

Concept Paper for an International Supply Chain Agreement (ISCA)

Improving global supply chains by an issues-based plurilateral approach¹

NAKATOMI Michitaka

Research Institute of Economy, Trade and Industry

1. Necessity and Background

Need to accommodate the globalization of business activities

Lack of progress in the World Trade Organization (WTO) Doha Round (slowness)

Narrow scope of the Doha Round (narrowness)

Proliferation of regional trade agreements (RTAs) and resulting “spaghetti bowls” of rules of origin as well as of trade rules and disciplines

- Fragmentation of rules across different RTAs involving big players poses by far the most serious problem.
- Big RTAs are indispensable for international trade liberalization and rule-making but do not provide a global solution.

2. A Possible Tool for Reform

1) Accelerating WTO negotiations where applicable

Potential areas include non-agricultural market access (NAMA), services, trade facilitation, the expansion of the International Technology Agreement (ITA), etc.

Progress, however, is not necessarily forthcoming.

2) Big RTAs

Big (cross-regional) RTAs—e.g., the Trans-Pacific Partnership Agreement (TPP), a free trade agreement (FTA) between the United States and the European Union (EU), and one between Japan and the EU—can facilitate the development and efficient

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operation of global supply chains if, and only if, there is strong coordination among the members concerned and others toward the development of uniform global rules. An international supply chain agreement (ISCA) is a possible mechanism for coordination among the members concerned, thereby enabling them to untangle the spaghetti bowl effect of multiple sets of rules of origin and trade rules.

3) ISCA

To improve global supply chains in certain priority areas, the possibility of launching plurilateral negotiations should be studied, following such successful precedents as the ITA, the Basic Telecommunication Services Agreement, the Financial Services Agreement concluded in 1997, and the Anti-Counterfeiting Trade Agreement (ACTA) in 2011.

3. Basic Principles to Underlie the ISCA

- 1) A plurilateral agreement covering multiple areas
- 2) Complementary to and consistent with WTO agreements, thereby creating the basis for future multilateral rules
 - a) Complementary where relevant WTO agreements exist
(cf. ACTA approach as a trade-related aspects of intellectual property rights (TRIPs)-plus agreement)
e.g. Agreement on Technical Barriers to Trade (TBT Agreement),
 - b) Creating new disciplines/rules where relevant WTO agreements do not exist
e.g. Competition, investment, e-commerce, preferential rules of origin
- 3) ISCA negotiations should neither delay nor undermine the Doha Round
Areas to be covered by the ISCA should not overlap with the Doha Development Agenda (DDA).
e.g. Trade facilitation should be pursued in the DDA negotiations unless it becomes clear that progress is not expected.
- 4) Promotion and participation by like-minded members (critical mass)
The United States, the EU, Japan, and other leading developed members ++
Like-minded developing members
- 5) An agreement outside the WTO

- 6) Most favored nation (MFN) extension to provide the basis for future rules
Benefits resulting from the agreement should be extended to non-participants in general to create de facto international standards in the targeted areas to provide the basis for future WTO rules.
The free riding issue has been exaggerated in many circumstances.
Exceptions to MFN can be discussed further.
In areas where relevant WTO rules exist, MFN extension is generally required by the WTO agreement concerned.
- 7) Avoiding the fragmentation of trade rules and the spaghetti bowl phenomenon
In the course of negotiations, participating members should seek to address the fragmentation of trade rules that either has been or may be created by big regional RTAs.
- 8) Timeframe and targets for negotiations
Conclusion within a maximum of three years
Business requires speed.
Speed is also crucial to prevent the creation of an unswallowable spaghetti bowl of big RTAs.
The level of ambition should be carefully controlled by participating members.
The harmonization of existing business practices and rules should be the primary goal of the negotiations.
Big members must not engage in a fight for hegemony.
- 9) Dispute settlement
To avoid protracting the negotiations and enable wider participation in the future, dispute settlement provisions should not be too stringent.
cf. ACTA
- 10) Sufficient consultation with the business community
As in the case of the ITA, the full involvement of the business community is essential to picking up its needs and bringing the negotiations to a successful end.
- 11) Transparency
To enable the ISCA to serve as the basis for future multilateral rules, the

transparency of the negotiations should be open and visible to the governments of non-participating members as well as to the business community.

4. Possible Areas to be Covered by the ISCA

1) Defining the agenda in close collaboration with the business community

The views and opinions of the business community should be respected and taken into account in selecting areas subject to negotiation.

2) Setting a focused agenda to enable the negotiations to be concluded within a designated, short time period

Almost all of the WTO agreements are somehow relevant to global supply chains.

The level of ambition, scope of participating members, and negotiation speed are correlated (see the chart below used in the ACTA negotiations).

Overburdening the agenda is tantamount to stifling and killing the negotiations from the outset.

3) Potential areas for consideration

The following are some of the potential areas and issues that should or may be considered for inclusion in the agenda for the ISCA negotiations to stimulate discussion. Other areas and issues can also be considered.

3.1) Areas already covered by WTO agreements

a) Technical barriers to trade (TBT) and sanitary and phytosanitary (SPS) measures

TBT measures are unquestionably the area of interest to the business community.

Many behind-the-border measures and non-tariff barriers are related to TBT measures.

By introducing further clarity, transparency, good practices, and so forth, the ISCA can complement the TBT Agreement and hence facilitate cross-border business activities.

Likewise, the ISCA may complement certain elements of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement).

b) Trade facilitation

This should be added to the ISCA agenda if, and only if, trade facilitation negotiations in DDA fail to move forward.

c) Export restrictions

Although the WTO rules impose disciplines on export restrictions, they are much weaker than those on import restrictions.

To facilitate the development and efficient operation of global supply chains, discussions should take place to set out rules to discipline export restrictions as explicitly as those governing import restrictions.

3.2) Areas not covered by WTO agreements

a) Investment

The issue of trade and investment was dropped from the DDA at the Cancun Ministerial.

It is becoming clear that not only investment protection but also investment liberalization is necessary.

No single country can persuade the governments of other countries to fix the problems in their investment regimes.

Establishing a common position on investment rules is essential.

Investment rules benefit not only developed members but also developing countries in need of inward foreign direct investment (FDI) and investment opportunities abroad (North-South, South-South, South-North investment).

b) Competition

Trade and competition was also dropped from the DDA at the Cancun Ministerial.

Competition rules are useful, for example, in disciplining the anti-competitive practices of state-owned enterprises (SOEs) and oligopolistic suppliers in certain areas as well as dealing with discriminatory export controls.

Regarding SOEs, serious discussion should take place first on their definition and the disciplines governing them.

c) E-commerce

Issues related to MFN, national treatment (NT), market access (MA), and intellectual property right (IPR) protection in e-commerce are undoubtedly the area where collaboration among the like-minded countries can produce meaningful results for business around the world.

d) Preferential rules of origin

The harmonization of non-preferential rules of origin is covered by the DDA but is

not progressing well because of their multi-faceted nature (e.g., statistics, trade remedies, quota management etc.).

Preferential rules of origin are not covered by the DDA.

As the first step toward eliminating the spaghetti bowl effect of preferential rules of origin, collaboration should take place within the ISCA framework to lessen the burden on business.

3.3) Others

a) Capacity building and technical assistance

In order to enable wider participation, collaboration for capacity building and technical assistance is essential.

b) Collaboration in analyzing global supply chains

As in the case of the WTO/Institute of Developing Economies–Japan External Trade Organization (IDE-JETRO) study on global value chains, participating members must collaborate to deepen their common understanding of changes in value chains and trade in tasks.

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:

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

