

## Symposium

### "The future of the Multilateral Trading System: Post-Bali Perspectives"

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As I am joined by eminent academics on the podium this morning, I would like to leave the question on how to "build on Bali" largely to them (for once). Both my co-panellists (Prof. Baldwin and Prof. Evenett) have already published very interesting work on this question and I trust we will discuss some of these ideas further. In fact, part of the purpose of today's symposium is to have the academic perspective on the post-Bali horizon. This is also why the EU is pleased to co-organise this event today, with two academic partners and the Mission of Belgium, which I would like to thank for this cooperation.

Few people seem to disagree with the view that the Bali Ministerial Conference was a success. However, there seems to be less unanimity about the extent of this success, especially among academics and commentators. Part of the reason for such diverging assessments is that Bali was never only about what was on the negotiating table in Bali. Adding an Agreement on Trade Facilitation to the WTO rulebook –the first such change in almost twenty years– was of course no small thing, quite to the contrary. However, as much as MC9 was about facilitating the transactions of trade, it was also about facilitating further trade negotiations and help in unblocking the stalemate in the Doha Round. As we still need to build on Bali and deliver the DDA, the jury is understandably still out on the extent to which Bali will be the "stepping stone" it was designed to be. And I look forward to hearing from part of that "jury" today.

Having participated as the EU's Ambassador in the negotiations leading up to Bali, I will focus my talk on how we came to Bali and consider whether history can be any predictor of the future. To be clear, I do not think the future lies in simply repeating Bali. Yet, there are some rights and wrongs in working towards MC9 that are worth considering also for the future. In doing so, we should also not overlook what lawyers like to call a "counterfactual", i.e. what we have avoided. The significance of Bali lies not only in what we achieved, but

also in what we avoided. This is equally an important factor that speaks to the size of the success.

When I arrived in Geneva on 1 January 2011 to become the EU's Ambassador, we were engaged in what was generally considered the last chance to conclude the Round by the 8<sup>th</sup> Ministerial Conference in December 2011. It was perhaps the last chance for the concept 'Round' as-we-know-it *tout court*.

At the time, some constructive engagement had started in smaller, variable groups of Ambassadors, and this was later complemented by Chair-led work on texts. The stated ambition was to have new texts in all areas by Easter 2011. [To put it in religious terms, it was as if we witnessed a new birth by Christmas and were working for a resurrection by Easter.] This was also the last time I heard someone use the term "window of opportunity". Indeed, any window that may have existed for the Round in spring 2011 remained closed.

It was relatively clear soon after the publication of the 2011 Easter texts that we would not deliver substantive results by December 2011, despite attempts to crystallise smaller "Doha light" packages (e.g. "LDC+" package). The biggest risk in 2011 was thus not that we would not achieve anything; it was rather that we would have an empty non-result *and* let a crisis go waste by not formulating any guidance to take the negotiating agenda forward subsequently.

A dominant view that emerged from these discussions was precisely that a crisis requires –putting it in computer terms– a "stop and reboot" or a "CTRL-ALT-DELETE". However, stopping or pausing a negotiation that is often likened to a bicycle that requires continuous pedalling carries a high risk, even when alternatives are short in supply. The risk being that you may find impossible or very difficult to return to that negotiation later. This is why the EU, among others, tried to steer the organization towards guidance at MC8 that would not pause but rather propel further negotiations. That said, this did not mean we could engage in "business as usual".

While few of you may remember MC8 for its role in charting the way forward for the DDA (and rather think of MC8 in terms of Russia's WTO accession or the GPA conclusion), I would however submit that MC8 guidance was critical for

our further work and our success in Bali. I also think it will matter greatly beyond Bali.

First of all, MC8 came to a conclusion we never reached collectively so clearly: that we failed. Ministers recognised in December 2011 the impasse of the DDA negotiations. This also made way for the shared conclusion that whatever we did, did not work, and that instead some flexibility had to be injected into the system to let the negotiation function survive the crisis it was in. This guidance came in the form of only few, relatively general words: we must "explore different negotiating approaches" and "advance negotiations where progress can be achieved".

