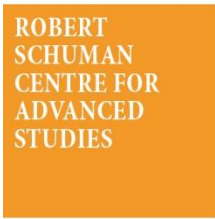




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RSCAS PP 2013/09
Robert Schuman Centre for Advanced Studies
Global Governance Programme

Re-Thinking Economic Development in the WTO

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ISSN 1830-1541

© Bernard M. Hoekman, 2013

Printed in Italy, June 2013

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Badia Fiesolana

I – 50014 San Domenico di Fiesole (FI)

Italy

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Abstract

The disagreements between the old and new trade powers in the WTO on market access issues that have deadlocked the Doha Round are in part a reflection of the “special and differential treatment” that developing countries have historically pursued in the WTO. A re-thinking of that approach is in order. This paper argues for greater effort and new approaches to use the WTO as a mechanism to help developing countries to reduce the trade and transactions costs that prevent firms and farmers from benefitting from trade opportunities. What is needed are processes for regular dialogue, peer review and independent assessment of the impacts of domestic policies, with active participation by firms that operate in the country concerned, and a focus on identification of good practices and priorities for reform and public investment.

Keywords

WTO, economic development, special and differential treatment, trade preferences

Introduction*

The global trade regime has provided an important framework for countries to agree to trade policy disciplines and commitments, as well as a mechanism through which these can be enforced. The scope and coverage of multilateral policy rules has expanded steadily since the creation of the GATT in 1947, as has membership, which now stands at 159. Thirty-plus new members – all developing countries or economies in transition – have acceded to the WTO since it was established in 1995. Another 20 are in the process of negotiating accession. Although accession arguably takes too long and is too much subject to idiosyncratic demands by WTO members, the result of the process is generally that countries undertake numerous reforms, and, perhaps more important, that for a period of time there is an explicit focus by government on the nation's trade policy regime and the operation of its trade policy institutions.

I will argue in this paper that it would be beneficial for developing countries to focus more on the efficacy of domestic trade policies and how the WTO can help in the pursuit of efforts to reduce the trade and transactions costs confronting firms and farmers that often prevent them from benefitting from existing trade opportunities. The deadlock that prevails among the large players in the WTO has led major traders such as the US, the EU and more recently countries like Japan and Korea to pursue preferential trade agreements with each other. The Trans-Pacific Partnership (TPP), an International Services Agreement (ISA) and the Transatlantic Trade and Investment Partnership (TTIP) are the most notable examples, but one can also point to the recent bilateral agreements between Korea and both the US and the EU. The disagreements that prevail between the old and new trade powers in the WTO on market access issues are in part a reflection of the “special and differential treatment” approach that developing countries have historically pursued in the WTO. A re-thinking of that approach is in order.

Engagement by many “incumbent” developing countries (those that were original WTO members) in the trading system has tended to revolve around efforts to defend and improve upon the provisions in the WTO that call for special and differential treatment (SDT) of developing countries. SDT in the WTO takes several forms. One is acceptance by the WTO membership of high(er) trade barriers in developing nations and “less than full reciprocity” in multilateral trade negotiations. Another is a promise by rich(er) countries to provide preferential access to their markets for exports from developing countries—through the generalized system of preferences (GSP) or through better than GSP treatment – duty-free, quota-free (DFQF) access for the least developed countries (LDCs). A third dimension involves exceptions and exemptions from certain disciplines – for example, on the use of export subsidies, which countries with a per capita income of less than US\$1,000 are permitted to use – and longer transition periods for the implementation of new rules that apply to all WTO members. Thus, developing countries generally had longer time periods in which to implement disciplines in many of the areas that were negotiated in the Uruguay Round. One reason for this was that developing countries had the option of not signing on to new rules under the GATT. Before 1995 (pre-WTO) an “à la carte” approach to rule-making prevailed. So-called codes of conduct were negotiated among subsets of countries on issues, with the associated rules applying only to signatories. This changed with the Uruguay Round/creation of the WTO, which was a ‘single undertaking’: all members of the new WTO were required to accept all the multilateral agreements, including those that had earlier applied on an à la carte basis. As a result, developing countries were subject to many more new rules than high-income nations, as the latter had signed on to a large number of additional disciplines negotiated in the Tokyo Round.

* Global Governance Programme, Robert Schuman Centre for Advanced Studies, European University Institute; June 2013.

Some progress but diminishing returns

One reason the Doha Round is called the Doha Development Agenda is because of the shift from an “à la carte” framework to a “menu du jour” approach to determine the coverage of WTO disciplines. After the Uruguay Round, many developing countries came to the view that implementation of the WTO agreements might not be a priority from a development perspective, especially those elements that required investments of scarce financial and human resources. A key response was to seek to make the WTO’s many SDT provisions more effective and operational.

