

The History of Plurilateralism in the GATT and the WTO

Nicolas Lamp

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Plurilaterals
in the GATT

Why
plurilaterals?

What were
the concerns?

Lessons
for today



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Plurilateralism in the GATT

Plurilateral formats were the norm in the GATT.

- **Example 1: the GATT itself**

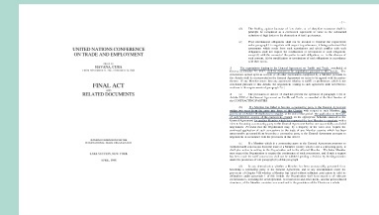
The GATT was originally conceived as a plurilateral agreement within the framework of the International Trade Organization (ITO).

- **Example 2: Tariff negotiations in the GATT**

In the early decades of the GATT, only parties that were willing to offer reciprocal tariff concessions were members of the TNC.

- **Example 3: The "code" approach to regulating non-tariff barriers**

Additional commitments were implemented through legally separate "codes" rather than amendments to the GATT.





UNITED NATIONS CONFERENCE ON TRADE AND EMPLOYMENT

HELD AT
HAVANA, CUBA
FROM NOVEMBER 21, 1947, TO MARCH 24, 1948

FINAL ACT AND RELATED DOCUMENTS

INTERIM COMMISSION FOR THE
INTERNATIONAL TRADE ORGANIZATION

LAKE SUCCESS, NEW YORK

APRIL, 1948

3. The negotiations leading to the General Agreement on Tariffs and Trade, concluded at Geneva on October 30, 1947, shall be deemed to be negotiations pursuant to this Article. The concessions agreed upon as a result of all other negotiations completed by a Member pursuant to this Article shall be incorporated in the General Agreement on terms to be agreed with the parties thereto. If any Member enters into any agreement relating to tariffs or preferences which is not concluded pursuant to this Article, the negotiations leading to such agreement shall nevertheless conform to the requirements of paragraph 2 (c).

4. (a) The provisions of Article 16 shall not prevent the operation of paragraph 5 (b) of Article XXV of the General Agreement on Tariffs and Trade, as amended at the First Session of the CONTRACTING PARTIES.

(b) If a Member has failed to become a contracting party to the General Agreement within two years from the entry into force of this Charter with respect to such Member, the provisions of Article 16 shall cease to require, at the end of that period, the application to the trade of such Member country of the concessions granted, in the appropriate Schedule annexed to the General Agreement, by another Member which has requested the first Member to negotiate with a view to becoming a contracting party to the General Agreement but has not successfully concluded negotiations; *Provided* that the Organization may, by a majority of the votes cast, require the continued application of such concessions to the trade of any Member country which has been unreasonably prevented from becoming a contracting party to the General Agreement pursuant to negotiations in accordance with the provisions of this Article.

DIVISION LINGUISTIQUE

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

TN.64/73

16 December 1965

Special Distribution

Trade Negotiations Committee

STATUS OF OFFERS

Note by the Director-General

1. Thirty-one countries (including one group of countries) have now tabled agricultural or industrial offers, or, in the case of countries following the procedures laid down in the plan for the participation of the less-developed countries, statements of the offers they would make as a contribution to the trade negotiations.¹ This paper, which has been prepared for the convenience of the Committee, summarizes the position:

	<u>Agricultural</u>	<u>Industrial</u>	
Australia	x	x	
Austria	x	x	(linear)
Brazil	statement of contribution		
Canada	x	x	

United Arab Republic	statement of contribution (specific tariff offers on industrial products)		
United Kingdom	x	x	(linear with exceptions)
United States	x	x	(linear with exceptions)
Uruguay	statement of contribution		
Yugoslavia	statement of contribution (specific tariff offers on industrial products)		

2. All thirty-one countries listed above have been recognized as full participants in the negotiations with the exception of Turkey. Turkey has notified the Trade Negotiations Committee of the basis on which it proposes to participate in the negotiations. The Committee has still to examine this proposal.

