

A paper submitted to participants by the European Union in July 2012, shortly after the start of the process.

This document already contains the complete architecture of the future agreement, a central text replicating GATS (“core provisions”); Understandings; Sectoral rules (Chapters); and Schedules of specific commitments.

The EU proposes however that the schedules shall be of the same type as GATS

A modular approach to the architecture of a plurilateral agreement on services

At the occasion of previous discussions among the RGF group, many members have repeatedly expressed their attachment to the ultimate objective of the multilateralisation of what would first be a plurilateral agreement on services, allowing therefore this initiative to eventually support and reinforce the multilateral trading system. The latter has notably been highlighted in the press release of July 5. The present paper shows the views of the [EU] on how this could be achieved. It provides for an architecture of a plurilateral agreement on services which allows for a high level of ambition for both market access and rules, while building on the GATS and thus facilitating the docking of the possible agreement in the WTO.

Such architecture could be built around a series of modules, easily exportable: (i) a central pillar, which would exactly replicate the relevant GATS provisions; (ii) a series of chapters dedicated to sectors and/or to specific rules; (iii) an understanding on scheduling (which could contain provisions on issues such as standstill, ratchet or transparency; and (iv) specific commitments enshrined into GATS-type schedules (however enhanced by the understanding on scheduling). The central pillar would ensure the compatibility of the plurilateral agreement with the GATS. At the moment when RGF members would consider that enough critical mass was reached, the specific commitments could be brought into the multilateral system, simply by docking the new rules and the understanding on scheduling to the GATS and by replacing the existing GATS specific commitments by the "plurilateral specific commitments" based on the understanding. The new rules developed could be brought into the multilateral system via the GATS article XVIII mechanism and become new understandings or reference papers. The core provisions of the plurilateral agreement would disappear, as they would become redundant with the GATS.

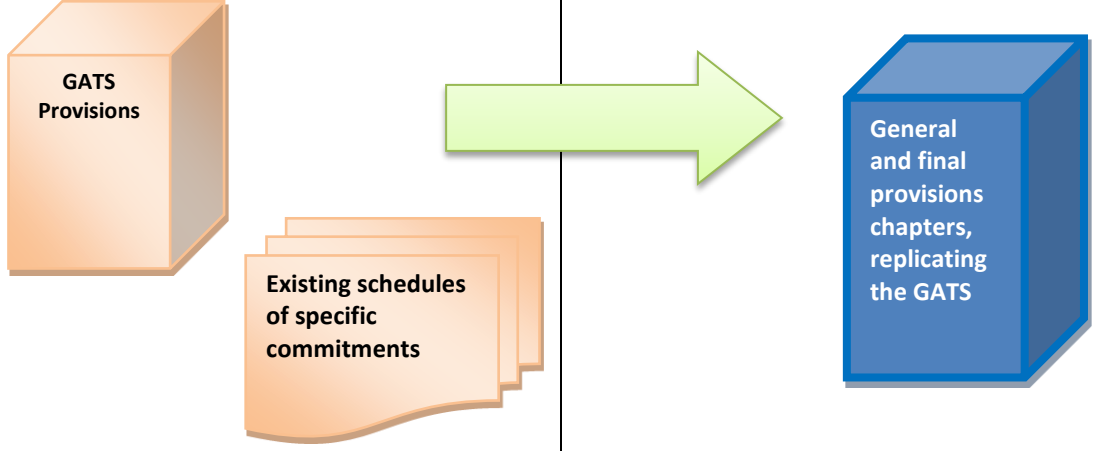
This paper considers the three phases of the initiative: the first phase, during which the plurilateral agreement is negotiated; the second phase during which additional participants might join the plurilateral agreement; and the third phase, which is the multilateralisation of the initiative, once the defined critical mass has been reached. During phases one and two, the agreement could be temporarily protected from the GATS MFN obligations by GATS article V.

Phase 1: Negotiating a plurilateral services agreement

A plurilateral agreement on services could be built on the basis of three modules: a set of core provisions; a set of rules and the schedules of specific commitments.

