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Unlocking the Doha Impasse *Imperative of a Balanced Bali Package*

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This Briefing Paper presents a brief analysis of the current state of affairs of the Doha Development Round. While the Doha Round is ‘deadlocked’ and, inter alia, exogenous circumstances have contributed to the current impasse, there is still a possibility that the WTO members will be able to reach an agreement on specific issues at the next Ministerial Conference in Bali in December 2013.

The Paper discusses three possible areas of convergence that could be taken up in the run up to and at the Bali meeting. They are: agriculture, trade facilitation and LDC issues. It provides analyses of geo-political and geo-economic situations within which the WTO members need to navigate in order to arrive at a deal. It argues that the cost of conceding a limited agreement is to be weighed against the benefit of what will hopefully reinvigorate faith in multilateral trading negotiations.

An Overview

Contrary to a popular perception, neither the World Trade Organisation nor the Doha Round of multilateral trade negotiations is dead. The Doha Round has, however, been deadlocked since the collapse of intense negotiations till the middle of 2008. Since then, most of the major economies have been facing financial and economic crises, and their aftermath is one of the major reasons for slow progress on concluding the Doha Round. *Inter alia*, one of the major reasons for the stalemate has also been an underlying lack of political will among some WTO members which has contributed to a negotiational standstill.

The robustness of the WTO as the institution governing global trade is reflected by the fact that in the last Ministerial Conference, held in Geneva in December 2011, the WTO members reiterated their faith in the Doha Round and identified the need to fully explore different

negotiating approaches with principles of inclusiveness and transparency.

Additionally, at the 2012 G-20 Meeting in Los Cabos, the G-20 leaders also reiterated that they “stand by the Doha Development Agenda (DDA) mandate” and that “fresh, credible approaches to furthering negotiations” were necessary to achieve success.

Secondly, the WTO members have showed remarkable maturity in generating a broad consensus to select its new Director-General, Roberto Azevedo of Brazil. Thirdly, the other important function of the WTO – that is, dispute settlement – is performing well and this is one of the reasons that the world had not witnessed large-scale trade protectionist measures and retaliation after the financial crisis of 2008 and concomitant economic crisis.

Fourthly, more than 80 percent of the work of the Doha Round is complete and for the rest, the WTO members will have to take a political

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call keeping in mind their developmental needs and overall balance of negotiations. This shows that members still have faith in the system, and at the same time their efforts to further trade openness are continuing through preferential trade agreements (PTAs).

Thus, the current situation in the run-up to the 9th Ministerial Conference of the WTO members, to be held in Bali, Indonesia in December 2013, reflects a delicate state of affairs and the need for taking a cautious approach with which countries must proceed in their desire to align the multilateral trading system with new realities of global economic governance, particularly in the light of post-2015 global development goals. Consequently, renewed attempts to ‘unlock’ the impasse and to come to an understanding on a small package of issues that have been identified for a balanced agreement in Bali are getting some traction.

However, with certain countries still taking extreme positions on some of the subjects being considered in this small package, the global trade and development community can only hope that trade ministers will find a way to arrive at a balanced package at Bali.

A Balanced Bali Package

Given the state of uncertainty in major economies, the stakes of reaching an agreement in Bali are high. In 2012, global trade growth rate dropped to two percent which was in stark contrast to the previous 20-year average growth rate of five percent.¹ In order to arrest this slippery-slope, at the Trade Negotiations Committee (TNC) meeting of the WTO Members, held on April 11, 2013, Pascal Lamy, the out-going Director-General of the WTO, pointed out that these bleak circumstances seemed to have encouraged members to push for a ministerial that would aim for deliverables in a number of issues, namely: an element in agriculture, an agreement on trade facilitation, and a decision on an LDCs (least-developed countries) package.²

Agriculture

As in the past, agriculture is the most contentious issue within this package. In light of the mandate given at the 8th Ministerial Conference, agriculture negotiations have aimed at exploring the possibility of an early harvest

agreement with respect to two proposals that have been submitted by the G-20 and G-33 groups of countries. The informal meeting of the Agriculture Negotiations held on 27 March 2013 highlighted that though there is rigorous discussion on this subject, consensus looks distant and remains elusive with the recent stand-off between the US and other developing countries on the proposal of the G-33 group of countries on public stockholding for food security purpose.

