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**Reviving the Multilateral Trading System**  
***Post-Bali Issues***

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**Plurilaterals, Systemic Concerns and the Interests of the LDCs**

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interests of LDCs**

by

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# Plurilaterals, systemic concerns and the interests of LDCs

Roundtable on reviving the multilateral trading  
system: post-Bali issues

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## Post-Bali developments - I

- The Bali Package adopted 10 Decisions, each of which has its own specific timetables which advance at different paces
- Since June 2014, a crisis emerged from the linkages made between the adoption of the Trade Facilitation Protocol and a "permanent solution" to the Public Stockholding issue.
- Members missed the deadline for the adoption of the protocol of amendment on the Trade Facilitation Agreement (TFA) in July 2014; the first deadline the Ministers set in Bali
- The recent agreement between India and the US has paved the way for the Bali Package to be back on track



## Post-Bali developments - II

- Since progress is stalled on the implementation of Bali Decisions, any discussion on post-Bali Work Programme has remained frozen.
- The gravity of the crisis led Members to seek alternative approaches/options to move forward
- Implementation of TFA as a Plurilateral Agreement was considered till recently, inside or outside of WTO framework
- Some work has been carried out on the technical and legal feasibility of a plurilateral TFA: autonomous implementation through schedule of concessions route



## Plurilaterals - I

- Plurilateral deals are not strangers in the WTO
- Plurilateral agreements predated the birth of the WTO, and have coexisted with it.
- The Tokyo Round of negotiations generated trade agreements that were accepted only by a limited number of GATT contracting parties (e.g. Anti-dumping, customs valuation, technical barriers to trade, import licensing, government procurement, etc.)
- Some of these agreements became multilateral at the end of the Uruguay Round negotiations
- And some agreements got incorporated into the institutional framework of the WTO, through Annex 4 the WTO Agreement (e.g. Government Procurement)

## Plurilaterals - II

- There are different variants of Plurilaterals, which can be largely grouped in two categories: inside versus outside the framework of the WTO
- Both MFN and non-MFN outcome possible within the framework of WTO
- WTO as a multilateral institution welcomes any plurilateral initiative if the results of such initiative are implemented on an MFN basis (e.g. Ministerial Declaration on Trade in Information Technology Products or ITA)
- Plurilaterals within the WTO framework has two advantages: Secretariat service and DSU
- Annex 4-type of plurilateral agreements (e.g. Government Procurement), the benefits of which does not accrue to non-parties, will in fact require a double consensus ( the first one to be part of the WTO framework, and the second one to put it under the Dispute Settlement mechanism)



## Plurilaterals -III

- Plurilateral approach was also attempted within the DDA negotiations framework
- Sectorial tariff component of NAMA negotiations intended to achieve liberalization on selected sectors through a critical mass approach
- One of the methods agreed in the Service negotiations, following Hong Kong Ministerial, was a request-offer process pursued on a plurilateral basis
- Some of the recent plurilateral initiatives have avoided the "free riding" problem by gathering "critical mass".



## Plurilaterals - IV

- Plurilateral negotiations on environmental goods were launched in July 2014, by some 14 Members which account for 86% of global environment goods trade. This is an ITA-type plurilateral the results of which are expected to be multilateralized. (While ITA has gone for total elimination of duties, here parties are asking for reducing the tariffs to 5%)
- Trade in Services Agreement (TISA) talks started in March 2013 by some 23 Members accounting for 70% of world trade in services. So far, TISA participants do not wish to extend the benefits to non-parties
- Since 2012, efforts have been under way to expand the ITA to cover new generation IT products. Reportedly, China and the US has agreed on a deal towards conclusion of the expanded ITA; it currently has 52 participants accounting for 97% of world trade in IT products



## Variants of Plurilaterals – I (MFN outcome)

Agreement	WTO rule	Example	Advantage	Constraints
GATT, Part I GATS Part III	GATT Art. II GATS Art. II	<u>Goods:</u> Information Technology Agreement (ITA)  <u>Services:</u> Telecom Financial	WTO Agreement  WTO Dispute Settlement	Possibility of 'free riders'

## Variants of Plurilaterals – II (Non-MFN outcome)

Agreement	WTO rule	Example	Advantages	Constraints
FTA/RTA/Economic Integration	GATT Art.XXIV GATS Art. V	NAFTA CAFTA	<ul style="list-style-type: none"> <li>• Higher level of ambition</li> <li>• Agreement and approval among interested Parties</li> </ul>	<ul style="list-style-type: none"> <li>• May not include all commercially significant markets</li> <li>• May have weak Dispute Settlement</li> </ul>
Addition to Marrakesh Agreement, Annex 4	Art. X.9 Marrakesh Agreement – WTO	Agreement on Government Procurement (GPA)	<ul style="list-style-type: none"> <li>• Applies only to the signatories</li> <li>• WTO Framework</li> <li>• WTO Dispute Settlement</li> </ul>	Consensus of WTO Members required



## Plurilaterals - Systemic concerns

- Market access agenda in the WTO has hardly made any progress; Some plurilateral agreements have been able to liberalize trade in certain products among willing Members
- Proliferation of plurilateral/regional deals causes systemic concern for the multilateral trading system
- Plenty of literature on the proliferation of plurilaterals: slow multilateralism, demonstration effect, etc.
- Balance of trade relations shift from system based on non-discrimination to system based on exclusive arrangements
- The drive for Plurilaterals takes away key elements from the market access trade-offs from the DDA package, ultimately undermining WTO negotiations and "single undertaking principle" of the WTO
- It diverts attention from multilateralism, and also negotiating resources



## Plurilaterals and LDCs - I

- The LDCs are marginal players in world trade. They remain innocent bystanders to plurilateral talks
- LDCs take position, and advance interests, as a Group; while it is the sovereign decision of any LDC member to join plurilateral talks, this has not happened so far.
- Incentives for LDCs to participate in TISA when they can receive non-reciprocal preferences in services trade; similarly, there is not much to gain in some plurilateral market access initiatives as they receive autonomous preferences



## Plurilaterals and LDCs - II

- The LDCs have not taken an official position on the implementation of TFA within the stipulated Bali deadline; neither any position taken on the Public Stockholding.
- LDCs, for various reasons, do not lend strong support to WTO; lack of legally binding outcomes is one of their frustrations.
- At the WTO, LDCs enjoy unique collective bargaining power which they don't have in other formats of negotiations (i.e. they have a negotiating seat and they can attract attention of the world)



## Concluding remarks

- Creating a multilateral agreement has proved nearly impossible in the 20-year life span of the WTO; that is why Bali breathed new life into the WTO
- The plurilateral move on TFA implementation might have helped to break the current impasse at the WTO
- Work on LDC issues in the post-Bali phase has not been "strictly" affected; however, meaningful engagements from Members were absent
- LDCs interest lie in strengthening the multilateral trading system, as they could enjoy non-reciprocal preferential market access as well as flexibility in implementing WTO rules and disciplines