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

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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 **Special and differential treatment**: Development differences are a real issue, but SDT arguably outdated and ineffective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 ....
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