

RIETI-JETRO Symposium
Global Governance in Trade and Investment Regime
- For Protecting Free Trade -
Handout

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Global Trade System Governance and Plurilateral Agreements

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I . What is Plurilateral Agreements? (First of All)

Multilateral Agreements and Plurilateral Agreements on Trade-related Issues

Multilateral agreements	Plurilateral agreements			
	Country-based plurilateral agreements	Issue-based plurilateral agreements		
WTO rule: Yes			WTO rule: No	
WTO Annex 1, 2 & 3 to GATT 1994	GATT Article XXIV GATS Article V RTAs/FTAs	Annex 4 Agreements on: - Government Procurement - Trade in Civil Aircraft	Financial Service Agreement, Basic Telecommunications Agreement, ITA, ACTA, etc. In the future, plurilateral agreements may be concluded in the areas of services, electronic commerce, standards and conformance (TBT), country of origin, etc.	In the future, plurilateral agreements may be concluded in the areas of competition, investment, etc. (In the area of investment, TRIM is already in place)

* Issue-based plurilateral agreements between three or more countries are considered here with a view to their contribution to rulemaking and liberalization in the field of international trade.

II . Why Plurilateral Agreements? - Issues ①

1. Stalemate in the WTO • Doha Round

*No prospect for the conclusion of the Doha Round

-19 years after the conclusion of the Uruguay Round

-11 years after the launch of the Doha Round

*No solution to the Round saddled with “consensus” and “single undertaking” principles, and “too many issues”?

*Necessity to deal with “variable geometry” of WTO members

*Contrast between strong dispute settlement and weak decision-making mechanisms

See “Toward the Reform of the WTO and the Early Conclusion of the Doha Round (Proposal)” by the author

II . Why Plurilateral Agreements? - Issues ②

2. Intensifying FTA competition

About 500 FTAs have been notified to the WTO

3. Conclusion of ACTA

Anti-counterfeiting Trade Agreement (Concluded in 2011)

4. Polarizing global trade regime and global governance

*Regional competition

*Spaghetti bowl effects of trade “rules”

5. Plurilateral agreements as important tools for liberalization and rule-making

III. Precedents and Development of Plurilateral Agreements

1. Precedents

1) Plurilateral agreements in GATT/WTO

- ① Tokyo Round Codes
- ② WTO Annex 4 agreements (See Reference 1)

2) Other plurilateral agreements

- ① ITA
- ② Financial Services Agreement
- ③ Basic Telecommunications Services Agreement
- ④ ACTA

2. ITA • ACTA and Japan's contribution

See “<http://www.rieti.go.jp/jp/publications/summary/12020002.html>
“ by the author

3. Historical Development (From Tokyo Round Codes to Annex 4 agreements)(See Reference 2)

LIST OF ANNEXES

Reference 1

ANNEX 1

ANNEX 1A: Multilateral Agreements on Trade in Goods

General Agreement on Tariffs and Trade 1994

Agreement on Agriculture

Agreement on the Application of Sanitary and Phytosanitary Measures

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

Agreement on Trade-Related Investment Measures

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

Agreement on Preshipment Inspection

Agreement on Rules of Origin

Agreement on Import Licensing Procedures

Agreement on Subsidies and Countervailing Measures

Agreement on Safeguards

ANNEX 1B: General Agreement on Trade in Services and Annexes

ANNEX 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights

ANNEX 2

Understanding on Rules and Procedures Governing the Settlement of Disputes

ANNEX 3

Trade Policy Review Mechanism

ANNEX 4

Plurilateral Trade Agreements

Agreement on Trade in Civil Aircraft

Agreement on Government Procurement

International Dairy Agreement

International Bovine Meat Agreement

GATT/WTO and Changes in the Treatment of Plurilateral Agreements

Reference 2

	1947 -	1979 - Introduction of Tokyo Round Codes	1995 - Establishment of WTO	Incorporation of Future Plurilateral Agreements
GATT	GATT 1947 Participation of all members	GATT 1947 Participation of all members	GATT 1994 Participation of all members	
Codes		Agreement on Subsidies and Countervailing Measures, Anti-dumping Agreement, TBT Agreement, Agreement on Import Licensing Procedures, Customs Valuation Agreement, Agreement on Trade in Civil Aircraft, Agreement on Government Procurement, International Dairy Agreement, International Bovine Meat Agreement >> Non-MFN based agreements Participation of some members	Agreement on Subsidies and Countervailing Measures, Anti-dumping Agreement, TBT Agreement, Agreement on Import Licensing Procedures, and Customs Valuation Agreement were turned into Annex 1a agreements under the WTO (participated by all members). >> Participation of all members	
WTO Annex 1A agreements on trade in goods			Participation of all members	?? Introduction of schedules of concessions approach? Amendments by critical mass plus MFN-based distribution of benefits?
WTO Annex 4 agreements			Agreement on Trade in Civil Aircraft, Agreement on Government Procurement, International Dairy Agreement International Bovine Meat Agreement (Only first two agreements are effective today). >> Non-MFN-based agreements Participation of some members	?? Easing procedural requirements for establishing new agreements? (e.g., Critical mass + MFN-based distribution of benefits)
WTO Annex 1B agreements on trade in services			Participation of all members Introduction of schedules of commitments approach	Additional sectoral agreements by same approach as those used for Financial Services Agreement and Basic Telecommunication Agreement? (Amendments to schedules of commitments)
WTO Annex 1C agreements on trade-related aspects of intellectual property rights			Participation of all members	?? Introduction of schedule of concessions/commitments approach? Amendments by critical mass plus MFN-based distribution of benefits?