The G-20 proposal deals with administering tariff rate quotas in agricultural trade. It looks at the way quotas for lower-duty volumes are allocated among importers. Some countries have expressed that the proposal on TRQ administration is essentially about balancing it with market access provisions in the agriculture negotiations and have asked whether special treatment for developing countries would leave major food importers as the main target of the proposal.

Some other members, mainly major exporters of agricultural commodities, have said that TRQ administration is about fulfilling market access commitments from the Uruguay Round and should not be confused with new market access being discussed under the Doha Round. However, they have indicated that the proposed disciplines may not be as ambitious as they wanted.

The G-33 proposal concerns the issue of public stockholding for domestic food security and domestic food aid. It suggests that food prices determined by developing-country governments in an effort to maintain public stock to support “low-income or resource-poor producers” should not be included as part of their aggregate measure of support to agriculture. It also seeks to exempt ceilings on subsidies for farm support programmes for rural development and rural livelihood by classifying them under Green Box support.

Furthermore, the proposal puts forward that programmes pertaining to nutritional food security, land reform, drought management, flood control and issuance of property titles should be exempted from subsidy reduction commitments. The issue is politically sensitive, particularly in countries which produce large amounts of food grains and yet are faced with significant concerns over domestic food security and domestic food aid.

In November 1992, the US and EU settled most of their differences on agriculture in a deal known informally as the “Blair House Accord”. By 1994, the deal was signed by ministers from most of the 123 participating governments at a meeting in Marrakesh, Morocco. The Marrakesh agreement included commitments to reopen negotiations on agriculture and services at the turn of the century which were eventually incorporated into the Doha Development Agenda in late 2001.

Agriculture

The EU spends about •278bn in direct subsidies and it remains the largest single area of spending by EU. The subsidies in the EU’s Common Agricultural Policy (CAP) have been charged with preventing developing countries from exporting agricultural produce to the EU on a level playing field.

Although EU is working on reforming CAP, it has tried to reduce the impact of these barriers for a number of developing countries through extending the scope of preferential access under various trade agreements, and a further reduction is being negotiated in the WTO Doha Round

A US farm programme have cost about US\$20bn per year in government budget outlays in recent year and heavily subsidised grains, oilseeds, cotton, sugar, and dairy products. The WTO, therefore, has called on the US to cut its farm subsidies as their impact is so considerable that it affects market prices and disadvantage their farmers, US cotton subsidies are a clear example. Developing countries have called for the US to a sharply lower ceiling for permitted domestic subsidies, so that actual spending is constrained.

For farmers, the gain per person is large due to these subsidies. Hence, the domestic political stage is set for continued transfers from a broad constituency of voters, who pay little attention to the issue, to a much smaller group, for whom farm subsidies are vital to their short-run economic well-being. However, one hopes that this will change sooner or later as there is an increased understanding that subsidies are not good in long term.

Reportedly, while there is willingness to engage on means to address these issues, there remain significant divergences on how to achieve this. The G-33 group of developing countries maintain that they should be able to freely use their price support mechanism. They argue that WTO disciplines present a constraint on their ability to implement food security-related programmes. Some other members are concerned about subsequent and possible negative effects that this proposal may have on world food prices.

Some developed countries have expressed their concern that exempting increased purchases of subsidised food for food security programmes through the application of the disciplines of the WTO Agreement on Agriculture may result in misuse of these provisions by other members. Additionally, they argue that the lack of an agreed definition of “low-income or resource-poor producers” makes it difficult to categorise most vulnerable farmers and determine whether this exemption is actually being directed toward them.

Although, some members are yet to support the G-33 proposal, the silver lining is that both sides have reportedly said that the other’s concerns are legitimate and deserve a hearing.

