time, and not on the developing country's.

The second issue of competition reflects the WTO principles of transparency and non-discrimination. It would have included stronger surveillance mechanism to counter, for example, trade distorting trusts. Transparency in government procurement referred to the opening of procurement markets. According to its proponents it would contribute to more effective allocation of resources and diversification of choices. Its critics, meanwhile, argue that it would lead to the misplacement of public funds because of the high requirement for procurement capacities[50] and the potential negative effects of increased competitive pressures on work conditions and product quality. Finally, trade facilitation refers to the harmonisation of customs procedures and is considered least controversial among the four Singapore issues.[51]

Former US trade representatives Robert Zoellick and Susan Schwab have been quoted as saying: Everyone knows that if there is no Doha Agreement, we are perfectly capable of moving ahead on the bilateral track.[52] This is perhaps illustrative of the heights of confidence harboured by the developed countries of their clout, and at the same time a dissatisfaction with the outcome of trade multilateralism. Such frustration is in fact one of the reasons to engage in RTAs[53] – and for the major developed economies, the *key* reason.[54] Indeed, when negotiations for a Trans-Pacific Partnership (TPP) were concluded on 4 October 2015, all the controversial issues were included in it. In the sense that these issues were on the table at the WTO (where they were rejected by the developing countries), TPP can be considered as a violation of multilateralism on the basis of preferential and discriminatory treatment by different WTO members.

Further, if TPP, CETA and TTIP also set the stage for a new global trade regime, as some expect, these RTAs will do so in direct opposition to the fundamental principle of trade multilateralism, which is consensus.[55] Roberto Bouzas and Julieta Zelicovich,[56] for example, have argued that the rationale behind the MRTAs is indeed the desire of the Atlantic states to regain control over the agenda and structure of the global trade regime. This argument thus links Western power with the agenda-setting of global trade and explains the emergence of Western MRTAs as a form of forum shopping: or an attempt at a strike at multilateralism.[57]

Different interpretations are offered by scholars who are more interested in the economics of world trade and less in the geoeconomics of it. Scholarship of global value chains (GVS) trade is an example, which does not emphasise the geoeconomics and great power interests in RTAs like TPP and TTIP nor consider the geoeconomic dimension as the key issue of the new RTAs. Instead, these scholars argue that due to the structural change of international trade, there is a growing need for harmonised regulation and increased market access. They also argue that the same SDT provisions that until the 1990s were applicable to support domestic industries and economic development in developing countries have become obsolete. The application of market access restrictions and a burdensome regulatory system may instead leave the developing countries outside of the networks of global production. According to OECD figures, approximately 80 percent of international trade takes place in global value chains managed by lead companies and benefitting from uniform regulatory standards and open markets. The way of improvement in this context is to specialise in some sector of the production chain. To take part in the global value chains, the key ingredient is economic openness.[58]

Other scholars like R. Baldwin and B. Hoekman have argued that to respond to the requirements of GVC trade, there is a growing need to implement a so-called 'WTO 2.0'. According to Hoekman, one factor in trade multilateralism that inhibits its implementation is the consensus principle.[59] From the GVC perspective it would be desirable to "strike at multilateralism" in order to increase the efficiency of it. Otherwise, the danger of the WTO becoming archaic in 20th-century trade only grows stronger.

REGIONAL TRADE AGREEMENTS: TPP AND CETA

Background

At the background of the Trans-Pacific Partnership (TPP) is a trade deal between Brunei, Chile, Singapore, and New Zealand (P4) concluded in 2005. This Trans-Pacific Strategic Economic Partnership included an agreement to start negotiations for liberalisation of financial services and investments not covered by the original deal. A new round with an expanded agenda began in 2008 with the US, Australia, Peru and Viet Nam as new members. Due to

presidential elections in the US the official launch of TPP-negotiations was postponed to 2010 with negotiations of an ambitious mega-regional trade deal commencing in March 2010 between US, Australia, Brunei, Chile, New Zealand, Peru, Singapore, and Viet Nam. Malaysia joined the eight original members in October 2010. Canada and Mexico joined the nine members during the 15th negotiation round in 2012, and Japan in 2013.[60] In the TPP text these 12 member states are referred to as the original signatories.[61]

Sharing US dissatisfaction with the lack progress at Doha, the EU is involved in similar regional trade agreements both with the US and Canada. Negotiations for the TTIP were launched in July 2013 and for a Comprehensive Economic and Trade Agreement (CETA) in 2009. While talks for concluding TTIP are still ongoing, CETA was concluded in October 2014.

