

How do the changing international trade relations impact on public administration?¹

Frank Altemöller

Abstract

Seldom has world trade policy been the focus of such controversial public debate as it is today—and it is now accompanied by changes to practical trade policy that are more far reaching than any we've seen before. First, there was the formation of the contentious free trade agreements, such as the Comprehensive Economic and Trade Agreement (CETA), Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP), and the ensuing worldwide protests over the exclusion of the public from the associated negotiations. Then came the surprise announcement from the new US presidency of the intention to step away from the TPP and TTIP—even though the USA had previously campaigned particularly strongly for those agreements. This development is accompanied by a far-reaching stagnation of current multilateral negotiations, as they exist within the framework of the world trade system. These issues all occupy places in the current political discussion around trade liberalisation.

However, this contribution goes further, to focus on an equally important issue that is much less acknowledged in the public sphere, and that relates to the interdependence of the regulatory framework for economic integration with civil society, business and the administration. Free trade agreements—such as the World Trade Organization (WTO) Agreement on Trade Facilitation—can be looked on as models of international governance, exerting a considerable influence on the players in the member states. The author argues that business and the administration are then called to the task of devising and implementing appropriate strategies and following up with any necessary adaptations. He demonstrates that, for the stakeholders involved, economic integration simultaneously represents challenge, an intention to change and the opportunity for renewal.

1. Emerging trends in international trade policy

In the course of recent developments, international trade policy faces fundamental changes. The current world trade system essentially has its foundations in the Uruguay round of 1995. The founding of the WTO was accompanied by substantial tariff reductions based on the former General Agreement on Tariffs and Trade (GATT). At the same time, further important trade agreements were put in place, such as the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of International Property Rights (TRIPS) and an agreement over dispute settlement within the framework of the WTO. Although there were high expectations when the following round of negotiations (the Doha Round), was launched in 2001, it proved to be less successful. Negotiations stagnated and, to this day,

they have not been concluded. In fact, the outcomes of the WTO ministerial conferences in Bali and Nairobi in 2014 and 2015 have demonstrated that significant further steps towards liberalisation within the framework of the world trade system are not achievable at this time.²

Notwithstanding, there has been ongoing development in international trade relations in the intervening 15 years. However, these developments have taken place to a substantial degree outside of the multilateral system of the WTO, in the form of free trade agreements and other regional and interregional trade agreements for economic integration (see, for example, Hoekman, 2015; Neue Zürcher Zeitung, 2017). Building on the foundations of the world trade system, increasingly concentrated economic areas are emerging to facilitate trade and economic integration amongst a limited number of selected stakeholders. It appears that, by following this path, a higher level of integration can be attained than would be achievable among the many participating states of the multilateral system.³ Examples of such agreements include the North American Free Trade Agreement (NAFTA), Association of Southeast Asian Nations (ASEAN) and CETA. The negotiations on the TPP and TTIP can also be viewed as examples of this development—notwithstanding their initial rejection by the new US presidency or the likelihood of their being renegotiated.⁴

2. Changes in trade policy governance: From multilateral integration to free trade agreements

The growing appeal of free trade agreements and customs unions can be explained by the important advantages offered to the participants in relation to third countries.

Incentives favouring the formation of free trade agreements

The purpose of free trade agreements is to make trade more favourable among their member states. The progressive or even immediate abolition of all duties promotes the tendency for increased trade among the members, though at the expense of trade with third countries. This is how free trade agreements and customs unions dynamise trade: they generate institutionalised incentives towards increased intra-bloc trade (for background, see Schiff & Winters, 2003). This allows member states to enjoy the advantages of a preferential environment amongst themselves. In contrast, potential, sometimes substantial, disadvantages may arise for third country suppliers who operate on international markets worldwide and would seem to have, in principle, great competitive global opportunities. The ramifications of this effect are felt, for example, in the automobile industry.

Strategic design of the external tariff, in particular, can have a strong influence on diverting demand. The external tariff offers fundamental steering opportunities for the regulation of trade flows. Prior to the US decision to withdraw from negotiations, the office of the US Trade Commissioner pointed to an example from the automotive industry: the TPP would eliminate up to 70 per cent of the tariffs on automobiles to which US manufacturers are currently exposed when they export to TPP member states. In addition, the TPP, in a former negotiated form, allowed for the extensive elimination of non-tariff trade barriers among the member states, further exacerbating the effects described (The Office of the United States Trade Representative, 2016).