Trade Facilitation

Trade facilitation is considered as not only a major booster to the global economy but is also one of the major substantive issues that have made considerable progress in the Doha Round of negotiations. Unlike agriculture, trade facilitation is an issue on which an agreement in Bali is highly possible and desirable.

The negotiations aim to clarify the General Agreement on Tariffs and Trade (GATT) disciplines on transit of goods, fees and formalities and transparency issues in order to ease border procedures and facilitate the movement, release and clearance of goods to the benefit of exporters, importers and consumers. Over the years, several proposals have been made which are under revision. These are reflected in the latest draft of the negotiating text. Some of the topics covered are as follows:

<p>Several studies, such as one by the World Bank³ demonstrate that there is a large reduction of trade costs owing to customs cooperation, easing up of formalities in relation to importation, exportation and transit etc.</p>	<p>Wilson, Mann, and Otsuki (2004)⁴ had measured and estimated the relationship between trade facilitation and trade flows across 75 countries in global trade, considering: port efficiency, customs environment, regulatory environment, and service sector infrastructure. The results suggest that both imports and exports for a country and for the world will increase with improvements in these trade facilitation measures. The total gain in trade flow in manufacturing goods from trade facilitation improvements covering all four areas is estimated to be US\$377bn. All regions gain in imports and exports.</p>
<p>Trade Facilitation Matters</p>	
<p>An OECD study (2003)⁵ demonstrates that aggregate welfare gains from trade facilitation would amount to US\$40bn. Non OECD countries would benefit the most.</p>	<p>Helbe <i>et al</i> (2009)⁶ estimate that every dollar spent in Aid for Trade recipient countries on reforming trade policy and regulation (customs clearance, technical barriers, etc) increases the country's trade by US\$697 annually.</p>

- Improving the availability of information for traders, specifically through the Internet
- Establishing advance rulings on tariff classification and applicable duties to expedite customs clearance
- Introducing pre-arrival clearance to allow goods to be released immediately upon arrival
- Expediting and simplifying the release and clearance of goods
- Enhancing transparency in customs rulings and administrative procedures
- Developing a uniform administration of trade regulations
- Streamlining fees and charges and establishing more discipline in their application - for example, prohibition of the collection of unpublished fees and charges, reduction/minimisation of the number and diversity of fees and charges, and prohibition of consular fees
- Improving coordination among border agencies
- Creating a single window – to submit data only once to one agency
- Establishing discipline for transit formalities and documentation requirements

While a multilateral agreement on trade facilitation undoubtedly presents benefits, divergent views on “costs of trade facilitation”

and certain technical issues are impeding progress as developing-country members want credible commitments on technical assistance and support for capacity building in this area. They have repeatedly stressed the importance of special and differential treatment and technical assistance provisions submitting numerous proposals to this effect.

Furthermore, some emerging economies are arguing that trade facilitation should not be deemed as a “self-balancing pillar” to conclude the Doha Round and should be de-linked from other developmental aspects of the Doha Round. For instance, India has maintained that positioning trade facilitation as a stand-alone proposal without a balance between what the developing countries are giving and what they are getting in other areas would not serve the cause of multilateralism.

A number of emerging countries including South Africa and Brazil are hesitant to ‘give away’ trade facilitation without getting something in return as there is a fear that once there is a deal on it other important subjects of the Doha Round and those having larger developmental implications on their domestic economies will fall through the cracks.

LDC Package

LDC-specific issues are the third area identified for the Bali Ministerial Conference and include 28 proposals agreed upon at the Cancun Ministerial Conference in 2003 which

are aimed at strengthening special and differential treatment provisions pertaining to LDCs in various WTO agreements.

The package also includes discussion on a Monitoring Mechanism that would review S&DT treatments in favour of LDCs and may also suggest improvements to those provisions. In this context, some progress has been made on six agreement-specific proposals, relating to the Agreements on Sanitary and Phytosanitary Measures and Import Licensing Procedures. With regards to other specific issues - namely preferential treatment to services trade from LDCs, duty-free, quota-free market access, and cotton - members are reportedly still awaiting new proposals from the LDC Group.