IV. Characteristics of Plurilateral Agreements

1. Capable of dealing with issue/sector-specific needs
2. Allowing for selecting participating members
3. Providing a bypass to avoid the difficulties of decision-making in the WTO
->There are certain limits (See Reference 3 for details)
4. Facilitating timely responses to the needs of the business community
5. Making preparation for or creating future multilateral rules

V. Constraints on Plurilateral Agreements

1. Legal Constraints (See Reference 3)

1) Agreements within the WTO

Amendments to Annex 1 agreements / Creation of Annex 4 agreements

-> Consensus is required

2) Precedents

① Critical Mass + MFN extension of benefits to non-members

ITA, Financial Services Agreement, Basic Telecommunication Services Agreement

② Codes (Annex 4 agreements)

3) Proposals for improvement

① Improving decision-making mechanism for plurilateral agreements

② Extending "Schedules of Concessions" approach

4) Agreements outside the WTO

ACTA

2. Constraints in substance

1) Choice of participating members

2) Critical Mass

3) Level of ambition/Scope of participating members/Timing of realization (See Reference 4)

Comparison of Trade-related Multilateral and Plurilateral Agreements

Reference 3

	WTO (Multilateral)	RTAs/FTAs (Country-based plurilateral agreements)	Plurilateral agreements					
			Issue-based plurilateral agreements*					
			WTO Rule: Yes					WTO Rule: No
Annex 4 agreements	Service-sector agreements (Financial Services Agreement / Basic Telecommunications Agreement)	Tariff reduction / elimination agreement (ITA)	ACTA	Others				
Participants (countries/regions)	157	Two or more	Two or more	Critical mass Current membership: Financial Services Agreement (70) / Basic Telecommunications Agreement (69)	Critical mass (ITA): Approx. 90% of world trade (Currently, ITA covers 97% of world trade or 73 countries.)	37 (10 + EU 27)	Two or more	Two or more
Basic rules	Annex 1 to Agreement Establishing WTO (WTO Agreement)	GATT Article XXIV (Substantially all trade) GATS Article V (Substantial sectoral coverage)	Annex 4 to WTO Agreement	Protocols to GATS concerning financial services / basic telecommunications services	GATT	TRIPS	?	
Establishment of a new agreement		Participants	Consensus of all WTO members No voting provision	Protocols to GATS concerning financial services / basic telecommunications services (by consensus of all WTO members) >> Participants' schedules of commitments and lists of exemptions from GATS Article II (MFN treatment) amended and attached	Ministerial declaration by participating countries >> Participants' schedules of concessions amended	Participants	? (Separate consideration for each negotiation area)	Participants
Amendments to existing agreements	Consensus of all WTO members No voting provision	Participants	Participants	Modification of schedules under GATS Article XXI	Participants (in terms of each participant amending its schedule of concessions)	Participants	Participants	Participants
Obligations under WTO rules	YES	NO	YES	YES (subsequent to amendments to schedules of commitments)	YES (subsequent to amendments to schedules of concessions)	NO	? (Depends on content of agreement)	NO
Application of benefits on MFN basis	YES (in principle)	NO	NO (for Agreement on Trade in Civil Aircraft and Agreement on Government Procurement) * YES is possible for future agreements.	YES	YES	YES TRIPs has no provision for MFN exceptions.	YES in principle? (L/4905) Depends on relevant WTO provisions and content of agreement	NO
Others	Doha Round launched in 2001 and ongoing on basis of consensus of all WTO members	In principle, no selectivity for negotiation areas * Service-sector agreements possible under GATS Article V (505 agreements reported to date)	Only two agreements are in force now. (Agreement on Trade in Civil Aircraft and Agreement on Government Procurement)	Regarded as a precedent-setting plurilateral agreement on trade in services	Regarded as precedent-setting plurilateral agreements for tariff reduction and elimination	Standalone agreement supplementary to TRIPs Agreement	Negotiation areas may be selected * Must be WTO-consistent, in principle (Separate consideration for each negotiation area)	Plurilateral agreements on trade and competition, etc. fall into this category
Establishment	1995	?	1995	1997	1997	2011	?	?