Complete trade agreements

An essential characteristic of the newer free trade agreements is that they consider themselves to be providing a complete set of rules; they strive to be agreements that regulate all matters concerned with trade, not just isolated issues. This approach includes, for example, broadening market access and standardising rules and regulations, especially those regarding common rules of origin and the protection

and preservation of competition through a competitive order. Investment rules facilitate investment activity, especially among member states, particularly through free access, protection of investments and rules on non-discrimination. Free trade agreements additionally include rules for the protection of intellectual property rights and rules that stipulate the common coordination of labor market policies. The agreements also make provision for rules aimed at preventing discrimination in public procurement contracts and the non-discriminatory application of national legislation. Characteristically, there are also regulations for the protection of human health and the protection of animal rights. Some of the regulations mentioned have their counterparts in WTO treaty texts.⁵ However, the complementary rules in the free trade agreements are not just an inconsequential duplication. When bound in partnership with a smaller number of actors, participants have a greater incentive and thus renewed interest in enforcing the corresponding rules (Altemöller, 2016).

We can observe from the free trade agreements already negotiated that they are often linked to geographic proximity (regional free trade agreements). However, being in the same regional vicinity is by no means a requirement. As demonstrated by CETA and TTIP, the structural similarity of trading partners can be just as important. Nonetheless, the integration of some Eastern European countries (Romania, for example) into the European Union and its common market illustrates that considerable incentives for collaboration can also be found within combinations of developed and economically less advanced countries.

Structuring and differentiating trade relations

Through being embedded in the multilateral trade system, free trade agreements promote and, at the same time, limit trade liberalisation—in whichever ways best serve the interests of the participants. In this sense free trade agreements, in contrast to the multilateral system, can be regarded as tiered structures that differentiate the degree of integration of global trade, both spatially and objectively (Altemöller, 2016). However, the restrained pace of development of the multilateral system throughout the current Doha Round does not mean that there will be no further reshaping and liberalisation of international trade. This is certainly taking place, but on a different level. Building on the foundations of the world trade system, consolidated economic areas are being created, within which trade and economic integration between limited numbers of selected members is facilitated. Here, it appears that far greater integration is achievable than could be accomplished among the many participating states within the multilateral system.⁶

In this light, free trade agreements can be understood as renewed forms of economic and trade policy governance. Free trade agreements are not new—they have been concluded many times in the past and were even being reached hundreds of years ago. However, we can regard their current, specific design as being something new in the way they allow trade between the parties to be organised according to the principles of structuring and dynamisation, privilege and marginalisation, liberalisation and protection (Altemöller, 2015; for background, see Horn, Mavroidis, & Sapir, 2009; Antimiani & Salvatici, 2016; Ismail, 2017; Lester, Mercurio, & Bartels, 2016).

3. New bilateralism

Current trade practice reveals that WTO member states are not only increasingly closing free trade agreements with multiple partners but, simultaneously, that bilateral agreements are also becoming increasingly important. It is not only the pronouncements of the new US presidency towards placing trade relations more and more on a bilateral basis that underlines this.⁷ In fact, the EU and other countries have long since concluded a number of important bilateral agreements, such as the EU–South Korea Free Trade Agreement.

As areas of more selectively concentrated integration, bilateral agreements—as compared with the multilateral system and other free trade agreements—offer the possibility of even more differentiated trade arrangements. This not only enables the parties to tailor highly individual trade relations for individual sectors, but economically and politically stronger states can also exploit their asymmetric power positions over the smaller parties, both in the negotiations over bilateral agreements and in the subsequent implementation. Thus, for those stronger states, considerable incentive can lie in the fact that the conditions of bilateralism can allow them to obtain advantages that could not be realised under the terms of an agreement reached at a regional or multilateral level. In addition, a bilateral agreement makes it easier than might be possible in a larger grouping for a contracting party to adapt the terms of the contract in its own favour when the environment changes, or to even selectively withdraw from the agreement. On the other hand, Switzerland, for example, demonstrates that bilateral agreements can also offer advantages for smaller countries if integration into larger political communities is not desired.