With hindsight, the fact that these concepts did not attract more controversy or discussion at the time was good, for it allowed these to become key concepts to unlocking the result in Bali. Of course, we had to internalise and interpret this guidance, which lacked detail and specificity. This is where the by now regular interaction among Ambassadors in Geneva (as well as outside of Geneva, cf. Corfu) played an important role, as we began to fill in these concepts through regular informal cooperation.

Doing so required us to liberate the WTO from a pattern of building irrelevance it seemed to be in, a pattern of not-so-creative destruction. This implied that we had to avoid discussions which were prone to "poison pills" or attempts to undermine someone else's interests/agenda by overloading the boat with topics that are fundamentally not doable. Hence, we shifted the focus from what is desirable to what is doable. This required an understanding that we would respect each other's "red lines". More than ever before, issues were looked at on their own merit and not for the linkages they have to other topics.

This approach did not operate by a grand scheme or a "visible hand". Rather, it required intensive interactions that were incremental in building consensus step-by-step. I would submit **5Ps** as being critical in shaping the success in Bali: package, process, president, politics and pressure.

Let's consider the first P: package. A negotiation that was premised on the principle that nothing is agreed until everything is agreed made it in practice very difficult to agree on anything at all. All issues, small or big, were somehow all tied to the one knot that we were able to untie. So rather than focusing on

the knot, we focused on the issues we could solve. As much as doability drove the selection of issues, a balance between them was equally required. It was the "package" that allowed us to move forward on individual parts, like trade facilitation. A good amount of energy has gone into getting the package right and doing this in the right way.

Second, the process was also very important. Work on the Bali issues was advanced in a bottom-up fashion, as it should be in the WTO. At the same time, there was more horizontal, cross-cutting interaction among Ambassadors on the issues, which later culminated in a process lead by DG Azevêdo that combined focus and inclusiveness, specificity and political will. Doing so helped to overcome some of the demons of the past (cf. Green Room).

Thirdly, like in any negotiation, the role of the person presiding a negotiation cannot be underestimated. It takes a respected and credible Chair to limit the interventions of Ambassadors to 60 seconds. The respect for the incoming DG came clearly from all quarters of the Organisation, developing and developed. This played an important role in getting us the result. But also the MC9 Chair, Indonesia's trade Minister Gita, played his role to the full, including as a G33 country that had to manage expectations on the important issue of food security.

Fourthly, there were the politics. While it may not look like it on the surface, the politics of Bali were fundamentally different from those regularly seen in WTO negotiations. The dividing lines did not run between developing and developed, between big and small, between new or old players. For example, those that said to speak in the name of the developing world saw a good number of developing countries on another side of the argument than their own. On an issue like trade facilitation many united to commit to reform, supported by the necessary mechanisms to implement such reform. Seeing things from different perspectives is often refreshing and can help to avoid a return to the trenches, which explains to a large extent the success of Bali.

Finally, there was pressure. Like in all negotiations, it is important to look at what every textbook on negotiations will refer to as the BATNA, the *Best Alternative to a Negotiated Agreement*. It is fair to say that very few stood to win from a defeat in Bali. At least, the losses would outweigh any possible wins.

The systemic loss the WTO negotiation would suffer in the case of a non-result in Bali was exceedingly clear. Irrelevance and a complete lack of credibility were waiting. The emergence of the so-called "mega regionals" should arguably not have comforted anyone in thinking the WTO would still be in the negotiating business, if Bali failed.

In this regard, we could consider even a 6<sup>th</sup> "P": that of plurilateralism. The next session of the symposium will consider the place and potential of plurilaterals further. MC8 guidance on new negotiating approaches equally gave encouragement in this direction. Plurilaterals have (again) become important laboratories for the multilateral system (just like they were in fact in the past, cf. the Tokyo Round for example). Not coincidentally have we seen an emergence of new forms of collaboration and new initiatives, which are taking place in Geneva with differing links to the WTO. TiSA, ITA and Green Goods negotiations have all been high on the agenda. The EU is engaged in these initiatives not as a way to take a break from multilateralism, but to have the possibility and objective to return to multilateralism. Whether we like it or not, these initiatives will also give us important lessons for the future.

At times of turbulence, one needs a compass. It still points to multilateralism. There is momentum now for building on Bali. While we cannot repeat Bali, it is clear that there are important lessons of the past that we need to bear in mind.