Global Counsel

24 July 2015

# ITA: The tech imports deal with lessons for global trade policy


## Summary

*On 24 July, the WTO announced the conclusion of negotiations to update and expand the product coverage of the 1997 Information Technology Agreement (ITA). ITA II will eliminate tariffs for over 200 high-tech products – including new generation semiconductors, videogame consoles and global positioning system devices – traded between the 80 signatories of the original agreement. The final approval of ITA II at the WTO Ministerial Conference on 15 December in Nairobi will make it the first WTO tariff-cutting agreement in almost two decades. Beyond its obvious direct impact on global ICT trade, ITA II is interesting for what it might suggest about the future of WTO-led trade liberalisation initiatives and the balance that it is possible to find between a world of bilateral FTAs and the apparent impossibility of striking a world trade deal of the kind that has not been seen since 1994.*


On 24 July, the WTO announced the conclusion of negotiations to update and expand the product coverage of the 1997 Information Technology Agreement (ITA). ITA II is intended to eliminate tariffs for over 200 additional information and communication technology (ICT) products traded between the 80 signatories of the original agreement. This covers around $1trn of the $4trn in annual trade in ICT products, including global positioning system devices, medical devices such magnetic resonance imaging machines and videogame consoles. Negotiators will now turn to debating the timescale for reductions for certain sensitive products and other technical issues before a final deal is put to a vote at the WTO Ministerial Conference on 15 December in Nairobi.

ITA II is good news for traders in ICT goods – it will eliminate and bind tariffs on an expanded range of goods. But beyond its direct impact on global ICT trade, the ITA II deal is interesting because of what it might suggest about the future of WTO-led trade liberalisation initiatives and the balance that it is possible to find between a world of bilateral FTAs and the apparent impossibility of striking a world trade deal of the kind that has not been seen since the conclusion of the Uruguay Round in 1994. For businesses interested in reductions in trading costs, these negotiations offer the genuine prospect of cuts in tariffs – something a WTO deal has not actually achieved for two decades.

## Too big not to fail

Since the 1947 General Agreement on Tariffs and Trade (GATT), trade negotiations at the multi-state level have revolved around exchanges of commitments as part of comprehensive trade rounds. The most recent effort was the now defunct Doha Round, launched in 2001, stalled in 2008 and very partially salvaged by a narrow package of (non-tariff cutting) commitments in 2013 in Bali. These large deals covered the entire GATT/WTO membership and were based on two key principles. The first is what might be called 'variable reciprocity', meaning that commitments from countries do not have to be matching – one country's tariff cut on cars can be traded for another's tariff cuts on bicycles, provided that all sides are happy with the net result. The second is the principle of 'single undertaking', which is generally understood to mean that a WTO deal will cover a wide range of issues, none of which is agreed until they are all agreed.

Both of these principles are intended to make it easier to strike trade deals because they create more opportunities for trade-offs among the largest possible range of sectors. The problem is that the WTO membership has got larger, and expanded to take in many states whose limited interest in trade liberalisation have acted as a check on progress. Many developing countries refused to discuss services and even manufactured goods liberalisation in the Doha round before they had secured clear commitments from developed countries on agricultural trade and subsidy reform, which in turn prevented developed countries positioning concessions against gains elsewhere. The single undertaking – which was of course eventually broken with the Bali package – tied the fate of the Round to every individual negotiating file.

The 'plurilateral' alternative to this approach is not new. The ITA in its first version dates from 1996. WTO members have also produced side agreements on government procurement and trade in financial services and basic telecommunication services that have been annexed to previous trade deals, none of which are obligatory for all WTO members. But plurilateralism as a serious alternative to 'full spectrum multilateralism' has often been seen as the risk of carving out policy wins for states that could have been played into bigger deals and wider trade-offs. This is a fair point but looks a bit academic given the current prospects for a multilateral round. There are other weaknesses to the plurilateral approach – above all the problem of free-riding on commitments made in plurilateral negotiations by countries that do not participate themselves. The ITA sidesteps this problem by including countries that account for 97% of all trade in information technology, including India and China.

## And then there were some

Moreover, the potential in the ITA model is not lost on policymakers frustrated by the stalling of the multilateral track and looking for wider impact than bilateral FTA deals. There are two other open negotiations on the ITA model that are leveraging the same basic approach. The first is the Environmental Goods Agreement (EGA) currently being negotiated by 14 WTO member states including the EU, US and China. The EGA negotiations were launched in 2014 as a contribution to the wider multilateral process on climate change mitigation. The agreement is intended to reduce tariffs on a range of environmental goods including wind turbines, solar panels and solar water heaters, with a second phase potentially covering regulatory or technical barriers in the same areas.

