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How Can The World Trade Organization Stay Relevant?

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OP-ED
JANUARY 14, 2014 *WORLD ECONOMIC FORUM*

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The Bali agreement rescued the World Trade Organization (WTO) from oblivion, but it also underscored the severe limitations of multilateral negotiations and the need to reform the institution. Encouragingly, it also points the way to how the WTO can change.

In Bali, the WTO reaffirmed the importance of its development mandate, but only by reiterating the contents of prior agreements, adding little new. It also, however, took a significant step forward and one, smaller one, backward. The step forward was to establish trade facilitation – in this case essentially entailing the proper functioning of customs – as part and parcel of the WTO's functioning, including the creation of a standing committee to oversee the implementation of the agreement.

The step backward was to allow (temporarily, but temporary easily becomes permanent in trade policy) India and other developing countries a major exception to limits on agricultural subsidies on account of food security. It is easy to imagine how such an exception will make it more difficult to make progress on eliminating all trade-distorting agricultural subsidies, traditionally a defensive agenda of advanced countries, and one on which the WTO supposedly plays a unique role. And failure to move on agricultural subsidies in the future will reduce the chances that advanced countries will obtain their long-sought quid pro quo, which is improved and more secure access to manufacturing and service markets in developing countries.

But trade facilitation stood out as an exception on which many could agree. True, the significance of the trade facilitation agreement can be easily overstated, since in Bali it was whittled down to what is effectively a "best efforts" endeavour with an open-ended implementation schedule for developing countries. This includes freedom on their part to self-select what gets done faster, and what gets done on an indefinite schedule. Meanwhile, advanced countries and some developing countries have already largely implemented the good practices the agreement entails, such as prompt publication of changes in regulations, pre-shipping inspections where appropriate, redress procedures, and rapid processing times. But the importance of the trade facilitation agreement can also be understated, since extensive research has shown that the cost of custom delays can easily outstrip that of tariffs, and even a “best efforts” international agreement can strengthen the hands of reformers when the political will to improve exists.

Still, even the staunchest multilateralists will agree that Bali represents slim pickings for a wide-ranging negotiation that began in Doha 12 years before, and that negotiations involving 160 very diverse countries (Yemen being the latest addition) are very unlikely to yield anything other than minimum common denominator outcomes. Bali therefore underscores the need to move to a more efficient model for WTO negotiations, one that can involve a smaller, critical mass of players willing to engage on a narrow set of issues – so-called “plurilaterals” – rather than requiring that all countries agree on every aspect. There are illustrious precedents for this, including, for example the government procurement agreement, the information technology agreement and the agreement on financial services, all three of which are now the object of negotiation to be extended or deepened in various ways.

The problem with plurilaterals is not only that countries understandably resist any attempt to impose WTO disciplines on them if they have not been part of the negotiation, but they are also reluctant to let others negotiate agreements under the WTO aegis (including dispute settlement, etc.) that puts them at a disadvantage. Short of conducting the negotiations outside the WTO (as in the current case of the negotiations on TISA – the Trade in Services Agreement), there are three complementary ways to square this circle: grant the excluded countries similar terms as the included ones, include them in the negotiations even if they ultimately opt out of the final deal, and side payments.

The Bali package is billed as a multilateral deal since everyone was involved in its negotiation, but, given its narrow nature, it can equally be interpreted as a plurilateral deal on trade facilitation since, by allowing plenty of wiggle room in its provisions and allowing developing countries indefinite implementation periods, the trade facilitation agreement effectively bestows a near-free rider status on those that choose not to pursue it. In this light, the reaffirmation of the development mandate, especially for least developed countries, and the food security exception for India were side payments for a rather limited agreement on trade facilitation.

The loose provisions in the trade facilitation deal are far from satisfactory from a narrow legal perspective. But from a development perspective, the picture is not as bleak: most countries want to undertake these reforms anyway, and given the complexities of carrying them out in a politicized environment, one can still see the agreement as a big step forward, since it establishes a roadmap and gives reforms a jolt, leaving open the possibility that more binding disciplines will be agreed in the future.

Thus, an important achievement of Bali – and one for which the new Director General Roberto Acevedo has to be recognized – is that it points the way to a more flexible modus operandi for the WTO, one that may allow for progress in other relatively narrow aspects of the Doha agenda in the future, or to go beyond Doha. Bali could also begin to shift the emphasis from the legalism for which the WTO and its predecessor, the GATT (the General Agreement on Tariffs and Trade), are well known, onto the encouragement and support of trade reforms at a country’s own pace.

Moreover, everyone should recognize that progress in world trade does not depend only on the WTO, even though the institution continues to play a crucial role in keeping trade open and predictable. Regional agreements supplanted it long ago as the most active arena of international negotiations and will take on even greater prominence in the future as a number of mega-regional deals such as the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership take shape, even if some of them ultimately fail.

Furthermore, technology trends and the domestic pressure to enact reforms have always been the most important drivers of global trade by far, and will continue to be. With the growth of foreign direct investment and the proliferation of global value chains, foreign investment and trade have become an essential component of production, making self-sufficiency almost unthinkable. And the rise of an informed middle class in developing countries places new demands for access to quality products at a reasonable price.

Contrary to the dire predictions of trade pessimists, there is thus little reason to doubt that world trade will resume its rapid upward trajectory as the effects of the financial crisis recede. That, in turn, will raise the stakes on revitalizing the WTO as a central plank of post-war prosperity. Hopefully, Bali will be remembered as the first step in the institution’s long and hard journey of reform.

This article was originally published by the World Economic Forum.

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Source http://carnegieendowment.org/2014/01/14/how-can-world-trade-organization-stay-relevant/gyfm