Unfair preferences or meeting the needs of GVC trade?

Both TPP and CETA build on and expand the WTO agreements. TPP consists of a preamble, 30 chapters, and annexes, whereas CETA has a preamble and 42 chapters (See Table 2). Principles like non-discrimination, reciprocity and transparency remain at the centrestage, accompanied by new rules and expanded on further areas. The new rules include the non-trade issues, labour, environment and development issues (chapters 19, 20 and 23 in TPP). WTO's general rules are also expanded with the inclusion of rules concerning trade facilitation, investment, competition policy, state owned enterprises, regulatory cooperation, anti-corruption and intellectual property rights (IP) (chapters 5, 9, 16, 17, 18, 25 and 26 in TPP, see Table 2.). The addition of these new rules means the inclusion of preferential norms that discriminate between the members of the WTO.

TPP and CETA grant more extensive market access. This is accomplished, firstly, by the lowering of traditional trade barriers (tariffs). While the average tariff rate among the WTO members is about four percent, some products face much higher tariffs. For example, until the entering into force of the TPP agreement, US car engines imported to the TPP countries are slapped with up to 55 percent custom duties. New market access is granted, secondly, through further liberalisation of services and government procurement (e.g. through lowering the threshold values of international bidding contests and

dismantling regulations like the Buy American Act). Broader access to each other's markets among the members of TPP and CETA (and TTIP) also qualify as discriminatory measure as the same openings are preferential and exclusive.

As shown in Table 2, very little of the TPP and CETA have to do with tariffs. According to econometrics analyses done on the TPP, CETA and the TTIP, most economic benefits will accrue from, firstly, increased market access in services and procurement, and secondly, from lowering the so-called non-tariff barriers to trade.[62] While researchers of the Institute for International Economics, Peter Petri and Michael Plummer, in their study did not affirm major effects with regard to economic rebalancing (i.e., gains for the West and losses for the Rest), their research showed that non-members are likely to experience some economic losses (i.e., net losses of approximately one percent in GDP growth against the baseline projection for India and China). However, taking into account the fact that these minor losses fall upon developing countries with real and per capita GDP at much lower levels than developed countries (or more specifically the developed country members of TPPand CETA), these minor losses can be interpreted as a violation of the non-discrimination principle of trade multilateralism. This particularly holds for the special and differentiated needs of the developing economies.

Instead of tariffs, more emphasis in the new RTAs is on issues relevant to global value chains and behind the border barriers to trade. The latter category of trade barriers—non-tariffs barriers— arise directly from national and state-level regulatory policies. The relevant WTO agreements in this regard are those concerning technical barriers to trade (TBT) and plant and animal safety (SPS). In TPP and CETA, the basic WTO approach to regulatory policies (science-based approach) will be enforced through the tools of regulatory harmonisation, mutual recognition and the recognition of equivalence set out in the chapter of regulatory cooperation in CETA and regulatory coherence in TPP.

Moreover, in order to enhance regulatory alignment in particularly different areas of regulatory governance like risk management and safety requirements for chemicals, the RTAs initiate regular cooperation between the relevant regulatory bodies of the member states. Out of the total 30

chapters of the TPP, 16 are subjected to provisions for cooperation, exchange of information, and supervision. Cooperation on sectoral issues is also part of the CETA. The work of on sectoral issues is supervised by the Joint Committee on Regulatory Coherence in CETA and the Trans-Pacific Commission in the TPP.

RTAs also bring changes to the rules and exceptions of the WTO agreements. With regard to exceptions to market access, EU and its member states retain a broad list of exceptions. Market access for foreign investments to public utilities in health services, for example, is barred for the whole EU. Despite this, the approach to liberalisation differs from that of GATS. In principle, everything is included unless not specifically excluded while in practice everything (all services sectors) are subject to market access and/or national treatment reservations.[63] Moreover, the various agreements in WTO concerning the exceptions are in CETA and TPP included in one single chapter and further specified with the aforementioned new rules on competition, trade facilitation and rules concerning state-owned enterprises.