One way this was pursued was through a concerted push to make preferential market access programs more meaningful by expanding their product coverage and relaxing the conditionality that applied, especially with respect to rules of origin. This push proved successful in the case of the LDCs – with the Hong Kong ministerial meeting declaration calling for at least 97 percent of LDC exports to developed country markets to benefit from ‘duty-free, quota-free’ (DFQF) access. Many OECD countries (but not the US) have now completely opened their markets for merchandise imports from LDCs, who also increasingly benefit from DFQF access for many of their exports in major emerging market nations such as China and India. The success of the LDCs and other African countries in improving and defending preferential access to major export markets post-2001 – not just OECD markets but also those of the BRICS – is a significant achievement. However, it also had a downside: it created tensions between developing countries (DFQF only extends to the LDCs and not to other countries that may be very similar in terms of per capita income and other development indicators), and gave rise to incentives to resist the preference erosion that would result if the DDA was to reduce applied MFN tariffs of preference-granting countries. This negative dynamic is illustrated most notably in the resistance by the United States to extend DFQF treatment to Asian LDCs (Bangladesh, Cambodia, Laos), which is driven in part by concern that doing so would erode the value of the preferential market access provided to eligible African countries under the African Growth and Opportunity Act (AGOA).

Another element of the strategy pursued by many developing countries in the Doha Round was to propose a shift from ‘best endeavours’ SDT language in WTO provisions to more legally binding, i.e., enforceable, texts. Numerous proposals were put forward, including in the area of dispute settlement, aimed for example at addressing the constraint that most countries have in credibly threatening retaliation in the case of noncompliance by large trading partners with the findings of the Dispute Settlement Body. The dispute settlement-related proposals were part and parcel of the effort to shift from best endeavours language to binding SDT commitments, as a precondition for this to be meaningful is that commitments are enforceable.

Concerns about implementation costs and more generally limited supply capacity (lack of competitiveness) were a major motivation for the launch of the Aid for Trade (AFT) initiative (at the 2005 Hong Kong Ministerial) and the creation of the Enhanced Integrated Framework (EIF) for trade-related technical assistance for the LDCs. The launch of the AFT program and the creation of the EIF, although not formally tied to the DDA, signified recognition by the WTO membership that market access and related rules were not enough. Technical and financial assistance was needed to help low-income countries improve supply capacity. AFT has become a mechanism to engage development agencies (bilateral and multilateral) more in the trade integration agenda and helps to raise the profile of trade issues in the process of determining priorities for investment and policy reform at the country level. The major challenge – and opportunity – looking forward is to do more to ensure that AFT has a greater impact in terms of improving trade capacity and competitiveness.

This very brief summary of objectives and outcomes to date illustrate that progress has been made as regards economic development concerns in the WTO. Some of the issues that were of most concern to the poorest developing countries in the late 1990s/early 2000s and that factored into the launch of

the DDA have at least partially been addressed.¹ However, nothing has been achieved (so far) in attaining key market access and agricultural support reduction objectives—a high profile example being liberalization of trade in cotton, a key demand for a number of African countries. A necessary condition for moving forward on this front is that the large players in the WTO agree on a package of commitments that they consider to be balanced. The major OECD countries – e.g., the US with respect to its domestic support programs for cotton – have made clear that any deal on agricultural policies will need to be balanced by market access concessions offered by the large emerging markets/developing countries. There is little that small developing nations such as the cotton-4 (Benin, Burkina Faso, Chad and Mali) can do in this regard beyond advocacy – a deal is in the hands of the large WTO Members: the EU, US, Brazil, India and China in particular. To use an economic analogy, small developing countries are mostly price-takers in international negotiations on market access and agricultural support programs.

Revisit business as usual

A shift away from ‘traditional’ SDT, which is more about exceptions and exemptions² (a “negative” or “defensive” approach), towards a constructive engagement on the substance of the trade constraints that prevail in developing countries and mobilization of support to help governments put in place better policy frameworks and achieve national development objectives (a “positive” or “offensive” approach) is likely to do more to promote development prospects. Traditional SDT has been a weak reed that has generated little in the way of direct benefits and arguably has resulted in significant opportunity costs in terms of benefits foregone.³ It has meant less market access in areas of export interest (continued tariff escalation/peaks in major export markets through the 1990s for example), and less in the way of benefits from applying WTO trade policy disciplines, including very limited use of WTO dispute settlement procedures and the WTO’s transparency mechanisms. Given that average MFN tariffs are declining steadily (the applied average MFN tariff for manufactures is less than 5 percent), the value of DFQF treatment is inherently limited. It can only partially make up for the high trade costs that confront enterprises in low-income countries and that raise the costs of consumption goods for households.