3. The following additional countries have formally notified their intention to participate in the trade negotiations under the plan for the participation of the less-developed countries but have not yet presented their statements of the offers they would make as a contribution to the objectives of the trade negotiations. These countries are to be regarded as full participants from the date on which they present such statements:

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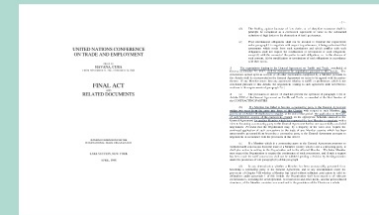
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Why plurilaterals?

- **Practicality:** It's easier to negotiate among a smaller group of members.
- **Influence:** The insiders can shape the outcome of the negotiations decisively.
- **Leverage:** The insiders may subsequently be able to compel outsiders to join the agreement on the insiders' terms.

611.0011 Executive Committee (9-440) Telegram
The Secretary of State to the Ambassador in the United Kingdom
(Winnit)
WASHINGTON, August 9, 1945-6 p. m.
6720, Urtel 7908, August 6.
1. The combined political and economic judgment of the Department on the matter is that the following 11 countries should be invited to participate in addition to the United States: United Kingdom, Canada, Australia, New Zealand, Union of South Africa, France, Netherlands, Belgium, U.S.S.R., China and Brazil.
2. It is believed that the number of countries should be kept small since the greater the number engaged in simultaneous negotiations the more difficult the negotiating problem, particularly for countries other than the United States.
3. This above group is as small as possible and yet includes the "Big Five" the members of the British Commonwealth, and major trading nations of Europe, Latin-America and the Orient. Definition of the nucleus by some easily understandable objective standard such as this is considered important in justifying exclusion of other countries.
4. The Department feels that India should not be included at this time on the grounds that any negotiations by the present Indian Gov-

In addition to the general discussion regarding tariff policy, there was a brief review of the plans for a general conference on international trade and employment. The Canadian group was of the opinion that a general conference of all countries might be dangerous, since the views of the many small countries might unduly weaken the bolder measures which the large trading nations might find it possible to agree upon. It would seem preferable to confine the arrangement to the large trading nations and then throw it open to adherence by others.

British Conference on Trade and Employment. An expert committee and preliminary report would have been submitted to the Department of the prototype held over in the charter, and the action by members of the committee would have been the subject of a report to the Department. The committee would have been composed of representatives of the United States, the United Kingdom, Canada, Australia, New Zealand, Union of South Africa, France, Netherlands, Belgium, U.S.S.R., China and Brazil. In other words, the committee would have been composed of the "Big Five" and the major trading nations of Europe, Latin-America and the Orient. The committee would have been charged with the task of recommending to the Department a list of countries to be invited to participate in the conference. The Department would then have been in a position to make a final decision on the matter.

611.0031 Executive Committee/8-645 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Winant)*

WASHINGTON, August 9, 1945—6 p. m.

6720. Urtel 7903, August 6.

1. The combined political and economic judgment of the Department on the nuclear list is that the following 11 countries should be invited to participate in addition to the United States: United Kingdom, Canada, Australia, New Zealand, Union of South Africa, France, Netherlands, Belgium, U.S.S.R., China and Brazil.

2. It is believed that the number of countries should be kept small since the greater the number engaged in simultaneous negotiations the

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3. This above group is as small as possible and yet includes the Big Five,⁶⁵ the members of the British Commonwealth, and major trading nations of Europe, Latin-America and the Orient. Definition of the nucleus by some easily understandable objective standard such as this is considered important in justifying exclusion of other countries

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Nations Conference on Trade and Employment. As regards tariffs and preferences it would have taken action in pursuance of the principle laid down in the charter, and this action by members of the Committee would create the standard by which to judge the requirements to which other nations joining the organisation should be expected to conform. In other words, any country joining the organisation would, according to our view, assume the obligation to "enter into reciprocal and mutually advantageous negotiations - directed to the substantial reduction of tariffs - and to the elimination of import tariff preferences". The extent to which members of the Preparatory Committee have taken action under this provision would be the test of what other countries joining the organisation should do in this respect.