According to Hoekman, the needs of global value chain (GVC) trade pose demands for the development of the WTO. GVC –trade requires measures like regulatory harmonisation, regulatory cooperation, and better channels for business inputs, improved market access, intellectual property rights, and services liberalisation.[64] TPP and CETA offer improvements on most of them. Market access, services, IP, non-tariff barriers and regulatory cooperation are on both in TPP and CETA as well as on Hoekman's list. If it holds that these measures do increase the efficiency of GVC trade, then the capacity of non-members of TPP and CETA (and TTIP) to gain access to global production networks deteriorates. This again violates trade multilateralism's principle of non-discrimination.

Table 2. TPP, CETA and the controversial WTO issues

Trans-Pacific Partnership (TPP)	Comprehensive Economic and Trade Agreement (CETA)	Singapore issues and WTO+	Non-Trade issues	Tariffs	Non-tariff measures
1. Initial Provisions and General Definitions	2. Initial Provisions and General Definitions				x
2. National Treatment and Market Access for Goods	3. National Treatment and Market Access for Goods	WTO+		x	
3. Rules of Origin and Origin Procedures	4. Rules of Origin and Origin Procedures Protocol	WTO+			x
4. Textiles and Apparel	38. Declaration Concerning Rules of Origin for Textiles and Apparel	WTO+			x
5. Customs Administration and Trade Facilitation	8. Customs and Trade Facilitation	x			x
6. Trade Remedies	5. Trade Remedies				x
7. Sanitary and Phytosanitary Measures	7. Sanitary and Phytosanitary Measures (SPS)	WTO+			x
8. Technical Barriers to Trade	6. Technical Barriers to Trade (TBT)	WTO+			x
9. Investment	10. Investment	x			x
10. Cross-Border Trade in Services	11. Cross-Border Trade in Services	WTO+			x
11. Financial Services	15. Financial Services	WTO+			x
12. Temporary Entry for Business Persons	12. Temporary Entry				x
13. Telecommunications	17. Telecommunications				x
14. Electronic Commerce	18. Electronic Commerce				x
15. Government Procurement	21. Government Procurement	x			x
16. Competition Policy	19. Competition Policy	x			x
17. State-Owned Enterprises and Designated Monopolies	20. State Enterprises, Monopolies and Enterprises Granted Special Rights (MSE)				x
18. Intellectual Property	22. Intellectual Property	WTO+			x
19. Labour	24. Trade and Labour		x		x
20. Environment	25. Trade and Environment		x		x
21. Cooperation and Capacity Building					x
22. Competitiveness and Business Facilitation					x
23. Development	23. Trade and Sustainable Development		x		x
24. Small and Medium-Sized Enterprises					x
25. Regulatory Coherence	26. Regulatory Cooperation		x		x
26. Transparency and Anti-Corruption	31. Transparency				x
27. Administrative and Institutional Provisions	30. Administrative and Institutional Provisions				x
28. Dispute Settlement	33. Dispute Settlement				x
29. Exceptions and General Provisions	32. Exceptions				x
30. Final Provisions	34. Final Provisions				x
	13. Mutual Recognition of Professional Qualifications				x
	14. Domestic Regulation				x
	16. International Maritime Transport Services				x
	27. Protocol on the Mutual Acceptance of the Results of Conformity Assessment				x
	28. Protocol on the Good Manufacturing Practices for Pharmaceutical Products				x
	29. Dialogues and Bilateral Cooperation				x
	9. Subsidies				x
	36. Joint Declarations Concerning the Principality of Andorra and the Republic of San Marino				x
	37. Declaration on TRQ Administration				x
	39. Declaration on the ICA				x
	40. Joint Declaration				x
	41. Declaration on Wines and Spirits				x
	42. Understanding on Courier Services				x

Source: TPP; CETA; WTO Agreement; Capling & Ravenhill 2011; Bhagwati et al. 2015.

