

Strengthening negotiating function: Internal transparency, single undertaking and plurilaterals

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Doha Round is dead

- And no new round any time soon
- WTO decision rule gets a lot of blame
 - Consensus and Single Undertaking
- Reform is necessary, but think carefully about the implications

The WTO reform challenge for negotiations

- Maintain integrity of WTO agreements *as a whole* and benefits for all Members
- End de facto veto on change by Members reluctant to engage in negotiations on new rules
- Limit special and differential treatment (SDT) for large economies
 - Break link between **what a country calls itself**
 - And access to SDT **granted by partners**

Internal Transparency and the Negotiation Process

- How to square circle of **formal equality** of members with **practical inequality** of their willingness and **capacity** to participate
- Old questions:
 - Do small group meetings advance negotiations? (yes)
 - Should chair select some Members to attend consultations? (yes)
 - Do coalitions help Members with small Geneva delegations? (yes)

The single undertaking is dead. Or is it?

- Shorthand: Nothing is agreed until everything is agreed
 - Doha Round version dead
- Requiring consensus of 164 Members on all issues impossible
- BUT need for package applies to most negotiations
 - MC12 package was thin
 - Key issues dropped (agriculture) or not on agenda (industrial subsidies, GATS, climate change)
 - How create a bigger package for MC13?

Plurilateral alternatives

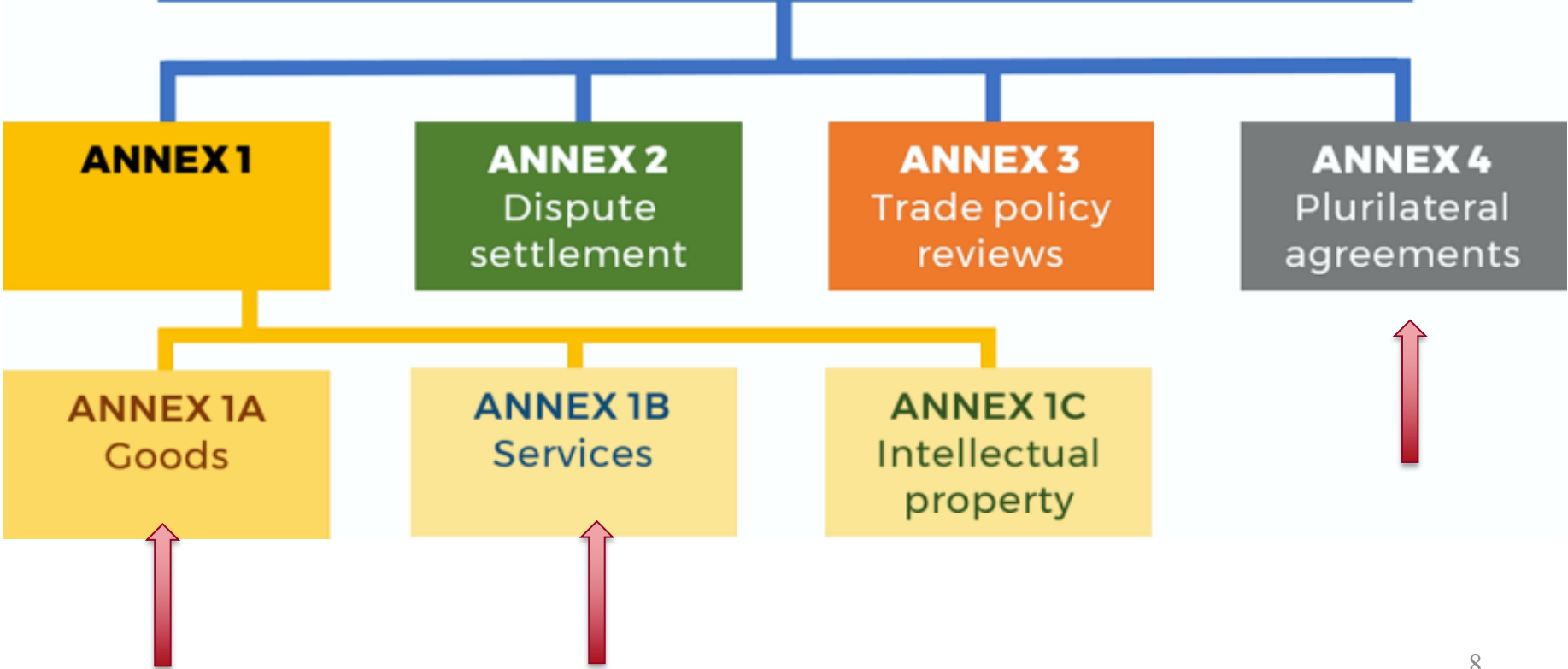
- Means simply talks **inside** the WTO among a subset of Members whose eventual outcome would be incorporated in the WTO
- Results need institutional scaffolding of WTO, including notifications, committees and dispute settlement
- Large trade powers can move forward
- Maintains coherence of the trading system for everyone
- Examples: Joint Statement Initiatives and “Declarations”

