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Responding to a changing global economy: Open plurilateral agreements and the WTO

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WTO Trade Dialogue: Updating Trade Cooperation: An Economic View,
Geneva December 11, 2018

This presentation draws on work in progress with Charles Sabel (Open Plurilateral Agreements) and Aaditya Mattoo (Rethinking Reciprocity) that is supported by EU Horizon 2020 research and innovation grant no. 770680



Changes in the world economy

- The “rise of the rest” – rapid changes in global market shares
- Structural transformation
 - Servicification; shift to digital economy (70%+ of GDP)
 - Fragmentation of production; GVCs; specialization
 - Automation (machine vision/learning)
- Climate change
- Connectivity: transport (goods and people); ICT
 - Movement of people; service suppliers; FDI; portfolio capital
 - Movement of data: Internet, social media...

Policy implications/challenges:

- Managing adjustment costs & distributional effects
- Greater interdependence/risks (product safety; security)
- Who is us? Capital vs immobile citizens
- Uncertainty/insecurity – jobs; welfare systems; safety; norms



Responses

- Rising protectionism in large countries – ‘make it here’ as opposed to ‘made in the world’ (viz. TPRM and GTA data)
- Calls for/action against ‘unfair’ competition
 - At industry/firm level: subsidies; SOEs; IPRs
 - At individual/community level: labor standards, etc.
- Calls/action to safeguard ‘regulatory space’/autonomy
 - Product safety; data security; data privacy; prudential
- Unilateral action complemented by piecemeal regulatory cooperation; and
- Deep(er) discriminatory trade agreements....although increasingly confronting public resistance in EU & US
- WTO has been MIA ... (but green shoots emerging) (?)



Why is the WTO stuck?

- In part as a result of WTO working practices:
 1. Consensus (ab)used to block regular WTO activities, including deliberation/discussion
 2. Special and differential treatment: Development differences are a real issue, but SDT arguably outdated and ineffective
- Factor underlying increased unilateral use of trade policy and negotiation of new PTAs that cover e-commerce, investment policy, services and regulatory cooperation
- PTAs are useful but are discriminatory and exclusionary. As a result:
 1. Do not address major sources of international spillovers (subsidies; 'make it here' policies & investment incentives)
 2. Have limited impact in reducing costs of regulatory differences



Three related challenges

1. Dealing with sources of trade/competition tensions that give rise to negative spillovers
 - In old areas – e.g., subsidies
 - In new areas – e.g., digital trade barriers
2. Addressing development differences more effectively
3. Acting as a venue for deliberation and negotiation of agreements that address concerns of citizens reflected in national regulatory regimes
 - E.g., data privacy and security; product/producer safety; environmental goals; social standards



Open plurilateral agreements (OPAs)

- Cooperation among a group of countries
 - Means to address consensus / development constraints
 - But also means to recognize differences in priorities and preferences
- Open to all WTO members
- Do not involve market access cross-issue linkages
- Go beyond good practice principles – substantive agreements that address specific problems relevant to the trading system
- May be severable – i.e., non-binding. Sovereignty is retained; an agreement does not constitute hard law
- Not WTO Art. II:3 Plurilateral Agreements—OPAs are not designed to be discriminatory in their implementation



Design elements of OPAs

- Build on existing examples of deep regulatory cooperation
 - Aim: reduce trade costs & improve realization of regulatory goals
 - Flexibility in how this pursued: recognition / equivalence / international standardization
 - Principles: open; MFN; severable (non-binding); club-based (no consensus); reciprocal commitments (with-in issue linkage).
1. MFN does not mean no conditionality
 2. Non-binding does not mean best endeavors
 - Instead of soft law, hard work. Subjects need to be incentive compatible
 - need to have interests/stakeholders who care
 - OPAs entail costly commitments; the expected return has to justify the costs to the agencies/parties concerned
 3. No SDT: focus is on good practice (à la TFA)
 - Countries that do not wish to join need not
 - Developing countries wishing to join given assistance—meaningful SDT



Why WTO?

- WTO is the global apex trade organization
 - Regulatory cooperation already happening but is piecemeal, not necessarily transparent, and often closed (e.g., MRAs, PTAs)
- Regulatory differences are a trade issue—WTO can help members interested in using OPAs to reduce trade costs...in ways that addresses sovereignty concerns
- Secretariat support:
 - Transparency in process and implementation—incl. for non-parties
 - Ensure that accession/multilateralization is real option
 - Technical assistance on request (TFA precedent)
- OPAs as a tool to revisit existing enforcement technologies – expand/re-define role of WTO dispute resolution function
 - E.g., require reason-giving; third party review (TFA precedent)
- OPAs as a mechanism to re-vitalize the WTO



OPAs: What are they good for?

- Can be used for many issues where free riding is not a binding concern. Examples:
- Address trade/transaction costs of regulatory differences
 - Product standards (TBT/SPS)
 - Rules of origin
 - Services domestic regulation (ongoing post MC11)
 - Data privacy
 - E-commerce (ongoing post MC11)
 - Expand membership of mutual recognition agreements
 - Equivalence regimes (sectoral)
- Blockchain clubs (regulatory compliance)
- GVC governance – public-private partnerships to address weak link/coordination problems
- Transparency in procurement; competition; investment



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Additional slides



Is market access linkage helpful?

- If aim is reducing regulatory heterogeneity and improving achievement of regulatory goals, why do this in a trade agreement?
- Narrative of trade community: to reduce regulatory (“behind the border”) barriers is counterproductive with civil society
- Deeper trade agreements need to help regulators do their job & improve national welfare / outcomes by supporting greater international cooperation / better governance of production
- Separability may be a necessary condition for regulatory cooperation



OPAs, sovereignty and democratic legitimacy

- Frequent argument (Rodrik & others): Global markets require global regulation which (i) we don't have; and (ii) if we could, would undercut national sovereignty/values
 - Implication: back to shallow integration to assure policy space
- This is throwing out the baby with the bathwater
- For inclusive growth need 'thicker, discursive rules that bolster regulatory capacity & improve outcomes
- Sector-by-sector regulatory cooperation – OPAs – can do so while ensuring democratic legitimacy
 - Severability ensures regulators remain accountable at national/regional level