Governance of the RTAs

The organisational structure of the RTAs is similar to that of WTO. Indeed, despite the lack of 'Organisation' in the name of the RTAs, they are truly organisations. There is, however, no chapter that defines the functions or organisational structure of the TPP or CETA. These are instead included in the chapters on administrative and institutional provisions (chapter 30 in CETA and section 27 in TPP).

The TPP Commission shall:[65]

- Consider any matter relating to the implementation or operation of this Agreement;
- Supervise the work of all committees and working groups established under this Agreement;
- Consider any proposal to amend or modify this Agreement;
- Consider ways to further enhance trade and investment between the Parties;

The TPP Commission may:[66]

- Consider and adopt, subject to completion of any necessary legal procedures by each Party: the schedules, rules of origin, government procurement.
- Develop arrangements for implementing this Agreement;
- Seek to resolve differences or disputes that may arise regarding the interpretation or application of this Agreement;
- Issue interpretations of the provisions of the Agreement;
- Seek the advice of non-governmental persons or groups on any matter falling within the Commission's functions; and
- Take such other action as the Parties may agree.

The CETA Joint Committee shall:[67]

- Supervise and facilitate the implementation and application of the CETA;
- Supervise the work of all specialized committees and other bodies established under the CETA;
- Seek appropriate ways and methods of forestalling problems which might arise in areas covered by the CETA, or of resolving disputes that may arise regarding the interpretation or application of the CETA;
- Consider any matter of interest relating to an area covered by the CETA;

The CETA Joint Committee may:[68]

- Establish and delegate responsibilities to Specialized Committees ;
- Communicate with all interested parties including private sector and civil society organizations;
- Consider or agree on amendments as provided in this Agreement;

- Study the development of trade between the Parties and consider ways to further enhance trade relations between the Parties;
- Adopt interpretations of the Provisions of the CETA, which shall be binding on tribunals established under Chapter X (Dispute Settlement) and Chapter X (Investment) as it relates to investor-state dispute settlement;
- Make recommendations suitable for promoting the expansion of trade and investment as envisaged in the Agreement;
- Take such other action in the exercise of its functions as the Parties agree.

The Commission and Joint Committee will comprise of representatives of the negotiating parties. They shall meet at least once a year and their decisionmaking is based on consensus unless otherwise agreed (again, through consensus). In addition, EU-Canada agreement emphasises that all decisions shall be binding on the parties.[69] Unlike the WTO, TPP and CETA will not have a budget nor own staff, unless otherwise agreed by the members.

With regard to the functions of the TPP Commission and the Joint Committee on one hand and the WTO on the other, the greatest difference seems to be that the dispute settlement process in the RTAs does not fall under the power of multilateral institutions (like the WTO General Council). Both TPP and CETA and unlike the WTO include a chapter on investor protection. Investment chapter grants the investors a right to use a separate dispute settlement under the International Center Settlement of Investment Disputes (ICSID). This takes away an important multilateral element (the ultimate power to decide over interpretations of the trade law) from the RTAs and transfers it to an independent legal entity outside any national jurisdiction. With regard to CETA Joint Committee, however, the 'may' section provides a pathway for intergovernmental political authority over the legal interpretations of disputes covering both investor-state disputes and the state-to-state disputes.

As far as the state-to-state dispute settlement process in concerned, there is also a difference between the RTAs and the WTO. The WTO disputes are handled by legal experts (set up for each individual case by agreement of the disputing members). In the RTAs, panels are formed by agreement between the disputing parties from lists of legal experts elected by Joint Committee

and the Commission. Unlike in WTO, the final panel report (of the expert arbitrators) is binding on the members of the CETA (Art 14.10) and TPP (Art 28.18). Therefore the two dispute settlement processes in the RTAs no longer fall under the scope of inter-governmental decisionmaking and accountability towards the governments.

A second difference is that unlike in the WTO,[70] the NGOs are included in the two RTAs. In the TPP the agreement reads that the commission may "seek the advice of non-governmental persons or groups" and in the CETA that the Joint Committee may "communicate with all interested parties". The initiative to open the channels of communication for, e.g., business interests and consumer organisations, rests with the political authority of Commission and Joint Committee. This innovation may not be exactly the equivalent of a 'supply chain council' proposed by Hoekman[71] but from GVC perspective it is a step into the right direction.

