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PROCESS & ISSUES TOWARDS THE WTO BALI MINISTERIAL CONFERENCE OF 2013

Prepared by

CUTS International, Geneva
geneva@cuts.org

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Introduction

The 8th WTO Ministerial Conference of 2011 acknowledged that the Doha Development Agenda (DDA) negotiations were at an impasse; substantive negotiation issues had not seen the necessary progress and were blocking agreement on those where common ground had been reached. In order to ensure that gains made in the negotiations were not lost, members invoked Article 47 of the Doha Negotiating mandate that allows for progressive conclusion and implementation of agreed issues, and decided that these should be identified for conclusion at the next Ministerial meeting.

Following this Ministerial declaration, WTO members set to work on the issues where agreement could be reached. According to former WTO Director General Pascal Lamy, the issues where political consensus had been garnered towards conclusion in next Ministerial meeting were: trade facilitation; agriculture; and development issues of special and differential treatment for developing countries (S&DT) as well as Least Developing Countries (LDCs) specific issues. This note is an overview of this set of issues; highlighting what will be at stake in the forthcoming WTO 9th Ministerial meeting that will be held in Bali-Indonesia in December 2013.

WTO Trade Facilitation

Agreement

The trade facilitation negotiation mandate as agreed in the July 2004 package defines trade facilitation as "the simplification and harmonization of international trade procedures", with international trade procedures being "activities, practices, and formalities involved in collecting, presenting,

communicating and processing data required for the movement of goods in international trade". Negotiation objectives are to:

- clarify and improve relevant aspects of the WTO legislation with a view to further expediting the movement, release and clearance of goods,
- draft provisions for effective cooperation between customs agencies and other agencies on trade facilitation and Customs compliance issues, and
- enhance technical assistance and capacity building in this area.

Some of the likely benefits that would arise from improved trade facilitation for developing countries include: higher revenue collection due to larger trade volumes; return of capital costs invested in modernizing procedures; and improved efficiency in their customs administration.

Although substantial trade facilitation programmes are undertaken in developing countries, for instance Official Development Assistance (ODA) in 2011 directed in this area was over \$381 million; implementation issues continue to be of concern for most of these countries in the event of an agreement being reached in the WTO.

It is argued that successful implementation of trade facilitation measures would have major benefits for developing countries, such as reducing the time to declare goods at the border from 20-30 days to 2-3 days hence making imported inputs cheaper and increasing competitiveness for exports. In general, members rarely speak out against trade facilitation, but not necessarily because

consensus has been reached. The issue is rather that trade facilitation encompasses such a large number of measures that most members believe they would benefit from some of them, although others are contested given their implementation costs. Developing countries should focus on obtaining capacity building support and flexibility on commitments, as well as obtaining a financial commitment to develop the necessary infrastructure in order to comply with the proposed trade facilitation measures.

Practical aspects of trade facilitation will also need to be addressed - for example, there are concerns as to whether some technical measures can be implemented in the short run because they have been developed for and in the context of a developed economy.

Lastly, an important question for developing countries and LDCs is the extent to which the principle of S&DT will be applied in a Trade Facilitation context. The current position that such differential treatment should extend beyond the granting of traditional transition periods for implementing commitments and in particular, the extent and the timing of entering into commitments should be related to the implementation capacities of developing and least-developed Members is welcome and an important inclusion in the adopted agreement on trade facilitation.

Special and Differential Treatment (S&DT)

S&DT provisions allow developing countries and LDCs to be treated more favourably than developed countries by their trading partners in the WTO. These provisions include measures to

increase trading opportunities for developing countries, support with costs resulting from taking part in WTO negotiations and agreements, and lee-way to protect their domestic industries, for instance:

- longer time periods for implementing agreements and commitments
- measures to increase trading opportunities for these countries
- provisions requiring all WTO members to safeguard the trade interests of developing countries
- support to help developing countries build the infrastructure to undertake WTO work, handle disputes, and implement technical standards
- provisions related to least-developed country (LDC) members

While the S&DT principle was established to help developing countries and LDCs to yield benefits from their WTO membership and multilateral trade, its actual benefit for developing countries remains debatable. Issues with S&DT include the non-mandatory nature of some provisions lacking effectiveness and operability, and the question whether SDT provisions go far or deep enough.

28 Agreement-specific proposals

These refer to 28 WTO agreement-specific proposals adopted at the Cancún Ministerial Conference in 2003. The proposals are among the three components of development talks and cover a range of topics, including Agriculture

negotiations, Services negotiations, Dispute Settlement Understanding negotiations, S&DT, trade facilitation and accession. Talks on these agreement specific proposals have progressed, but no clear consensus is in sight. What remains to be seen is whether the proposals will be reviewed or rather re-negotiated (the latter being a significantly lengthier process), and whether some of the 28 proposals will be included "as-is", i.e. without any changes from the Cancún Ministerial, in a decision. Given that agreements reached at the Cancún Ministerial do not reflect changes in the past ten years, including the 28 proposals as-is might not be in the interest of either party involved, making re-assessment a worthwhile exercise.