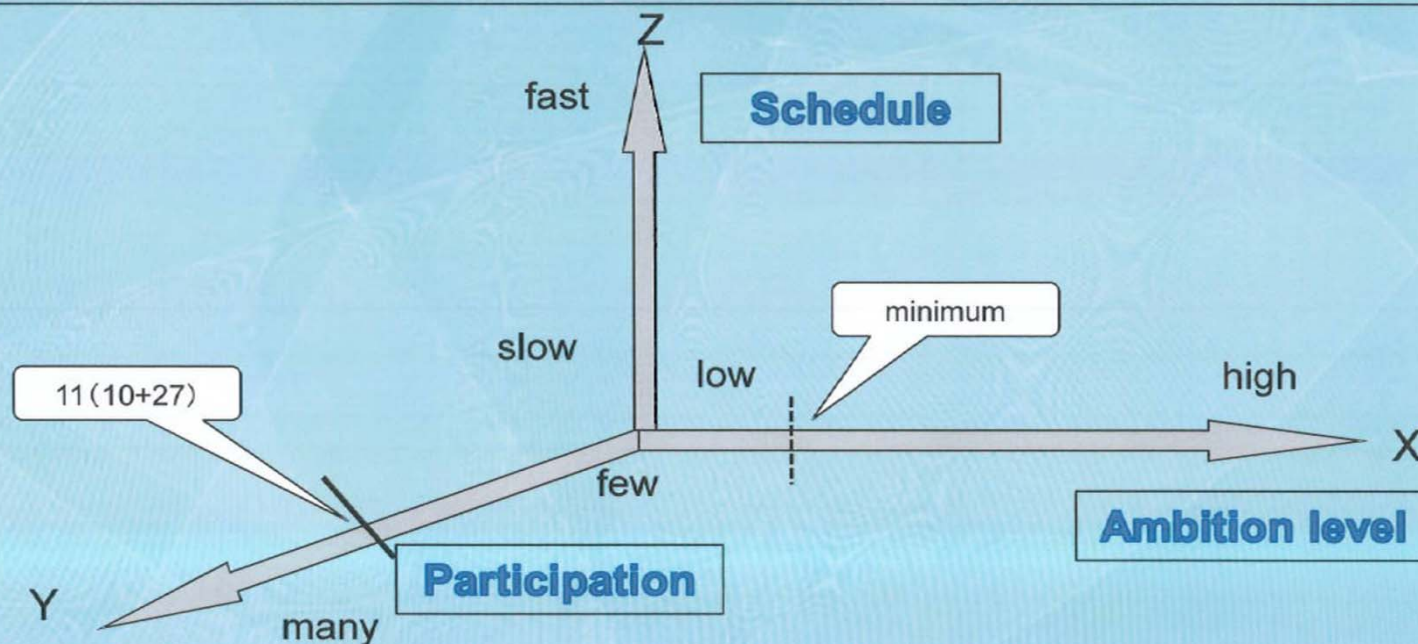
* For the purpose of the paper, issue-based plurilateral agreements signed by three or more countries are considered from the aspect of contribution to rulemaking and liberalization in the field of international trade.

Basic Parameters for ACTA

- 'Ambition Level', 'Number of participants' and 'Schedule for Conclusion' should be considered as essential parameters to achieve ACTA.

Members should maximize:

$$F = \alpha X \times \beta Y \times \gamma Z$$



VI. FTAs and Issue-based Plurilateral Agreements

1. Capability of dealing with sector/issue-specific needs

FTAs: Substantially all trade (GATT Article XXIV)

Substantial sectoral coverage (GATS Article V)

2. Flexibility in choosing participating members

FTAs: Choice of members comes first

3. No requirement for non MFN application

VII. Possible Areas for Plurilateral Agreements in the Future-①

1. Possible Areas

1) Tariffs

Expansion of product coverage of ITA

2) Services

Sectoral initiatives based on the approach used for Financial / Basic Telecommunications Services Agreements

3) Government procurement

Addition of participating members

4) Electronic commerce

Suspension/elimination of custom duties, NT/MFN/MA

VII. Possible areas for Plurilateral Agreements in the Future-②

5) Trade and investment

“Singapore issue”

Important topic for both developed and developing economies

6) Trade and competition

“Singapore issue”

Oligopoly/monopoly of natural resources markets, etc.

7) Standards and conformance, and TBT

Focal area of behind-the-border measures

International standards, mutual recognition,
good regulatory practices, etc.

★”Business Facilitation Agreement”

It is also possible to negotiate multiple areas/issues together with a view to realizing the infrastructure for global value chains.

VIII. Recent Developments toward Plurilateral Agreements

ITA

Expansion of product coverage

Expansion of product coverage + non tariff issues

Plurilateral service agreements

Sectoral initiatives

Annex 4 agreements

Services FTAs, etc.

IX. Plurilateral Agreements and Global Governance

Era of inter-institutional competition among the WTO, FTAs, and issue-based plurilateral agreements

Necessity to make the most use of issue-based plurilateral agreements

-> Avoiding excessive FTA competition and the polarization of the global trade system, while supporting the multilateral trade system embodied by the WTO