Thirdly, compared to the five functions of the WTO, the list of duties (shall-list) and potential duties (may-list) together are more extensive in scope. This relates particularly to the regulatory cooperation, which will likely promote regulatory alignment (as it is meant to).[72] All the regulatory chapters of the RTAs constitute a regulatory cooperation mechanism to oversee and monitor national regulatory policies with the purposes of obstructing the formation of new regulatory barriers, and secondly, for elimination of the existing ones. While the RTAs do not impose a uniform legal system on all national regulations, the RTAs do impose a system of cooperation which binds national regulators to take into account corresponding policies in the partner countries. Moreover, TPP Commission and the Joint Committee have the power to improve and develop the scope and depth of the trade agreements in order to prevent development of new regulation which poses new barriers – if the regulatory policies fall within the scope of the broad agenda of the RTAs.

MULTILATERALISING REGIONALISM?

This paper has so far affirmed the concerns of Bhagwati and Lamy: RTAs render discriminatory benefits for their members and cause costs for non-members. This is a double violation of the non-discrimination principle of trade multilateralism. The paper has also shown that governance of the RTAs

grants a stronger voice for business (and other NGOs) and increases the power of independent judiciary – changes that contradict conceptualisation of trade multilateralism as an institutional arrangement of coordinated action between states in the frame of non-discriminatory distribution of economic welfare.[73] These observations are not new. J. Bhagwati, for one, has consistently warned about the effect of preferential trade agreements and how they inhibit multilateral liberalisation.[74] From these perspectives RTAs can be interpreted as 'stumbling blocks' of trade multilateralism. But is the effect limited on stumbling, or will it be possible to transform the global trade system with the discriminatory and exclusive regional agreements? According to Richard Baldwin, the multilateralising drive posed by regionalism consists primarily of three mechanisms: the juggernaut effect, the domino effect, and 'race to the bottom' unilateralism.[75]

'Juggernaut effect' is partly the result of the export industry, which gains from improved market access. Domestic import industries may suffer but pressure from the exporting sectors nevertheless raises the stakes for protectionism. The strength of this effect depends on the structure of the national political economy forces. Among highly commercial nations with export-oriented industry it has more impact than in nations where domestic industry is in the same sectors as the export industries. In the latter case the potential gains from improved market access can be offset by increased competition in the domestic markets. For this reason juggernaut effect has the most impact when the exporters engage in different industries than those sectors of the economy which compete with imports.[76]

TPP and CETA (and TTIP) are mostly about other trade issues than tariffs. Tariffs, however, was the object of Baldwin's analysis. To what extent is this logic applicable to regulatory barriers and new standards? Firstly, regulatory barriers are different in character than tariffs. Regulatory barriers are not linked to protecting domestic economies like tariffs, but rather are in place for political purposes: for public safety. Dismantling this type of barriers through increased conformity of safety requirements may thus pose additional costs for non-members of a regional arrangement. Same holds for other types of standards like higher IP rights. From the perspective of export industries, safety requirements and IP protection are conditions that they

would need to meet in order to gain market access. But for the country of origin there is little incentive to also raise the standards and costs for domestic production and the exporters from non-members are neither suffering nor gaining from membership – their products must conform anyway. Thus the juggernaut effect for multilateralising TPP, CETA (and TTIP) does not seem viable.

The 'Domino effect' is Baldwin's second mechanism of multilateralising regionalism and it consists of two stages. At the first stage the focus is on national political economy forces linked to the trade-off situation between gains of increased market access (exporters) and increased domestic competition (through imports). According to Baldwin, a regional arrangement with preferential tariffs discriminates against non-members and raises the desire of exporters to become members. At the second stage, if a non-member becomes a member, the rest of the non-members suffer even more, thus raising the pressure to become members.[77] Here again the effect is more directed to expected gains from reduced costs of market access (through lower tariffs) instead of potentially higher costs for it (through higher standards).

The gains from unilateral liberalisation do not seem to be applicable for the new RTAs. According to Baldwin,[78] an example of the unilateral liberalisation is the phenomena of 'factory Asia', of which export processing zones are the most notable (and notorious) case. But TPP, CETA and TTIP in fact attempt to[79] raise labour and environmental standards and oblige all member-countries to discourage imports from places with low labour standards. This reduces the potential for unilateral liberalisation, or 'race to the bottom', as Baldwin calls it.

