Plurilateral Negotiations and Outcomes in the WTO

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The nature of the discussion on “plurilateral”

• The conversation is political in the first order
• It is about the future of the negotiating function of the WTO
• A sound starting point is to clarify existing WTO rules
• WTO rules are made by Members and can be changed by Members
• A productive conversation needs to relate to broader WTO reform discussions
• Members’ political vision for the system is needed

❖ This presentation will focus on clarifying existing rules
The need for clarity

• What are “plurilaterals”?
  - Inside or outside the WTO framework?
  - Distinguishing “processes” from “outcomes” when it comes to WTO rules
  - Outcomes can take the form of “Agreements” and “agreements”
  - Outcomes can not adversely affect pre-existing rights of non-participants

• What are applicable rules?
  - Negotiations
  - Outcomes
Applicable rules
(Negotiating processes)

• The negotiating function of the WTO as defined in the Marrakesh Agreement (Article III:2) takes an open approach.

• There is no legal requirement for a consensus decision to start a plurilateral negotiation open to all Members wishing to participate. Neither the Marrakesh Agreement nor other WTO Agreements legally require a.

• Some Agreements explicitly call for “plurilateral” negotiations (Article XIX:4 of the GATS).

• Plurilateral negotiating processes have been a standard feature of the multilateral trading system since GATT 1947.

• Plurilateral negotiations do not offer an optimal approach to ALL types of issues (e.g., Dispute Settlement rules and other institutional matters).
Applicable rules (Outcomes)

- There are **clear WTO rules** for integrating negotiated outcomes into the treaty architecture.
- Rules **designed to protect legal rights of non-participants** while giving legal effect to new obligations by participants.
- **Different rules apply to different outcomes:**
  - New commitments to be scheduled under the GATT or the GATS (agreement- e.g., ITA, financial services, basic telecoms) to be integrated through **certification of schedules**.
  - New standalone agreements to be annexed to the Marrakesh Agreement (Agreement- e.g., TFA) to be integrated through **amendment procedures**.
- There is no “one-size-fits-all” solution to all types of outcomes.