

THE EFFECT OF PREFERENTIAL TRADE AREAS (PTAs) IN THE PERSPECTIVE OF REGIONALISM: THE CASE OF ASEAN

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Abstract

The issue of regionalism particularly in the matter of preferential trade area is not an old fashion debate, but it becomes a prominent feature and a popular tool for global trading system. However, it does not mean that the regionalism might always bring benefit for any actor especially in terms of every national interest in the region. This paper would elaborate the effect of preferential trade area (PTAs) establishment on the economic interest of ASEAN countries member. Through literature study, this paper concludes that the PTAs produce many positive benefits for the ASEAN countries member. The flexibility of partnerships and coverage selection under PTAs has helped ASEAN solve the crisis and increase efficiency as well as stimulate the main goal of global fair trade by expanding economic linkages. Thus, it could be said that PTAs enhance the multilateralism under the WTO system

Abstrak

Kajian tentang regionalisme khususnya masalah pembentukan kawasan perdagangan bukanlah sebuah perdebatan lama, melainkan isu yang menjadi penting dan populer dalam kerangka kerjasama perdagangan global. Namun, hal ini tidak berarti bahwa regionalisme selalu membawa keuntungan bagi para aktor negara-negara kawasan region tertentu. Makalah ini mencoba mengelaborasi efek dari pembentukan kawasan perdagangan khusus di region ASEAN terhadap kepentingan ekonomi negara-negara ASEAN. Dengan menggunakan pendekatan studi kepustakaan, makalah ini menyimpulkan bahwa pembentukan kawasan perdagangan membawa pengaruh positif di ASEAN. Fleksibilitas dan pembatasan dalam kawasan perdagangan telah membantu para aktor di kawasan ASEAN menyelesaikan krisis dan meningkatkan efisiensi perdagangan dalam kerangka kerjasama perdagangan global yang sehat dan mutualistik di bawah kerangka sistem perdagangan rezim WTO.

Introduction

Preferential trade areas (PTAs) have become a prominent feature and a popular tool for global trading system in terms of regional economic cooperation. This can be seen from the recent increase number of preferential trade agreements (PTAs) in the world trading system and the trading environment during 15 years. The World Trade Organization (WTO) reports that there are 278 PTAs that have been notified by the WTO members, which half of these numbers have been enforced from 1995 to 2010 (Organization, 2011).

Despite the fact that PTAs now is a vital instrument in the global trading system, there is still debatable issue regarding the effect of PTAs. Some people who agree with the PTAs think that PTAs could facilitate country members to negotiate in order to achieve trade liberalization, which may also affect to have a traditional, long-standing relationship or mutual networking amongst each other, which builds a reciprocal negotiating environment. Moreover, negotiations may lead to gain effectively the goal of international trade activities as well as to decrease effectually stumbling blocks in global trade. Therefore, the PTAs may then assist the countries to open the possibilities of what can be gained or how deeper integration may be designed and undertaken (Cho, 2001).

On the other hand, others think that the PTAs may reduce the incentive for the global diminution of trade barriers since the dependence from exports reduces. The preferential bargain of tariffs causes a distraction of trade to suppliers from countries out of PTAs (Hemann, 2008).

In regard with the debate of the impact of PTAs on the multilateral trading system, by choosing the Association of South East Asian Nations (ASEAN) as the case study, this paper argues that the PTAs will enhance the global trading system and not destroy trade system under the WTO institution.¹ Therefore, this paper will be

¹ The reason of using ASEAN as a case study in this paper is that ASEAN has become the pivot institution for economic agreement among countries in the Asia-Pacific region. In addition, despite the fact that Asia has experienced a monumental development of

divided into three parts of discussion. First, it will analyse the legal framework of PTAs. Secondly, the elaboration of PTAs impacts will be elaborated. The third, the paper will analyse general impacts of PTAs on ASEAN PTAs that will be limited into the ASEAN Free Trade Area (AFTA), the ASEAN-China Free Trade Agreement (ACFTA) and the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP).

I. Discussion

A. Legal Framework of PTAs

Although there is an ambiguity of the WTO legal system about the appropriate action of PTAs,² the WTO, indeed, through General Agreement on Tariffs and Trade (GATT) Article XXIV³ except the cornerstones of multilateral trading system under WTO, which are the principle of non-discriminatory and most favoured nation rule. In that sense, even though the Article XXIV could be interpreted into contradictory meanings,⁴ the WTO does allow the member states to participate in preferential trade agreements among others.