Bilateral agreements often make trade relations more complicated. Increased bilateralism implies an increasingly complex network of trade relations, involving lengthy individual negotiations for each agreement. Significantly, although bilateral agreements involve only two parties, this apparent simplicity conceals a new level of complexity as the states participating in the bilateral agreements will be already bound up in numerous other agreements. It is difficult in the bilateral framework to make provision for the significant interdependency this creates. We see examples of this in international production and supply chains. To incorporate such international systems requires the states to bring the bilateral agreements they wish to conclude into harmony. This highly complex process is made even more difficult as the agreements have been negotiated at staggered points in time.

4. Trade agreements must be legitimised by the rule of law

International trade rules characteristically consist of common instruments of market liberalisation, such as the abolition or reduction of customs duties, import and export bans, as well as prohibitions on quantitative restrictions and prevention of discrimination. These purely market–economic approaches are increasingly being expanded. Trade rules require validation beyond the liberalisation goals proposed in the treaty texts: the overarching principles of international law require that supranational treaties gain legitimacy by placing trade liberalisation rules in an encompassing context of responsibility. This is the approach taken, for example, within the WTO treaties, in the preamble to the Marrakech Agreement Establishing the World Trade Organization. The overarching objectives expressed here, such as prosperity, security, full employment or, for example, sustainable development, make it clear that market liberalisation and trade are not ends in themselves, but are instead integrated into the service of the encompassing goals of the international community. Numerous other international agreements further substantiate these goals, common to the international community, and together form an overall connected system (Zürn, 2017).

Nevertheless, until they are appropriately implemented, these goals remain abstract. There are, therefore, many accompanying measures that need to be brought into play to implement the agreements and achieve the intended overarching objectives. This requires the formation and development of structures that will ensure the rule of law. The WTO Agreement on Trade Facilitation, for example, requires member states to introduce transparent processes that include the guarantee of judicial safeguards. The design of these processes should include, for example, setting up appropriate websites to ensure that relevant information is easily accessible to all stakeholders. This facilitates parity in competition and avoids particular actors gaining an unfair advantage.

The respective trade agreements may be international, European or regional. Necessarily, though, the place of their implementation will of course be within each individual member state. Thus, the trade rules need to be transferred from the supranational level to the national level: this is a transformation

task that, ultimately, can only be achieved within the sphere of each participating member. However, while the rules themselves are uniform, they encounter a range of different conditions in the member states. Those member states will sometimes differ substantially in terms of political structure, economic size, technological development, resources and financial capacity. Therefore, the implementation of trade rules demands a considerable degree of adaptation to match the asymmetric conditions within the member states. When trade agreements are concluded, there is a transfer of political and legal rights, and this must be adapted to the form of integration agreed to by the member states. This generally requires a conceptual adjustment or reorganisation of national policies, economic restructuring and comprehensive legislative adjustments: economic integration demands substantial change (Altemöller, 2015; for further examples see Widdowson, 2016; Grainger, 2016; and for background see Wolfgang & Harden, 2016; and Baldwin, 2010).

The greater the asymmetries, the greater will be the demands associated with the change process required for achieving a successful adaptation of the new economic and legal framework.⁸ In the course of implementation, comprehensive adaptation processes are required, and the appropriate processes of change demand specialised knowledge and the knowledge management to carry them out. This also calls for modernisation of the public management, customs administration as well as further associated institutional renewal.⁹ The challenges outlined here essentially apply to all areas of economic integration: they are equally relevant to European integration as they are to multilateral integration within the framework of the world trade system.¹⁰ Currently, China is in the process of embarking on a visionary economic integration project by way of the Silk Road Economic Belt and the 21st Century Maritime Silk Road initiatives ('One Belt and One Road'). China's plan is to connect large economic zones through the participation of a large number of countries and to create concentrated regions of integration along the belt and road right through to Europe (The State Council of the Peoples Republic of China, 2017).