The second is the Trade in Services Agreement (TiSA), which is using the plurilateral model to encourage a set of new commitments to codify greater openness in services trade. TiSA grew out of the frustration of states like the EU and the US at the side-lining of services negotiations in the Doha Round and its 24 participants are all self-defined services liberalisers who account for around 70% of all services trade. The concessions granted as part of TiSA will only be extended among participants, which is why it is being negotiated outside of the WTO, but the deal is open for any state to join if they wish, and are willing to match the level of ambition. In time, it could be absorbed into the WTO. The US in particular has taken a hard line on resisting Chinese and Indian participation precisely to lock in a high level of initial commitments. TiSA has no fixed deadline, but negotiations have now reached the sectoral level,

| Agreement | ITA | TiSA | EGA |
|---|---|---|---|
| **Within WTO?** | Yes | No, but could be absorbed into WTO in future | Yes |
| **Membership** | EU, US, China, India, South Korea and 76 others | EU, US and 22 others. Excludes China and India | EU, US, China and 11 others |
| **Products covered** | ITC products including GPS devices, new generation semiconductors, videogame consoles, etc | All GATS services sectors | Wind turbines, solar water heaters etc |
| **Potential impact** | Elimination of tariffs | New commitments in all services sectors | Elimination or reduction of tariffs. Second phase on regulatory barriers. |

**Figure 1: Ongoing plurilateral negotiations**

and the Trade Promotion Authority granted by the US Congress in June also covers the negotiations.

These three agreements aside, how expandable is the plurilateral model in practice? On the tariff side, the answer may be: not very. Information technology and environmental technologies are both relatively coherent sub-categories of goods and have an elegant political and policy rationale for grouping them and liberalising their trade. Their trade is sufficiently focused in the WTO membership to minimise free riding. But even agreeing the coverage of these two classes of trade has been technically and politically complex. Moreover, low global tariff levels, at least among the kind of exporters who are the demandeurs of this sort of deal, mean there is arguably limited scope for other sector specific tariff-cutting plurilateral deals.

However, negotiations on the ITA model could help move the global trade agenda forward in a number of other areas. For instance, plurilateral agreements could be used to update existing commitments in areas such as technical regulations around traded goods and competition policy. A plurilateral deal on investor protection or investor-state dispute settlement also could realistically be envisaged as an annex to the WTO Trade-Related Investment Measures (TRIMs) agreement.

Very concretely for trading businesses, not least in developing and emerging markets, negotiations on the ITA model could also be used to try and harmonise the multiple forms of rules of origin – the rules that dictate the where and how a good must be produced to benefit from preferential trade agreements - resulting from the rapid proliferation of bilateral FTAs over the last two decades. In a world where production of goods and services is increasingly conducted over long supply chains, the fragmentation of rules of origin by FTAs like the US-led Transpacific Partnership and the EU Economic Partnership Agreements can lead to production and trade being forced into regional rather than global supply chains. A plurilateral Global Supply Chain Agreement could in principle help smooth out these distortions.

All of these agreements have in common the fact that they are confined either to narrow issue or trade coverage, or to states with a willingness to push further than current WTO disciplines in some areas. The ITA and a future EGA will apply to all WTO members so developing countries will benefit from the agreed tariff reductions even if they do not participate. TiSA is an open agreement that other can join if they wish. At least set against the limited prospects for another global trade round, these deals seem a pragmatic alternative for states that want to deepen trade disciplines through a wider channel than simply adding to the growing stock of bilateral FTAs. An agreement like a Global Supply Chain Agreement could actually help mitigate some of the fragmentation that is resulting from the proliferation of FTAs. Purists will continue to grumble that the big prize remains multilateral agreement. Enthusiasts for trade might just enjoy the sight of WTO members actually signing a deal to cut their tariffs for the first time in twenty years.

*This Global Counsel Insight note was written by Stephen Adams, Partner and Daniel Capparelli, Associate Adviser at Global Counsel.*

To contact the authors, email:
s.adams@global-counsel.co.uk;
d.capparelli@global-counsel.co.uk

The views expressed in this note can be attributed to the named authors only.

5 Welbeck Street
London
W1G 9YQ
info@global-counsel.co.uk
+44 (0)203 667 6500