Indeed, there are at least three ways that can be used by the WTO member states to join the PTAs (Nataraj, 2007). First, the WTO members could follow the Article XXIV that covers the creation and procedure of customs union and free trade areas

negotiation and conclusion of PTAs in the last 10 years, ASEAN member states have 61 Preferential Trade Agreements within this region. This means that ASEAN have played an important role in the process of global trading system. See Asian Development Bank: FTA database. <<http://aric.adb.org/ftatrends.php>>

² Christoph Herrmann above n 3 p 5

³ Article XXIV states that “contracting parties recognize the desirability of increasing freedom of trade by the development, through voluntary agreements, of closer integration between the economies of the countries parties to such agreements. They also recognize that the purpose of a customs union or of a free-trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories.”

⁴ The general statement of Article XXIV may express a positive approach of GATT towards the existence and proliferation of PTAs. On the other hand, it could reflect the two-limitation of the PTAs character by underlining the persistence such agreements should have in order to accommodate the multilateral trading system. See Christoph Herrmann above n 3 p 6.

addressing trade in goods. Second, through the enabling clause of the Tokyo Round Agreement evoked in 1979 particularly in paragraph 2(c) that allows preferential arrangements for developing countries. In that sense, it is clear that developing countries could participate in the PTAs. Third, under the Article V of the General Agreement on Trade and Services (GATS), either developed or developing countries may involve the PTAs in the matter of trade in services.

In brief, it could be said that joining activities to the PTAs by the WTO member countries is not illegal under the WTO provisions.

B. The impact of PTAs

In general, there are at least two effects of PTAs; the first is trade creation, which means the advantageous that the member of PTAs obtains from the participation of PTAs. The second is trade diversion, which can be recognized as the drawback that the PTAs member states or the third parties suffer from a result of involving the PTAs (Nsour, 2008). In other words, trade creation tends to lead the increase of intra-regional trade, while trade diversion indicates the loss of trade from non-parties that result from lowering intra-regional trade barriers.

Some scholars argue that PTAs has disordered the balance between multilateralism and regionalism under the WTO provisions, which leads to the fragmentation of world trade. Alan Winters has equated PTAs to “street gangs” and has said “you may not like them, but if they are in the neighbourhood, it is safer to be in one” (Walsh, 2004). In addition, Jagdish Baghwati argues that PTAs lead to trade diversion and produce what he terms the “spaghetti bowl crisis” (Bruner, 2002). Moreover, PTAs generally tend to construct “unfair trading between members with different class of domestic resources (Coulibaly, 2009). For instance, if two

or more states with different levels of national infrastructure participate into a PTA, the state with the high-class infrastructure will easily magnetise more industrial events.⁵

However, other scholars strongly believe that the positive impacts of PTAs outweigh the negative effects. There are at least four points of the PTAs impact. Firstly; it is believed that PTAs could stimulate member countries to achieve the goal of mutual trading as well as anticipate the possibilities of trade barriers. Moises Naim, editor-in-chief of Foreign Policy Magazine, uses the term “minilateralism” as a process that predicts applying the smallest number of countries needed to have the largest possible outcome on solving a particular problem. He considers the number of countries as minilateralism’s “magic number,” which depends on the type and nature of the problem (Naim)

A good illustration that has been described by Naim is how minilateralism could combine the best features of both global and regional trade power. The Group of Twenty incorporates rich and poor countries from across six regions and accounts for 85% of the world’s economy.⁶ The countries in the G-20 could potentially grasp a trade arrangement among themselves, for example, on trade in environmental products that pledge global climate change, and permit other countries to join.

Secondly; it has been recognized that the PTAs generally increase efficiency. It is clearly accepted that PTAs arguably can deliver a solution to any deadlock in the international trade arena and can otherwise pair the WTO trading system (Cho, 2006). In addition, the small numbers of participants in PTAs consent members to engross in more flexible negotiations.⁷ Moreover, PTAs also concern on the interests of a specific region or group of regions, instead of on global interests (Leal-Arcas, 2009).

⁵ ibid

⁶ ibid

⁷ ibid p 41

Furthermore, due to the close regions geographically, regional neighbours will unavoidably trade; often they speak the same language, so communication is facilitated; they share the same legal history, which avoids the conflict of laws; and they retain in the same or similar occupations, with the result that understanding of trade needs is heightened (Esperanza, 2009).