Research on East Asian regional trade supports this critical analysis of Baldwin's theory. For example, Ann Capling and John Ravenhill,[80] scholars of political economy, have made similar conclusions in different cases of RTAs. According to Capling and Ravenhill, the special type of political economy in East Asia significantly decreases the relevance of those instruments that according to Baldwin function as the 'multilateralising factors'. The influence of, for example, business lobby in East Asian political economy decisions is not as significant as Baldwin's theory would suggest. Moreover, the economic

interests are often overshadowed or subjected to other interests, like strategic interests and national rivalries. And finally, Capling and Ravenhill also argue that there appears not to be any significant barriers to GVC trade in East Asia.

What then is the key reason which describes why the new RTAs–TPP and CETA–do not seem to comply with Baldwin's theory on 'multilateralising regionalism'? Based on the above analysis, the instrumental reason seems to be that these RTAs are substantially different from those that are presupposed by Baldwin's theory. As this paper has illustrated, the RTAs are mostly about non-tariff measures including both regulatory issues (i.e. non-tariff barriers, regulatory cooperation and trade rules) and non-trade rules. In consequence, Baldwin's 'multilateralising regionalism' in the case of TPP and CETA (and TTIP) does not seem to hold because the new RTAs appear to be at odds with the basic premise of trade liberalisation: that trade liberalisation increases economic efficacy and contributes to economic welfare among all participants. This is the key objection to preferential trade agreements posed by analysts like Bhagwati. In the case of preferential tariff areas, Bhagwati's critique is subject to Baldwin's theorisation of multilateralising preferential tariffs. In the case of the new RTAs, it appears that Bhagwati's line of reasoning grows stronger while Baldwin's, weakens.

Is the conclusion then that the new RTAs are leading to a fragmentation of the global trade system and paving the way for the end of trade multilateralism? From an analytical perspective it is important to note that these are conceptually two different questions. The fragmentation of the global trade system—or the concept of a global trade system—is descriptive. It refers to the practices and rules of trade system that apply globally (or in case of a fragmented system, to the practices and rules of trade that apply regionally and are at some invariance with other regions). Trade multilateralism, on the other hand, refers to a certain type of practices and rules of how the trade system is governed and formed – and in this paper those were defined as consensus and non-discrimination (with SDT).

By way of this analytical distinction between the global trade system and trade multilateralism, two separate inferences can be made. First, that trade multilateralism requires a global trade system – a system thus which is formed in consensus and does not serve the particularistic interests of major powers.

Second, that a global trade system does not require trade multilateralism but can be erected to serve the particularistic interests of major powers.

Baldwin's theory relates to the formation of a global trade system. According to Baldwin, regionalism (as a building block of global trade system) has an effect on global trade system - not through multilateral negotiations in the first place but through the national political economy forces. Thus, even if Baldwin's theory is correct (in the case of the new RTAs), the multilateralising effect could be classified as a case of trade multilateralism. Moreover, in the preceding sections this paper has attempted to show that for the developed countries trade multilateralism has not brought an expansion of the global trade system in the way the developed countries would have hoped for (and that they tried to achieve in the DDA). For the developed countries, one might argue, trade multilateralism is perhaps no longer fit for the purpose. At the same time, 'improving' the global trade system remains at the core of developed country trade policies – and for developing countries, too. But if consensus and non-discrimination are not the tools to achieve an acceptable result for all parties (or if the most powerful parties will not accept the results of decisions by all), then the evolution of global trade system is more likely to be based on power relations and use of power than the institutions of trade multilateralism.

From this perspective it seems justified to consider the new RTAs as strategic tools of the major developed countries to advance and promote their particularistic interests. Juutinen and Käkönen, for example, have recently argued that the new RTAs comply with the grand strategy of the West to maintain and strengthen the liberal international order and (perhaps more importantly) the Western predominance in it.[81] This policy certainly strikes against the principles of (trade) multilateralism, but is it ultimately a failed way? That is, if the global trade system is becoming fragmented due to the new RTAs, it becomes difficult to see how the RTAs help to maintain the liberal international order or the Western predominance in it. Similarly, if the requirements of GVCs trade indeed are requirements of trade in global rather than regional value chains, then a fragmentation of global trade system is in anybody's interest.