Under what circumstances...?

- Limit benefits to participants, or not?
 1. Critical mass agreements (CMA)
 - Critical mass ~90% of trade in a good or service
 - MFN, with no free rider concern
 2. Restrict benefits of the deal to participants
 - De jure discriminatory
 - Limits risk of free riding by non-participants

THE WTO AGREEMENT

Agreement Establishing the World Trade Organization



Annexes to the WTO Agreement [Also TRIPS, DSB, TPRM]

ANNEX 1A: Multilateral Agreements on Trade in Goods

General Agreement on Tariffs and Trade 1994

GATT *Schedules* of some Members include **Information Technology Agreement**
Agreement on Agriculture, and 10 other Uruguay Round agreements
Trade Facilitation Agreement

ANNEX 1B: General Agreement on Trade in Services

GATS *Schedules* of some Members include Agreement on Trade in **Basic Telecommunications** Services

ANNEX 4: Plurilateral Trade Agreements

Agreement on Trade in Civil Aircraft

Agreement on Government Procurement

International Dairy Agreement

International Bovine Meat Agreement

Potential legal outcomes of plurilaterals

1. Add to GATT or GATS Schedules (consensus **not** needed)
 - Critical mass needed, MFN, binding only on participants
2. Add new Agreement to Annex 1 (requires consensus)
 - Binding on all WTO Members
3. Add new plurilateral to Annex 4 (requires consensus)
 - Restrict benefits to participants
4. **Outside WTO**
 - If consensus blocked
 - This outcome undermines multilateralism

Political principles on process

- Open process of analysis and deliberation leading to a joint statement
- Consensus **should be** needed to launch and to conclude negotiations that would affect rights and obligations of other Members
- Consensus **should not be** needed to start process that only creates new obligations for participants

Governance framework for new plurilaterals?

- Openness to participation and future accession by any WTO member
- Facilitation of participation of developing countries—role for Secretariat?
- Transparency of the negotiating process
- Means of protecting rights of non-participants while avoiding free riding

For more, see Hoekman and Sabel, (2021) 'Plurilateral Cooperation as an Alternative to Trade Agreements: Innovating One Domain at a Time,' Global Policy 12:S3 49-60.

The stakes are high

- Some possible agreements not suitable for inclusion in Schedules (not intended to be MFN)
- Members must debate conditions under which consensus will not be blocked for Annex 4 option
- Members who think that new issues should be discussed on a multilateral basis inside the WTO have to be sure to make that inside option possible, and attractive.

A final note

- Secretariat is the “common agent” of Members
 - LDCs could insist on more information and analysis in support of negotiations—Secretariat can be more than notetakers
- One place to start: helping to rethink the agriculture mandate
 - Time to abandon the Doha Round mandate
 - But a new one needs contemporary data and analysis of the real problems traders face