A further example of this type of transformation process is the integration of Eastern European states into the EU. Before their admission to the EU, these countries had administrations that were bound up in their integration within the Eastern bloc. When they entered the EU, there was a complete transformation of the political and legal environment. Just as these countries were admitted as members of the European customs union, they also formed the external border of the EU. New EU border posts had to be established and they had to be integrated, not only into each national customs administration, but also into the European institutions. It was clear that those countries had to undergo complete and profound structural change (for background, see Cyzowicz, 2014).

The increasing numbers of free trade agreements, particularly bilateral agreements, is making the framework conditions for public authorities and companies ever more complex. This affects, for example, the specific features to be observed in customs procedures, the application of rules of origin and questions of competing standards when areas of law applying to free trade agreements overlap. The successful implementation of the goals of economic integration cannot set out by approaching single issues. Rather, it demands an overarching vision. This vision must have a perspective that anticipates the benefits that will be achieved through integration. Past experience reveals that change often encounters considerable resistance. Overcoming this resistance requires specialised knowledge and abilities to implement the corresponding change processes. Success in carrying this through rests on the stakeholders' ability to communicate their positive visions. Only then will the power and motivation needed to tackle the challenges be unfolded.

5. Special focus: Leadership and management development

Trade negotiations frequently include assertions of vital ‘national interests’ or the preservation of state sovereignty, along with environmental and consumer protection, broad-scale social issues and ‘fair and just solutions’ for those involved. However, there is an altogether different issue that is much less in the public eye. This concerns what happens after the agreements have been negotiated and then adopted in the member states. Ultimately, the success of economic integration agreements depends not only on their substantive content. An equally important question concerns the preparedness of the parties, and how they succeed in taking on and integrating the relevant provisions into their legal, economic and administrative practice. In the past, the challenge of implementation has not been adequately taken into account, but it is gaining greater attention in the current debate. The frequently used slogan, ‘success is in the doing’, hardly addresses the increased importance of this issue. It requires highly developed scientific procedures and their proving in practice, and then their subsequent adjustment and optimisation. This important issue stands at the interface between the policies and the legal framework and their implementation. At this juncture, economic integration requires complex management, and here leadership and management development gains a central role (for background see Carmichael et al., 2012; Myers, Hulks, & Wiggins, 2012; Ingraham, 2005; Coleman, Boyatzis, & McKee, 2002; Lynn, 2011; Gilardi & Radelli, 2011; Veljanowski, 2012).

The starting point for the implementation of knowledge management in economic integration processes are transfer scenarios. These are policies or sets of rules developed and set up by the respective responsible institutions. The uniform rules that have been agreed upon must be implemented in the different member states. The implementation of leadership and management development is a fundamental strategy for empowering member states to competently develop transfer scenarios under the varying conditions they encounter. Some examples of existing legal frameworks developed in the context of such transformation processes include the WTO Agreement on Trade Facilitation and the strategies for securing international container traffic after the 9/11 attacks (Altemöller, 2011).

The process of economic integration is bound up with questions of economic and social governance. This means that economic integration opens up substantial opportunities, but it is also often controversial. The struggle that goes into concluding trade agreements within the WTO framework or, for example, the discussions centred on the trade agreement negotiations between Canada and the EU (within CETA), or on TTIP and the TPP, illustrate the often highly contentious issues involved here. Probably the most incisive example is the exit of Great Britain from the EU (Altemöller, 2015).

Such experiences illustrate that free trade agreements cannot be seen as unconditional guarantors of successful economic integration. The current discussion around the nature and extent of economic integration emphasises that the development of leadership and management is bound to topics with a focus on implementation. If the participants are convinced that they have finally found fair solutions, then it now depends on how the member states structure economic integration and how they carry it through. The discussion on the reorganisation of trade policy, initiated by the new US presidency, poses many unanswered questions for trading partners, political institutions, and for business and administration: the associated challenges—just like the resultant adjustments and changes—are being renewed.

6. Summary

This contribution has presented a discussion on the effects of the emerging trends in international trade policy governance on business, public management and customs administrations. After outlining the current situation in trade policy, the author has discussed the development towards new forms of trade policy governance: alongside the world trade system, free trade agreements (particularly bilateral agreements), are increasingly forming regions of more condensed and differentiated integration. The corresponding implementation frequently demands fundamental adjustment and change processes in the participating countries, presenting many challenges for the stakeholders involved.