1. A central pillar replicating the GATS provisions

For years, the GATS has provided definitions and standards of treatment, which have shaped many bilateral agreements. By replicating those provisions into the plurilateral agreement, we would create a solid basis for the negotiation of additional services liberalisation, while ensuring that commitments undertaken are fully compatible with existing GATS commitments and could eventually be brought to the WTO. Box 1 below shows what essential elements could be taken from the GATS and could consist in a platform to build upon.

The GATS	Extracting the relevant GATS provisions
	
	<p>Indicative list of provisions</p> <p>Chapter I - General Provisions</p> <p>Article 1.1 – Scope (GATS article I + GATS Annex on air transport) Article 1.2 – Definition (GATS article XXVIII) Article 1.3 – Transparency (GATS article III)</p> <p>Chapter 2 – Specific commitments</p> <p>Article 2.1 – Market access (GATS article XVI) Article 2.2 – National treatment (GATS article XVII) Article 2.3 – Additional commitments (GATS article XVIII)</p> <p>Chapter 8- Final provisions*</p> <p>Article 7.1 – General exceptions (GATS article XIV) Article 7.2 – Security exceptions (GATS article XIVbis) Article 7.3 – Payment and transfers (GATS article XI) Article 7.4 – Balance of payment (GATS article XII)</p>

Box 1 – A central pillar replicating the GATS provisions

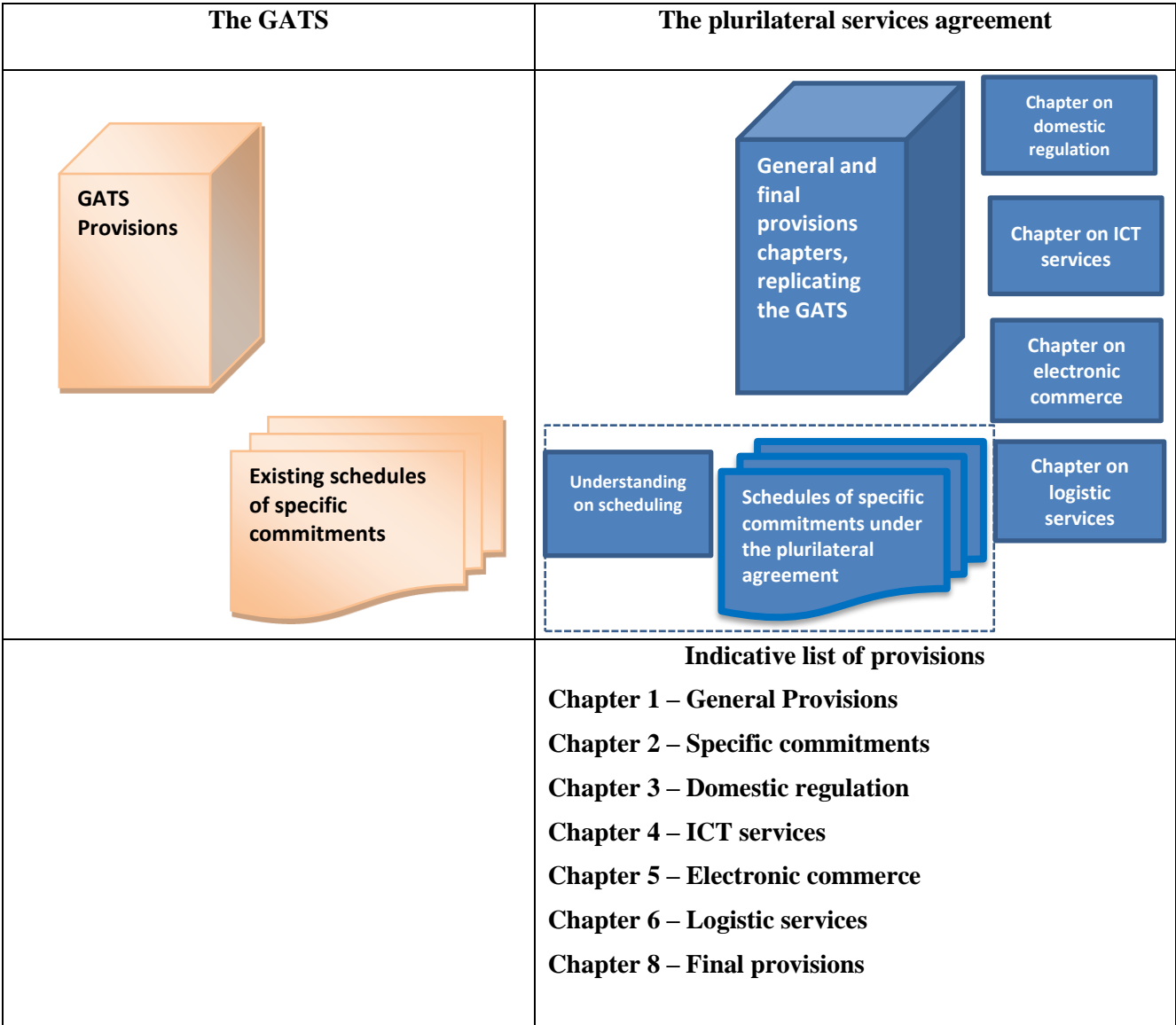
* This indicative structure does not cover the issue of dispute settlement, which is to be discussed at a later stage.