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British Conference on Trade and Employment. An expert tariff and preference is would have been within its competence of the principle laid down in the charter, and that action by members of the Committee could check the members of the Committee who might be inclined to take their action along the lines of the principle of reciprocity. In other words, any member joining the Conference would, in addition to the obligation to take into account the interests of its own country, be bound to take into account the interests of the other members of the Conference. The Charter of the Conference would be the basis of the Conference's action.

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What are the concerns?

- **Practicality:** It's easier to negotiate among a smaller group of members.
 - Historically, plurilateral negotiations have been intransparent and have excluded most members of the trade regime.
- **Influence:** The insiders can shape the outcome of the negotiations decisively.
 - Internal: outsiders lose the ability to shape the rules.
 - External: outsiders lose control of the agenda.
- **Leverage:** The insiders may subsequently be able to compel outsiders to join the agreement on the insiders' terms.
 - Outsiders fear becoming subject to rules which they have not written.

The situation which we find ourselves to be in today only testifies that the Trade Negotiations Committee has failed to discharge its tasks properly. The developing countries had many months ago called for proper rules of procedure to be laid out both for the Trade Negotiations Committee and for the various Groups and Sub-Groups but the matter was not taken up. In July 1978, at a meeting of the Trade Negotiations Committee, the developing countries had stated that no document emerging from the negotiations could be considered adopted unless it were accepted by the large majority of the participants in the MTN. My delegation continues to subscribe to this view.

If you check through the records of the Trade Negotiations Committee, you will no doubt realise that developing country delegations including mine, have constantly pointed out the need for transparency in the negotiations. Yet today we find texts of Agreements which have been negotiated amongst a few developed countries on subjects like Trade in Civil Aircraft of which an overwhelming majority of participants in the MTN were not aware until 7 April 1979. My country and many other developing countries are sizeable customers for civil aircraft and yet we have been kept out of the negotiations of this Agreement. What is most intriguing is the fact that this Agreement has not come under the aegis of any Group. This is an entirely unsatisfactory state of affairs. A precedent is now set for various groups of countries to put up Agreements amongst themselves and to seek the umbrella of the MTN.

The so-called Agreement on Implementation of Article VI of GATT is another document that has surfaced at the final hour. This document like the one on Trade in Civil Aircraft is proposed by a number of delegations. On the question of Anti-dumping it must be recalled that developing countries had at various meetings of the Group on NTM's advocated for the creation of a Sub-Group on anti-dumping but had been tenaciously resisted by the developed countries particularly those who are members of the Anti-Dumping Code. Today we find a so-called Agreement on Implementation of Article VI of GATT proposed largely by those who had resisted the creation of the sub-group. The problems and special needs of the developing countries on the question of anti-dumping cannot be said to have been taken into account.

Paragraph 8 of the Tokyo Declaration says that "the negotiations shall be considered as one undertaking the various elements of which shall move forward together". It is the view of my delegation that at this point of time the various elements have not moved forward together. We have yet to find a solution to problems which developing countries face in the arbitrary and discriminatory manner under which GATT Article XIX action is taken by the developed countries. Work that is called for in pursuance of paragraph 3(d) of the Tokyo Declaration is far from completed despite the considerable concessions made by developing countries. We hope to see some positive results on this matter by July 1979.

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Lessons for Plurilaterals in the WTO

Ideally, plurilateral negotiations in the WTO would:

- ... be *transparent* and *inclusive*, i.e., open to all WTO Members.
- ... include a *representative cross-section of WTO Members* to ensure that outcomes on a specific issue reflect a balance of interests.
- ... address a *range of subjects* that reflect the priorities of a representative cross-section of WTO Members to ensure that all WTO Members feel that the negotiations advance their interests.
- ... include assurances that outcomes *will not be imposed* on any WTO Member directly or indirectly (e.g., through accessions, GSP conditionality, unilateral retaliation, etc.)

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