Another topic that would be reviewed is the extension of the transition period for LDCs to implement the WTO rules on intellectual property rights. Their exemption from implementing some provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights will expire in July 2013 and, therefore, a proposal to extend this deadline has been submitted to the WTO Council on the TRIPs Agreement. The preparation of the LDC Group and its pace of engagement with other WTO members will determine whether some of these issues could be harvested in Bali or not.

Conclusions

Given the WTO's history of missing deadlines, it is an imperative that members come up with concrete actions to bridge the existing gaps on issues to be included in the Bali Package. If a deal is not reached at Bali then there will be further erosion to the importance and virtues of trade multilateralism. This may not only happen among the global trade and development community at large but also among some WTO members, particularly the poorer ones as they have much more to gain from a rules-based multilateral trading system.

This is also reflected in a recent WTO report titled 'The Future of Trade: The Challenges of Convergence', 2013, which, among others, recommends that WTO members need to explore ways in which PTAs and its basic principles could increasingly converge with the multilateral system. In order to break this impasse, a critical evaluation of today's geo-

political and geo-economic situation is the need of the hour. In doing so three major points must be considered:

Balancing Trade and Development

As was reaffirmed at the last Ministerial Conference of the WTO members and reiterated in subsequent discussions on the Doha Round, development is a central element of the WTO's work as there exists a positive relationship between trade and development. The balance between trade and development can be attained by considering the rights and obligations of sovereign nations and bearing in mind various stakeholder interests, particularly those of producers and consumers in both domestic and international markets.

When the Doha Round was launched, the modalities of negotiations particularly reflected producers' concerns but given the "new normal" of high commodity prices, some of these modalities are to be relooked so as to balance producers' interests with those of consumers.

Balancing Negotiations with Deliverables

Developing countries are increasingly asserting that 'realistic' deliverables should be a priority outcome when negotiating an issue. An assessment of the progress in various negotiations indicates that developing countries are increasingly beginning to push for decisions with more tangible outcomes based on their experiences that have shown proven results. It is crucial to keep in mind a balance between inputs and outcomes of negotiations when dealing with the remaining issues of the Doha Round.

Balancing Negotiating Positions

Another important element to take into consideration is that different countries and their groups are adjusting their stances on specific issues to aid their negotiations on specific subjects of the Doha Round. Regarding subjects on which a deal is yet to be arrived both emerging and developed countries have to find a middle ground, a zone of possible agreement, in order to arrive at decisions that will enable all WTO members to be able to generate value from trade despite their differences.

Drawing from the above points, in his address at a public event organised by CUTS and

Federation of Indian Chambers of Commerce and Industry (FICCI), held in New Delhi on 29 January 2013, Pascal Lamy argued for the following three major steps that need to be undertaken to unlock the Doha impasse:

- Emerging countries need to realise that as they progress along the development trajectory, they will have to align their levels of rights and obligations with those of developed countries.
- Rich countries also need to recognise the inherent advantages they have in the area of trade as well as the pre-existing disparity of some of the existing rules. While emerging countries may undertake to apply developed levels of obligations/rules, they will only be able to do so after a transition period. The length of such period can be negotiated.
- Both developed and emerging countries have a responsibility towards the poor by helping them build the capacity to address the challenges of globalisation and to reap its fruits.⁷

A major question is how to reach this balance. First, a gradual approach to advance in areas where progress can be achieved should be adopted in order to achieve the specific deliverables. Secondly, it is critical to infuse creative thinking to bridge gaps and bring in convergence on pertinent issues of the multilateral trading system.

The key to unlocking the Doha impasse, thus, lies in pragmatically focusing on attainable outcomes, first in Bali and then preferably before embarking into the post-2015 world of achieving larger development gains.

An assurance that pending issues will remain on the board needs to be brought into the Bali Declaration so as to address concerns of emerging countries who fear dilution of greater developmental agenda if a limited agreement is reached.

While this is indeed not a best-case scenario, the outcome itself would be a balancing act as it would be weighed by the cost of conceding a limited agreement against the benefits of a significant confidence-booster to trade multilateralism.

Endnotes

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