Thirdly; PTAs can offer solutions to development difficulties (Lin, 2002). This is because trade can generate economic bonds and escalates prosperity, thus contributing to peace and security. A more accessible and fair trading system can create peace and prosperity to the world. Regional collaboration for development cuts levels of inharmoniousness and facilitates development assistance, thereby turning trade interactions into an effective method of conflict prevention.⁸ In addition, PTAs provide inferior countries with reciprocal development benefits through enlarged markets, assembled resources, vaster economic expansion, and boosted regional investment and trade (Oli Brown 2005). Moreover, PTAs can also stimulus growth of global trading system through technology transfers (Bank, 2005). This is because trade spreads productivity by keeping access to a vaster and more cutting-edge scope of technologies.⁹

Fourthly; PTAs contain a minor number of members and interests, thereby dropping the costs of negotiation and making it easier to attain an agreement (Brummer, 2007). PTAs can also “level the playing field” for developing market countries (Lin, 2002).

In brief, although it could be said that PTAs have negative impacts, it is unquestionable that PTAs have positive impacts that could stimulate countries to gain the fair goal of global trading system, anticipate trade barriers, increase efficiency, provide solutions to development issues and create level playing field.

⁸ Ibid.

⁹ ibid.

Those positive impacts will simply enhance the multilateralism under the WTO system.

C. General Impact of PTAs on ASEAN

Since the early 1990s, ASEAN member countries have created economic goals the *raison d'être* of the organisation (S, 2002). Therefore ASEAN states started to institutionalise economic cooperation through PTAs and signed an agreement for an ASEAN Free Trade Area (AFTA) in January 1992 and signed The ASEAN-China FTA (ACFTA) in 2002 and a PTA with Japan in April 2008.

The aims of entering the PTAs by ASEAN are intended to award profit-making privileges to parties and initial access to new economic sectors. Gradually, the development of trade and investment binds among participants assist to expand pre-existing economic relations. The AFTA, the ACFTA and AJCEP were all projected to bring a broadening or strengthening of trade and investment among the guarantors. ASEAN countries had estimated to create a function market for their own products in an evolving market such as China (Ng, 2010).

Accordingly, at least there are three positive impacts of PTAs that ASEAN have been experiencing; stimulating of global fair trading and anticipating of trade barriers, creating efficiency and offering solution for development problems like crisis. This can be seen from three PTAs that ASEAN joined.

Firstly, AFTA have stipulated ASEAN with certain influence in APEC and global negotiations. Several studies have indeed revealed that ASEAN have gained benefits through intra-regional integration by incorporating with other nations (S.Sasatra and M.Prasopchoke, 2007). AFTA have demonstrated to be bottomless free trade agreements in regard other provisions among developing countries. This is firstly because of AFTA's attention is wide-ranging. Second, the liberalization package is very single-

minded, eventually demanding free or open trade in the area for the large common of goods.¹⁰

Secondly, ASEAN-China PTAs have strengthened during the Asian Financial Crisis, as China has demonstrated its commitment to assisting ASEAN crisis-hit countries (A.Ba, 2003) this means that the PTAs offer the solutions for development problems in ASEAN, which is economic crisis.

Thirdly, the AJCEP have affected ASEAN member countries to create efficiency in trading among them. This can be seen from the figure of importation within 10 years that concludes the efficiency. 90 per cent of six ASEAN members' imports from and to Japan have indicated the efficiency within 10 years.¹¹ In addition, the PTAs also provide individual ASEAN members an opportunity to create bilateral PTAs with Japan in order to arrange more itemized implementation actions and larger collaboration between ASEAN original members and Japan (R.Terada, 2006). Under these PTAs, Japanese interests to invest in ASEAN have re-energized (ASEAN's New Look: Japanese Firms Revive Interest, 2005).

II. Conclusion

To sum up, it is generally accepted that PTAs have become a common feature in the global trade arena. Despite its recognition, some scholars are still sceptical of the impact of PTAs. Even though, the PTAs indeed produce many positive benefits for the countries member such as providing efficiency, stimulating global fair trading and eliminating trade barriers, and offering solutions to development problems. In terms of its impacts on ASEAN, it is clear that ASEAN member countries have experienced the advantageous from AFTA,

¹⁰ Hector Calvo-Pardo, Caroline Freund, Emanuel Ornelas, 'the ASEAN Free Trade Agreement: Impact on Trade Flows and External Trade Barriers' (Discussion Paper no 930, Center for Economic Performance London School of Economics and Political Science, 2009)

¹¹ Japan, Asean Reach Fta, but Rice Excluded, *Japan Today* (Tokyo) 26 August 2007.

ACFTA and AJCEP. The flexibility of partnerships and coverage selection under PTAs has helped ASEAN solve the crisis and increase efficiency as well as stimulate the main goal of global fair trade by expanding economic linkages. Thus, it could be said that PTAs enhance the multilateralism under the WTO system.

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