

# **TPP and Plurilateral approaches -toward global rules**

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# TPP's limitation as a regional framework

-By the conclusion of TPP, the era of mega FTA became a reality from a mere dream.

Is TPP the basis of future global trade regime?

TPP is a “deep” mega FTA and an epochmaking framework which will definitely affect global trade regime. But, in definition, it is a regional framework.

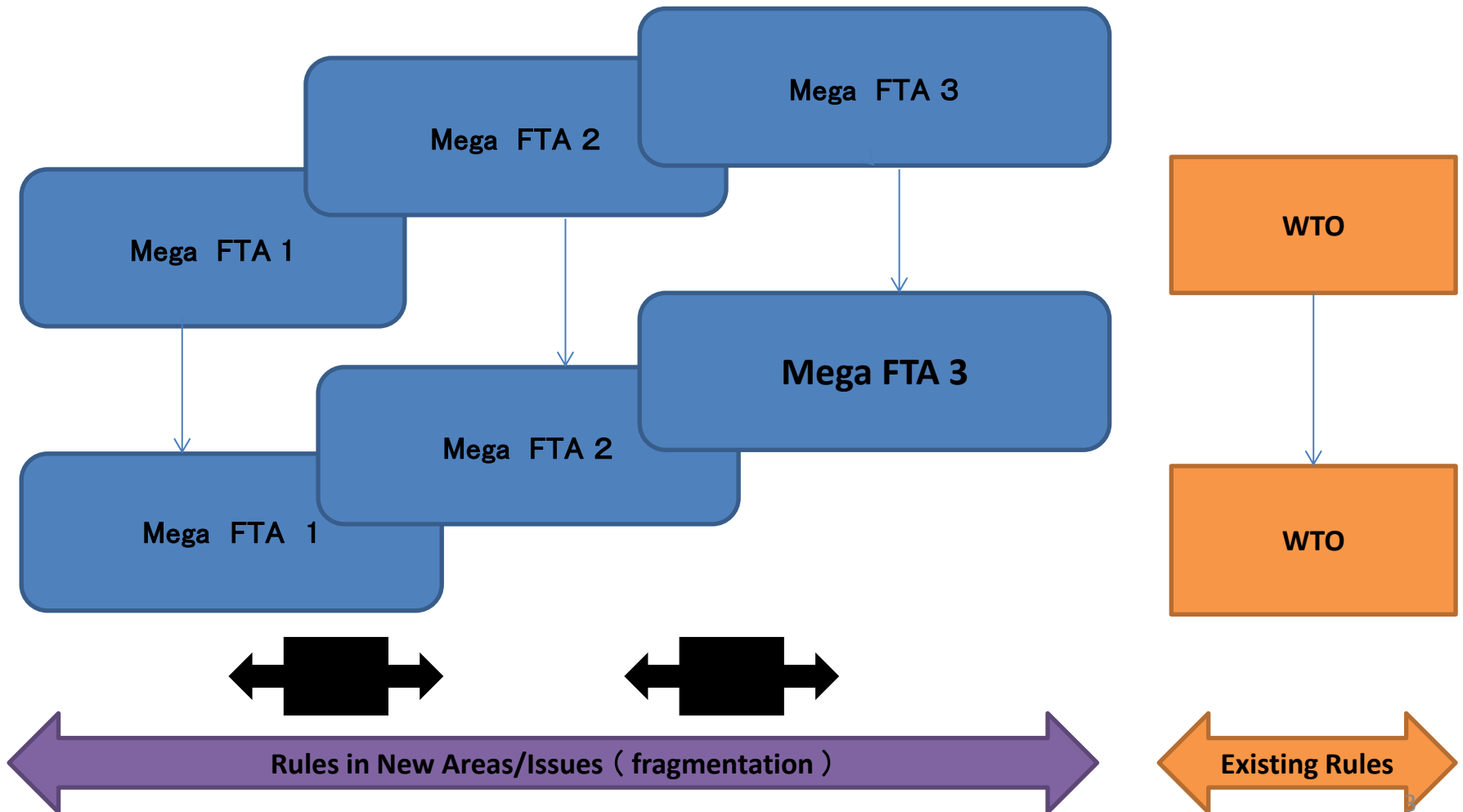
-There is **no guarantee that rules in TPP will become global rules and that harmonization of rules among mega FTAs will be successfully carried out.**

-Rather, **the danger of a Spaghetti Bowl of rules** developing is an imminent threat to the global system by the conclusion of TPP.