For this reason, and to make the case for a 'strike at multilateralism' more comprehensive (i.e., to provide at least some arguments which would make

the strike a politically viable or rational choice for the major developed countries), two additional observations on the global impact of the new RTAs are in place.

The first observation concerns the economic size of the TPP and TTIP (CETA provides no additional leverage because both of its members are already in the two former RTAs). Members of the MRTAs account for about half of world trade and over half of its entire GDP. This means that for a major part of world trade the de facto rules are actually being set right now and outside the confines of multilateralism. Secondly, the economic leverage and the requirements of GVC trade provide muscle for the major developed countries (or the former Quad in the WTO) to demand reforms also at the multilateral level (in the WTO). In the WTO they have been the demandeurs of expanding the Doha agenda and now they seem to be successfully expanding the global trade regime outside the WTO. In the WTO the increasing political and economic leverage of the developed countries may be effective enough to reduce the opposition of developing countries.

Size does matter. CETA alone is of relatively minor economic size. If CETA were the only one of the new type of RTAs, it might actually lead to trade diversion from the EU and Canada – because of the additional costs for major part of the developing world (due to the conformity requirements with higher standards and rules). The above discussion of Baldwin's theory refers to this context – it excluded the key factor of size.

The actual situation is that CETA is not alone but is similar to the TPP – and TTIP. The West is still at the lead of GVC and the institutional ownership of the multinational corporations (running the GVCs) is concentrated amongst the Western MNCs.[82] Given this dominance of the West in global trade through the control of GVCs, the adverse effect of the RTAs – for countries who wish to stay out of them– can be the exclusion of the GVCs. It follows that fear of exclusion from and difficulty to access to the GVCs (and foreign investments linked to them) makes it difficult to remain outside. In the context of WTO negotiations this means that it is difficult for outsider countries not to approve of the new RTA framework when in the future it is pushed in the WTO by the major TPP and TTIP members. Oddly enough, then, the driving force of the future global trade regime is less about gains

from non-discriminatory liberalisation and more about the adverse effects of actual discrimination. (From a geoeconomic standpoint, however, there is nothing odd about this.)

Through the new RTAs the major developed countries may have found a way to reconfigure the structure and form of how global trade system is built in such a way that it primarily serves the interests of the West while simultaneously forces compliance on the Rest – or makes the cost of noncompliance high (without an effective substitute).

CONCLUSION: A STRIKE AT MULTILATERALISM

The purpose of this paper was to provide an analytical review of the relation of two new regional trade agreements—TPP and CETA—on trade multilateralism. In section two this paper defined the concept as an institutional arrangement of international cooperation that opposes the predominance of particularistic interests in trade governance (and in distribution of economic gains from trade). TPP and CETA, on the other hand, strongly violate this idea.

This paper also provided another more technical and less policy-oriented perspective to trade multilateralism - that of global value chains trade. From GVC perspective the impact of the RTAs may be rather positive. According to some proponents of this perspective, multilateralising regionalism on the basis of GVC trade may in fact decrease (in the long run) the problem of discrimination and distribution of economic benefits.

From the GVC perspective, multilateralising regionalism is an acceptable way of promoting a liberal trade regime. From the institutionalist perspective, on the other hand, promotion of GVC-based trade regime by a violation of principles of multilateralism, does not appear to be the legitimate approach. If one focuses on the development concerns of most of the WTO members within the frame of SDR provisions, multilateralising RTAs does not necessarily qualify for non-discrimination, because for many developing countries conforming with the RTA standards implies additional costs. GVC scholars, however, can counter this argument by reasoning that in order to advance (and to gain access to) global value chains, there is a need to make that investment (to bear the costs to gain later). Rising standards may cause

additional costs temporarily but are likely to be offset by the eventual benefits at later stage – or so goes the argument of the GVS scholarship.