The author argues that international trade policy is experiencing a period of upheaval such as has been rarely witnessed in recent decades, and that it demands a repositioning: changes in forms of trade governance require more than just the legitimacy of the rule of law. In practical terms, they also demand extensive change processes that are accompanied by innovative leadership and management directed towards new goals. Only in this way can the various stakeholders fully realise the advantages contained in the challenges that lie ahead.

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Notes

- 1 A modified version of this text has been published under: Wirtschaftliche Integration: Herausforderung und Chance für die öffentliche Verwaltung, in: Niedostadek (Ed.), Wirtschaftsrecht und Verwaltungspraxis, Schriftenreihe der Hochschule Harz. *Forschungsbeiträge zum Public Management 10*: 403–422.
- 2 In summary, they reflect an exhaustion of the multilateral dynamic, a state which is now alluded to for the first time in a WTO ministerial declaration: *While we concur that officials should prioritize work where results have not yet been achieved, some wish to identify and discuss other issues for negotiation; others do not. Any decision to launch negotiations multilaterally on such issues would need to be agreed by all Members.* (Nairobi Ministerial Declaration Adopted on 19 December 2015, WTO document WT/MIN (15)/DEC, 21 December 2015, note 33). Despite the difficulty of the negotiations, the Ministerial Declaration clearly supports the continuation of the Doha Agenda (Nairobi Ministerial Declaration Adopted on 19 December 2015, WTO document WT/MIN (15)/DEC, 21 December 2015, note 31).
- 3 The world trade system attempts to control the formation of free trade agreements and customs unions. This is made clear in Art. XXIV GATT. The ministerial declaration of Nairobi expressed it this way: *‘We reaffirm the need to ensure that Regional Trade Agreements (RTAs) remain complementary to, not a substitute for, the multilateral system.’* (Nairobi Ministerial Declaration Adopted on 19 December 2015, WTO document WT/MIN (15)/DEC, 21 December 2015, note 28).
- 4 In light of the US withdrawal, ministers from the remaining 11 members affirmed the economic and strategic importance of the TPP. On 23 January 2018, negotiations were concluded on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership CPTPP (see New Zealand, Ministry of Foreign Affairs and Trade, Trans-Pacific Partnership).
- 5 This particularly concerns the agreements on trade facilitation, technical barriers to trade, sanitary and phytosanitary measures, public procurement and trade related aspects of intellectual property rights.
- 6 The world trade system attempts to control the formation of free trade agreements and customs unions. This is made clear in Art. XXIV GATT. The ministerial declaration of Nairobi expressed it this way: *‘We reaffirm the need to ensure that Regional Trade Agreements (RTAs) remain complementary to, not a substitute for, the multilateral system.’* (Nairobi Ministerial Declaration Adopted on 19 December 2015, WTO document WT/MIN (15)/DEC, 21 December 2015, note 28); on WTO conformity of regional trade agreements see Senti, 2013, and Bartels & Ortino, 2006.
- 7 For background see, e.g. Evenett & Fritz (2017), Bown (2017) and better.gop (2016) (better.gop is a portal initiated by Speaker Paul Ryan). For commentary see, e.g. Auerbach et al. (2017).
- 8 This also applies to the content-related aspects of the liberalisation rules. The focus of the discussion here is how well the liberalisation rules fit the interests and needs of individual countries. This question becomes ever more important as the structural differences between the participating member states increase (for background see Mavroidis, 2012; Gantz, 2013; Narlikar, Daunton & Stern (2012).
- 9 National and international organisations arrange numerous education programs to support the relevant countries. These include, for example, the Leadership and Management Development Programme of the WCO, see Altemöller, 2015.
- 10 Also relevant here is the controversial integration of Ukraine into the EU. For an overview see Academy of Customs Service of Ukraine, 2012.

Dr Frank Altemöller



Dr Frank Altemöller is a professor in the Department of Public Management at Harz University, Germany, where he is the director of the European Public Management study program. He is also a member of the Visiting Faculty of the Law Faculty of the Universität Münster. He develops educational programs in the field of trade and customs for the German Ministry for Economic Cooperation and Development. He gives guest lectures in China, the Russian Federation, the Middle East and some of African countries.