-TPP includes many ‘deep’ disciplines that reflect the needs of GVCs and businesses, and are the results of harmonization efforts by the member countries, but **the problem is that they do not necessarily reflect the institutions and practices of non-members.**

# Spaghetti Bowl in Rules (Fragmentation Scenario)

See Nakatomi (2013a)



## TPP's limitation as a regional framework

-One typical example is **the case of intellectual property (IPR)**

In the IPR area, it is apparent that the results of TPP are more skewed to US disciplines, compared with the results of ACTA (Anti-counterfeiting Agreement), in such areas as disciplines on ex-officio investigation, criminal investigation and pre-established damages.

-For the EU it is almost impossible to accept the results of TPP in IPR in entirety. **The landing zone for the eventual harmonization work among mega-regional FTAs has actually become narrower compared with the pre TPP situation.**

-The nature of TRIPs disciplines (as the minimum standard and) with no MFN exemption will further complicate future harmonization work in IPR.

# TPP's limitation as a regional framework

- Harmonization (or keeping consistency of rules) among multiple mega-regional FTAs (e.g. TPP, TTIP, RCEP, JCK, EU-Japan FTA) will be very complicated and time consuming** in view of differences in member countries, institutions, and negotiation schedules.
- The conclusion of TPP itself as the precedent can be a serious hurdle for flexible harmonization or consolidation of rules owing to the path commitment of its members.
- Risk of serious Spaghetti Bowls of rules is thus a real threat to the global trade system.
- The conclusion of **TPP may exacerbate the situation, triggering a hegemonic fight** among leading countries.

# Utilization of plurilateral agreements and approaches -from TPP to global rules

- The best scenario is that the WTO will lead multilateral negotiations to find global solutions in important issues/areas based on the consensus of the members, but the reality of the WTO and Doha Round is far from the dream.
- As a short-term solution, simply pursuing, as many countries do, mega-regional FTAs may be attractive and rewarding to governments. But **to achieve sustainable results**, both **WTO reform** and **FTA multilateralization** are needed.
- Rushing just towards competing mega-regional FTAs is short sighted, leading possibly to mutually inconsistent, fragmented, multiple trade regimes which will be a nightmare for businesses and functioning of GVCs.
- The result of TPP may trigger plurilateral initiatives** in certain selected issues/areas **since TPP members are already committed to high levels of liberalization and disciplines.**

# Utilization of plurilateral agreements and approaches -from TPP to global rules

-The key will be in certain areas whether there is possibility for realizing **critical mass involving non-member countries** and **MFN extension of the benefits to non members**.

**Issue based plurilateral approach with MFN can be utilized as an avenue to multilateral trade rules.**

-The success of ITA II is giving a push to plurilateral initiatives (See also environmental goods negotiation).

In a situation where the Doha Round is stalled, it is possible that plurilateral approach can be the main tool for liberalization and rulemaking in the coming days.

-**Otherwise** rule making in the WTO continues to face serious difficulty while **FTAs**, including mega-regional FTAs, **will further dominate and become the main stay of rule making in trade, undermining the multilateral trade regime .**

(See Baldwin Nakatomi(2015) for the problem)

## Possible plurilateral negotiations arising from TPP

- Plurilateral approach with critical mass plus MFN extension will be conducive to multilateralizing rules of mega-regional FTAs, **in a much more efficient manner than difficult harmonization of mega-regional FTAs.**
- Analysis of TPP gives us various clues for plurilateral initiatives in the coming days both for its members and non members.
- Possible areas for consideration could include **IPR, investment, state-owned enterprises (SOE), digital/e-commerce , rules of origin (such as full cumulation and self certification, for example) and regulatory coherence.**



## Possible plurilateral negotiations arising from TPP

-In identifying and clustering the issues for consideration, **multi-issue plurilateral negotiations can be considered** (See for example Nakatomi (2013a) for the proposal of an ISCA (international Supply Chain Agreement)).

In order to tackle 21st century issues facing GVCs and business activities, it is time consuming and ineffective to negotiate issues one by one. Negotiation resources are also quite limited.

-The key for success is the selection of topics/agenda and formation of critical mass and MFN extension. **TPP provides many clues and indications for the areas we can concentrate on in the coming days, not only for its members but for non members as well.**

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