At least temporarily, the RTAs do violate trade multilateralism. In the long run this violation can end, if the trade laws that define the RTAs are embraced, accepted and incorporated in the WTO framework. If this is done, then the RTAs form the new normal or the new foundation of the WTO. One could use a metaphor: A coup d'état begins as a violation of the existing constitutional system. The new order is based on *de facto* rules in violation of such constitutional order. Eventually, the new order becomes constitutionalised, and the *de facto* position of the new ruler becomes *de jure*. In a similar manner, if the RTA framework indeed sets a de facto standard for the global regime, and it becomes institutionalised at the WTO as a de jure framework, it simultaneously becomes the new framework for multilateral decisionmaking.

Whether it is possible that the gains from GVC trade in the long run were to offset the short-term costs of discriminatory standards, and whether the emerging global trade system were to gain legitimacy thus contributing to revitalisation of trade multilateralism, is beyond the scope of this study. It appears, however, that GVC literature is more driven by focus on the needs of value chains trade than the development concerns. Yet scholars like Bernard Hoekman have argued that GVS trade is about development and economic gains – *for all*. To become integrated into the GVCs implies access to investments, know-how and growth. On the other hand, even the structural reforms of the Washington Consensus (the political reforms imposed on many developing countries by the World Bank and the International Monetary Fund) were represented in a similar fashion – as conducive to growth and development. They were often conducive to growth but at the same time also led to downsizing investments in infrastructure – a key ingredient of a sustainable platform of economic development, which, after all, is not a direct equivalent of growth.

If GVC trade is indeed a key to development, found by the West and imposed on the Rest, then the best option of the developing and emerging countries might be to embrace the RTA framework at the multilateral level and take part in developing WTO 2.0. At the same time it is important to consider and study GVC trade with scrutiny and in cooperation with a broad

range of disciplines (like economics, law, and political science). Moreover, it is not viable to use only those analytical tools and perspective that have been developed in the Western universities and think tanks. After all, Indian political economy professed by Kautilya predates the Western political economy professed by the Finnish Anders Chydenius and ten years later by the Scottish Adam Smith by two millennia.

Meanwhile, the strategy for countries like the BRICS – with political and economic influence in the world, who seek a more balanced and multipolar world order—is to consider the surge of the RTAs as Western geopolitical maneuvers as well as political economy initiatives – and to act accordingly. Given the potential benefits of the GVC trade it may be wise to take an active stance in building up capacity to embrace the RTA framework. Further, given the geopolitical dimension of the RTAs and the GVC trade, a second and equally (or perhaps more important) step is to build up intra-industry and state-level coordination in economic policies. On the intra-industry level the objective should be to provide an effective counterbalance for the lead companies in GVCs. On the state level it should be to provide an effective counterbalance for the negotiating power of the major developed countries.

From a governance perspective it is legitimate to ask: how do the developing and emerging countries want to decide over the future of global trade system? Is it acceptable for the major developed countries to impose their rules on others? What are the just principles of global governance? If global trade system is in the process of being made through the use of economic force, it is perhaps as good to respond in the same way – and there is no lack of economic force among the BRICS.

Finally, Comprehensive Economic Partnership (RCEP) and the BRICS Economic Partnership are welcome steps as they provide a platform for developed and emerging country cooperation on their own terms. What is important in these two initiatives are: 1) to improve regulatory capacities and standards reflecting the TPP and TTIP, and 2) improve coordinated action to rebalance the negotiating power of the major Western powers and their firms in GVCs. The BRICS have all the power to be equal partners in forging the future trade system, even if the construction of it is ousted from the multilateral tables of the WTO. ORF

ACKNOWLEDGEMENT

The author thanks the three anonymous reviewers for their critical and encouraging comments and insightful suggestions.

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12. P. Lamy, pp. 74, 2015.
13. World Trade Organization at https://www.wto.org/english/docs_e/legal_e/final_e.htm (accessed January 10, 2016).
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15. John Ruggie, pp. 571, 'Multilateralism: the anatomy of an institution', International Organization, 46 (3), 1992.
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18. Another principle is Single Undertaking: Virtually every item of the negotiation is part of a whole and indivisible package and cannot be agreed separately. "Nothing is agreed until everything is agreed". This principle was laid down in the Ministerial Declaration for the Doha Round, but it is not an official decision making principle of the WTO or part of the WTO agreements. See WTO 2016: https://www.wto.org/english/tratop_e/dda_e/work_organi_e.htm.
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