2. Develop additional rules and disciplines

The Parties to the plurilateral agreement could develop additional rules and disciplines to be contained in additional chapters. Those could cover domestic regulation, e-commerce, logistic services, ICT services or scheduling rules. They would reflect the willingness of the Parties to deal with issues beyond the core market access and national treatment provisions, notably by building upon existing work of the WPDR or the existing reference papers. Those chapters would complement the general provisions chapter. Being self-contained, those chapters would easily be exportable at the time of multilateralisation, notably via the mechanism of GATS article XVIII. Box 2 shows how the different elements, or modules, could top up the central pillar.

3. and 4. Define the specific commitments and the rules on scheduling

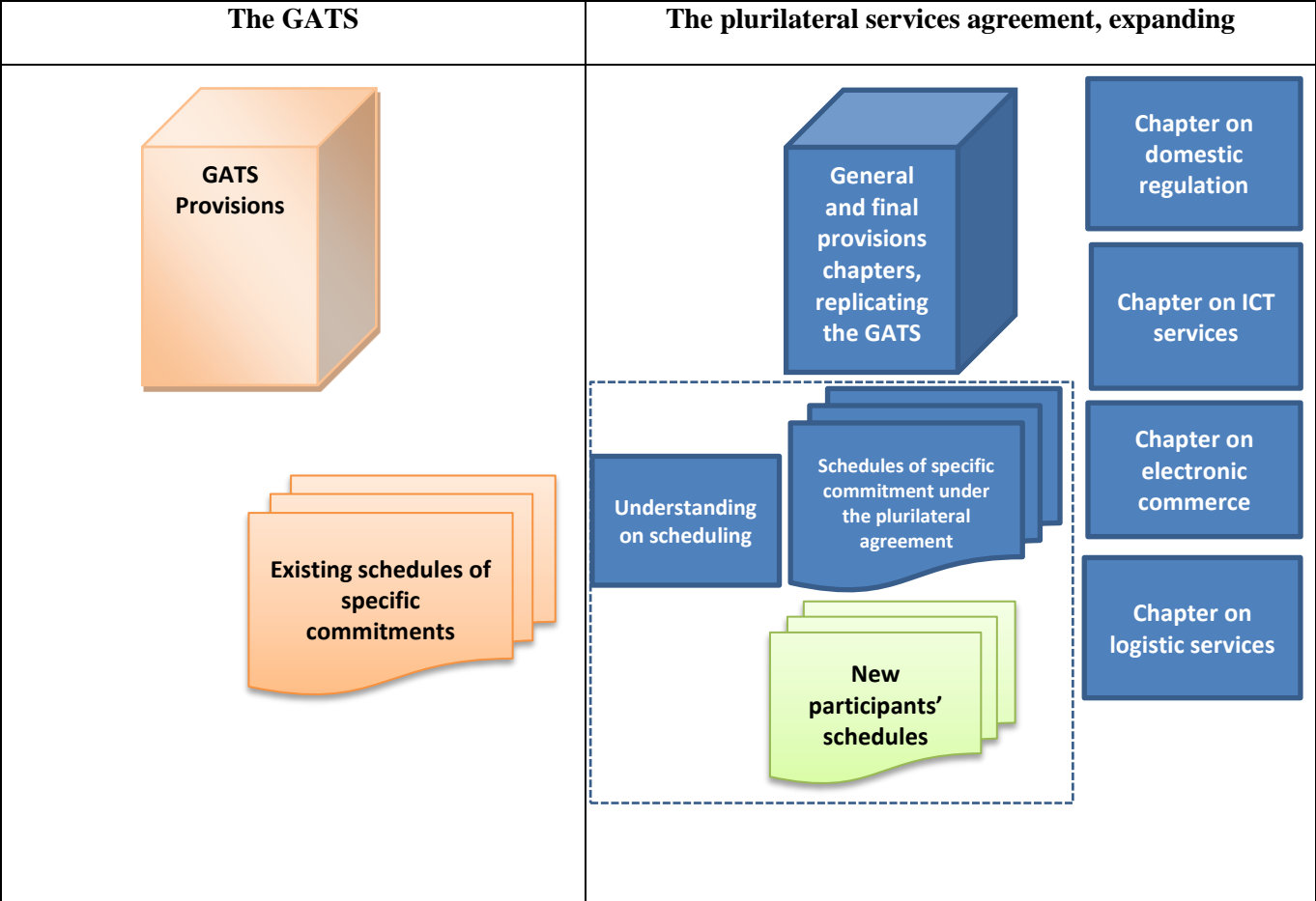
Through negotiations, the parties would determine the specific commitments, to be inscribed in GATS-like type of schedules. The latter could however be enhanced according to rules and concept inscribed in the understanding on scheduling.



Box 2 – Potential structure of a plurilateral services agreement

Phase 2: A living and open agreement

The plurilateral agreement would be by nature open to new participants and would naturally evolve as more WTO members join. Their commitments (enhanced by the understanding on scheduling) would be added to the already existing schedules of the initial members, as indicated in Box 3.



