

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.

