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MULTILATERALISM IN THE MIDST OF THE RISING TIDE OF BILATERAL AND REGIONAL TRADE PACTS

Discussion paper presented by Senator L.A. Heber (Uruguay)

Already last September when the Parliamentary Panel at the WTO Public Forum was held to discuss whether the current multilateral trade system could cope with emerging challenges, we were discussing the theme that has brought us here today: Multilateralism in the midst of the rising tide of bilateral and regional trade pacts.

In particular, we indicated that the international negotiation scenarios would be deeply affected by the financial crisis and asked whether multilateralism was the answer to the challenges ahead, underscoring the need to take up the new challenges such as the proliferation of regional trade agreements.

The global crisis brought to the fore the weaknesses of the international system above and beyond the collective responses that were provided to mitigate the impact of those events.

The new international situation and the WTO

Notwithstanding the proliferation of regional agreements, which has been one response to the prevailing situation, stakeholders have not broken off their multilateral agreements or abandoned the WTO.

States are learning how to use what is commonly known as "policy space", resorting on several occasions to escape valves regulated by the WTO, which have allowed them to overcome the situation brought about by the crisis without having to depart from the existing multilateral framework.

The system must pay attention to certain grey areas that can lead to masked protectionism, which would require applicable measures to be compatible with WTO commitments, and the proliferation of these new regional agreements to be placed under a multilateral framework that is compatible with multilateralism.

The multilateral trade system contains a set of standards that safeguard against trends to restrict world trade but which need to be fine-tuned. The current multilateral system needs to adapt to this reality and this new system should not only preserve trade liberalization, but also the development of these new trends that increasingly resemble regional processes.

The WTO must address these new challenges, playing a pivotal role in what is referred to as global economic governance, and acting as a functional organization that strikes better balances. There is genuine democratic will for the least developed countries to participate and the organization must be invested with real international governance in order to achieve an increasing globalization of economies with a view to regulating not only multilateral trade but also growing regionalization.

This dynamic of the globalization of economies, we have said, has been sustained by two types of movement: one of a multilateral nature, whose greatest symbol is the WTO, and another of a regional nature, through regional agreements. The question remains whether these two trends lead to the same path and will achieve the same goal.

Integration processes and the creation of multilateralism

The debate before us today is whether regional processes will accelerate trade multilateralization or if, on the contrary, its pace will slow down. In other words, are we faced with stumbling blocks or building blocks?

Several analysts believe that the starting point should be the traditional concept developed by Viner, whether these lead to trade creation or trade diversion. But is this enough?

The fact that multilateral negotiations are not advancing at the desired pace has resulted in countries embracing bilateral or regional agreements, under which negotiations are simpler to conclude, with developing countries seeing in them not only a trade opportunity that allows them to access new markets but also a way of deepening their diplomatic relations, and with developed countries finding an opportunity to assume leadership and forge national alliances.

Insofar as these pacts tend to reduce tariff barriers and regulate trade more and are thus beneficial to the system, their conclusion on top of other agreements may generate interest in expanding them and making them multilateral in nature. But we should ensure that these do not become barriers to trade for third parties or that their proliferation does not confuse the system.

It is clear that we must not necessarily consider multilateralism and regionalism as two opposing processes. On the contrary, the regional trend goes hand in hand with this process, and is clearly demonstrated by the fact that of the nearly 450 existing agreements that were concluded between the time GATT was established and now, over 300 were concluded after the WTO was established in 1995. Over 60 per cent of the world trade between blocs and almost 100 per cent of WTO Members have a signed trade agreement in one form or another.

But there is a reality that is not reflected in figures: that not necessarily all of these processes are truly active, and that those that exist mainly in cases where intra-bloc tariffs are already low, which means that they do not necessarily result in trade diversion. Consequently, to say that the greatest volume of trade occurs between blocs can be deceptive, and one would have to see what is the real effect of these agreements on their members' trade, and what effects would have existed on trade if those countries only were governed by a multilateral system.

It would be useful to analyse carefully if the current integration processes are a phase leading to globalization or if, on the contrary, they are a substitute or alternative to it.

As several analysts have indicated, the real impact of these agreements is felt when they also include reduction of non-tariff barriers, when they promote investment and strengthen their legal framework, thereby guaranteeing legal security. In this sense, these agreements are not a threat to the multilateral system.

This type of "open" agreement has little economic impact and helps integrate markets much more than multilateral organizations can.

It is important to ensure, therefore, that there is not a tendency to replace tariff barriers by other protectionist measures, or by stipulating demanding rules of origin that can be as harmful as a high common external tariff. It is imperative to see whether these agreements raise trade barriers, thereby resulting in trade diversion.

Nuances between regional processes

In many of these processes, integration by countries at different levels of development can be observed. It is a situation where each participates for various reasons: developing countries seeking access to protected markets and developed countries seeking to expand their areas of influence.

Regional agreements may help small countries reduce their costs of negotiation on the international arena, thereby increasing their market power, promoting a sharing of interests with their partners, and serving as a political negotiation tool together with other blocs or at the level of the WTO. Coordination among partners gives them greater negotiation power than they could ever have individually.

These agreements may also help to manage difficult cases with greater ease; where multilateralization is not possible, the harmonization of standards or liberalization is confined to a regional sphere.

A surge in agreements among different integration processes can also be seen. This is effectively an expansion of their sphere in cases where they have to start from scratch in negotiations. That produces something similar to the creation of a multilateral system through a linkage between different processes of open regionalism.

We believe, therefore, that for integration agreements to lead to greater multilateralism it is key that they be openly accessible, guaranteeing admission to any State that is willing to follow their rules.

These agreements should not be limited only to trade and only to a specific region because transregional links are ever growing and are part of a broader pattern of cooperation agreements. It is not preferential agreements seeking to expand their competence that represent risks, but rather shallow agreements that respond to a temporary economic situation and that may distort trade.

It has been shown that "high quality" agreements generally follow the rules set by the WTO and are part of a process of competitive liberalization that often tend to be a shortcut to multilateral liberalization.

New forms of regionalism and the WTO legal framework

We do not believe that multilateralism and regionalism are contradictory dimensions, but that both are conditioned by the WTO legal framework, peacefully coexisting and in most cases complementing each other. It would be crucial, therefore, to sustain this dynamic compatibility between multilateralism and regionalism through mechanisms provided for by the WTO.

It is clear that these processes are part of the WTO legal framework, but is that enough?

We cannot limit our focus on the regionalism/multilateralism dichotomy to a purely formal analysis that claims simply to see whether the regional trend fosters trade liberalization because multilateralism entails more than free trade; it is a code of conduct based on an international system of rules. It is important for these rules to also seek responses to the regional trend with appropriate tools. The WTO should also take action along these lines since it is inadequate for these processes to be covered by Article XXIV. It needs to make progress in terms of its regulation, and as certain authors indicate, work along the lines of having preferential agreements include a clause of "conformity" with the WTO that governs the treatment of non-State members and that provide for assessment mechanisms.

Article XXIV serves to frame these processes but is no doubt insufficient. Mechanisms to verify compliance by the different agreements are inadequate as are the review processes.

It is not so much a question of whether the WTO legal framework governing these trends will actually be breached but more that it will prove to be inadequate, and will need to eliminate any ambiguity that allows the development of regional processes that do not seek harmonization with the multilateral system.

We need to work, therefore, to that end.