Box 3 – The plurilateral agreement expands through new members

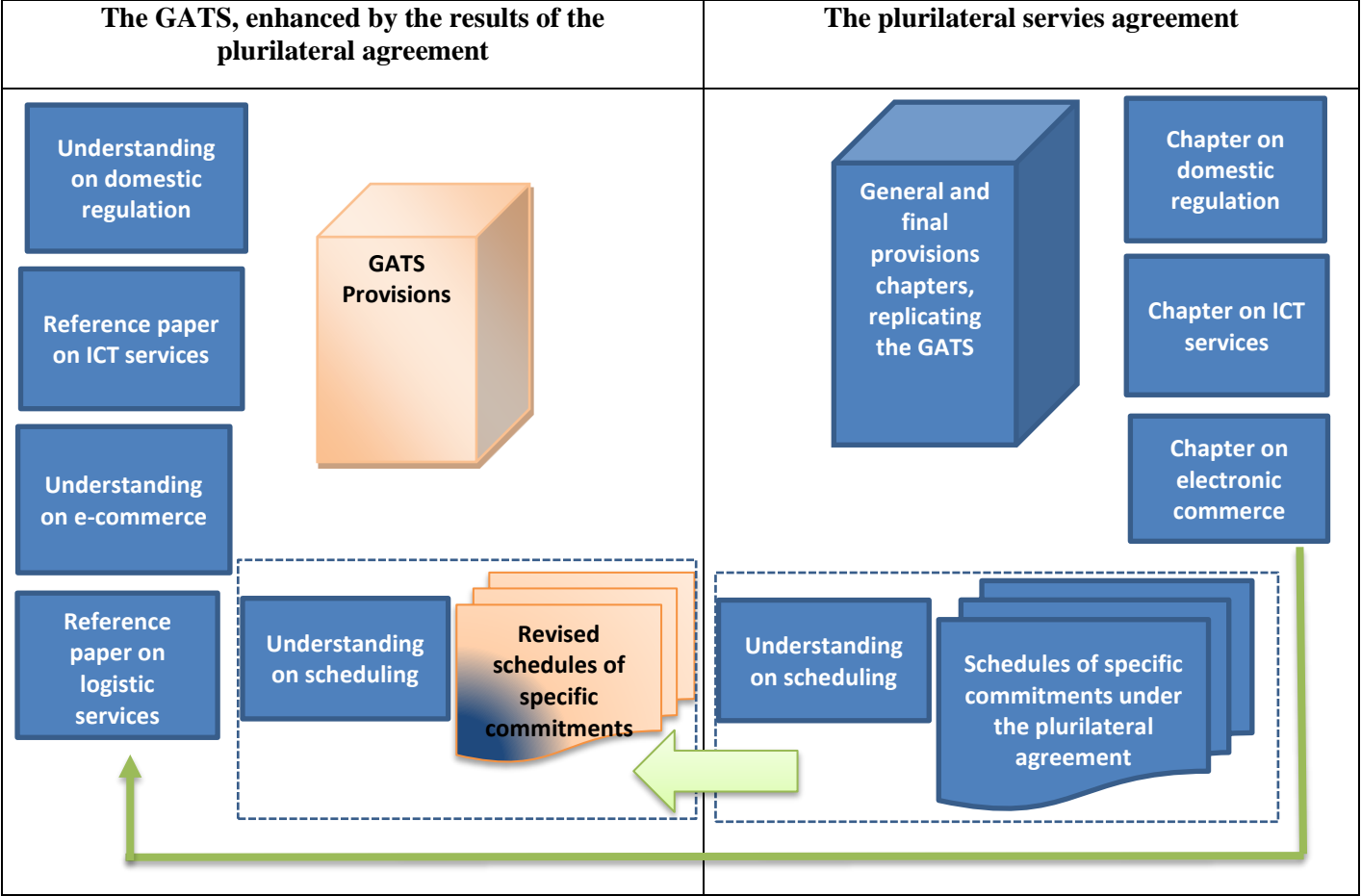
Phase 3: Multilateralisation of the plurilateral agreement

As soon as a given critical mass has been reached or when the Parties decide to do so, the plurilateral agreement could be multilateralised, i.e. its substance would provide for an update of existing commitments and rules of the multilateral trade system.

The architecture of the plurilateral agreement would be critical to make this multilateralisation possible, as shown in Box 4.

At the time of the multilateralisation, the central pillar would become redundant with the provisions of the GATS and could disappear. The existing GATS specific commitments would be updated unilaterally by the participants to the plurilateral. The commitments would refer to the understanding on scheduling, which would contain all rules pertaining to, for instance, standstill, ratchet or references to legislation. The sectoral chapters would be turned into either understanding or reference papers, in accordance with GATS article XVIII. While part of those rules would be new (such as the work on domestic regulation), some rules would update and expand existing tools (for example: consolidation of the e-commerce moratorium

through an understanding on e-commerce; update of the GATS reference paper on telecommunication through a GATS reference paper on ICT services ...).



Box 4 - Multilateralisation of the plurilateral agreement

Conclusion

By following this approach, the participants to the plurilateral agreement would take part in a greater liberalisation of trade in services while eventually reinforcing the multilateral trading system. If the existing GATS architecture is respected, a smooth transition to a multilateralisation of the results of the plurilateral services negotiations can be ensured. As a consequence, the multilateral system would be reinforced by this initiative, as shown in Box 5.

Box 5 - The GATS, complemented with the results of the plurilateral services agreement