LDC issues and their sub-issues

- **Duty-free and quota-free (DFQF) market access for products originating in LDCs.**

This is a core area of interests for LDCs as concessions made under this heading will have strong repercussions. Because of the great impact of these issues, negotiations have been tense: while some negotiating partners are reluctant to extend such preference, LDCs who are already eligible to benefit under unilateral preference such as the African Growth and Opportunity Act (including EAC member countries) also fear an erosion of their preferences if the DFQF principle were extended across the board. At the same time, many developed countries would argue that remarkable concessions have already been granted to LDCs in terms of DFQF market access. Hence, interests among LDCs diverge in addition to some developed countries' opposition,

making a well-articulated agenda from all negotiating partners imperative.

- **Operationalizing the Trade in Services waiver earlier granted to LDC**

Many LDCs have not undertaken an assessment of their offensive interests in developed and developing countries' service markets, making it difficult to identify and tackle the respective obstacles to market access in the markets of interest. Preparing collective requests by the LDCs, which identify the sectors and modes of supply that are of particular export interest to them, is among the suggested options to ensure operationalization of the waiver. Procedures for operationalizing the waiver have been agreed, and their adoption and the 9th WTO Ministerial meeting seems a given.

- **Reform of Rules of Origin**

Reform of Rules of Origin to apply the S&DT principle in a manner beneficial to LDCs is also on the Bali agenda. Granting DFQF market access to LDC's products does not have the desired impact if Rules of Origin are applied in an overly restricted manner which is not conducive to the underlying S&DT principles.

- **The cotton issue**

This is another demand from LDCs, this refers to provision of subsidies to cotton growers in developed and larger developing countries that have distorted trade in the crop, and economically affecting the cotton dependent economies of LDCs especially in West Africa. This issue is facing major opposition, particularly from the United States which is of the view that the matter is part and parcel of broader agreement on agriculture, and should be concluded along with those negotiations. Changes in the global cotton market over the past decade have had a

severely harmful effect on many LDC markets; hence progress on this issue is very important.

G20 Proposal on TRQ

Administration

In September 2012, the Group of 20 Developing Countries (G-20) presented a proposal regarding the administration of Tariff Rate Quotas (TRQ). TRQs are a means of restricting market access by charging a small or null tariff until a certain level of imports has been reached. The proposal suggests simplification of the administration of such TRQ systems by sharing information and monitoring the usage of quotas. Because of its technical simplicity and the fact that its contents are not contested, the G20 Proposal will likely be delivered in Bali.

G33 Proposal on Food Security

The G33, a group of developing countries lobbying for issues of food security, livelihood security and rural development brought forward a proposal to allow developing countries to prioritize food security in their agricultural support policy objectives. The proposal suggests a change to the way the "Amber Box" support is calculated, which includes all agricultural support that has a trade-distorting effect. Such policies are subject to reduction commitments unless the aggregate value of the product-specific support (or Aggregate Measurement of Support, AMS) does not exceed 5% of the total value of production of the agricultural product (10% for developing countries).

The aggregate value of product-specific support is not calculated as the actual value of

government spending but as the difference between administered, i.e. government-set, prices and "world market prices". Prices from 1986-1988 are used as world market prices but they fail to reflect price increases through inflation and commodity price changes over the past 35 years which have forced up administered prices.

Hence, the G33 proposal argues that the way AMS is calculated inflates its numerical value in comparison to the amount that is actually spent by governments thereby; developing countries are close to or exceed their de minimis level of 10%. This is problematic because most developing countries' governments buy food at government-set prices in order to hold stocks for food aid or food security purposes. In other words, they use their AMS allowance to advance their food security or food aid stocks.

The G33 proposal calls for negotiations on how to calculate AMS in a manner more favourable to developing countries, e.g. by increasing the de minimis level or by changing the external reference price to reflect current market prices. This goes in line with calls from many stakeholders to give developing members the policy space to nourish their people. At the time of this note, two options were on the table: the first would specify rural development and infrastructure-related as being in the Green Box, i.e. the category of allowed policies which have no trade-distorting effect. The second option is a matter of political agreement as it calls for relaxing pressure on developing countries to reassess their Green Box policies that support food security. However beyond these two options of potential agreement, one major obstacle to agreement remains the reluctance of members to amend the Agreement on Agriculture which

includes provisions for developing countries to exceed the AMS limits.

Conclusion

It remains to be seen as to which of the above negotiation issues will be resolved at the WTO Ministerial meeting in Bali. What is clear is that

even where an agreement is reached on most of the issues under consideration, developing countries and LDCs will be faced with implementation challenges, which they must work towards resolving if they are to derive real benefits that can be translated into economic gains in their respective countries.

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