Key elements of the SDT strategy pursued by many developing countries – especially seeking to limit the extent of own trade policy concessions – are arguably misconceived because they do little to address the key factors that matter for competitiveness and that could therefore help improve trade performance. Four areas stand out in this regard – tariffs; the cost and quality of service inputs; reducing the trade-impeding effects of non-tariff measures (NTMs); and trade facilitation/border management. Policy reforms affecting these areas can have a major positive impact in terms of reducing the trade costs confronting firms and farmers. A large and expanding body of research has

¹ This is also true with respect to other concerns regarding the operation of WTO processes, e.g., internal transparency and access to information and consultations. See Hoekman (2012).

² One operational difference between these two concepts is in determining who has the burden of proof in a dispute.

³ There is a large literature assessing the benefits of preferential access programs (see e.g., Hoekman and Özden, 2005) and the approach that has been taken in the GATT/WTO towards defining rights and obligations for developing countries. The seminal contribution remains Hudec (1987). Recent research suggests that in principle SDT can be consistent with the reciprocity principle that underpins the WTO in the sense of allowing developing a period of greater policy freedom and better access to major markets that is conditional upon future full participation in the trade regime once trade performance exceeds a certain threshold level (i.e., reciprocity applies in a dynamic sense) – see Conconi and Perroni (2012). But a precondition for this mechanism to work is that the conditionality is indeed applied, i.e., there are “graduation” criteria. No such criteria prevail in the WTO, in contrast to the bilateral context that prevails when it comes to preferential market access. This suggests a need for greater explicit differentiation and criteria to define eligibility for SDT—an issue that has long been recognized and debated in the GATT/WTO setting but that to date has not proven to be tractable.

documented that the potential benefits for the world as a whole of action in these areas are substantial (Laborde et al. 2011; Decreux and Fontagne, 2011; WEF, 2013).

While average tariffs are low, tariffs can be an important factor precluding investment in developing countries that is dependent on the efficient operation of supply chains. An insistence on not fully participating in tariff reduction commitments implies that developing countries incur a significant opportunity cost as tariffs can have the result of locking a country out of a production network or supply chain. It is increasingly the case that in order to export, and thus to attract investment in exportables, firms need to be able to import (buy) goods and services at world market prices. Matters are less clear-cut as regards rules and rule-making for NTMs and services, as the specifics of a proposed new discipline may not be beneficial to a low-income country, or, more generally and more likely, give rise to implementation costs that require the use of resources that have a higher social return if allocated elsewhere. This helps explain why developing countries insisted in the negotiations on trade facilitation that any commitments made on their part would only become enforceable if developed countries had provided the assistance necessary to implement whatever provisions ended up being agreed. This is an approach that could be extended to other areas and is discussed further below.

Given the deadlock in the DDA on meaningful market access liberalization and rule-making, what could most usefully be done as regards strengthening the economic development dimensions (relevance) of the WTO? The WTO does not have much in the way of capacity to become engaged in the design and delivery of development projects. From an institutional coherence perspective there is a compelling case that it should not seek to do so, even in the unlikely event that some donors are willing to allocate the (significant) resources needed to have an impact. What the WTO can do is to provide more effective support in helping countries to deal with the “real trade cost” agenda. It can do so through agreements on frameworks that embody good practices – most immediately a trade facilitation agreement in Bali – and by shifting gears away from a virtual exclusive reliance on negotiations towards establishment of mechanisms for regular dialogue, peer review and monitoring of domestic policies and progress in the implementation of good practices.

Given that the domestic “trade environment” is the main determinant of the trade/transactions costs it is particularly unfortunate that to date no agreement has been possible on trade facilitation in the WTO. The same is true of the limited engagement to agree on liberalization of services trade policies or to deal with nontariff measures more generally. By not leveraging the WTO process to make progress in the policy areas that have the greatest salience in terms of reducing trade costs, a significant opportunity cost is incurred. The support provided by international development agencies for programs to enhance trade competitiveness reduces that opportunity cost, but also risks making the WTO even less relevant. The increasing demand for trade facilitation projects by governments that are supported by the development community suggests a disconnect exists between positions that are often taken in Geneva and what governments are doing at home.

New approaches to identifying and addressing policy barriers

There is much that can be done to pursue the trade costs reduction agenda more effectively through international cooperation, including in the WTO, but it requires a change in approach. Trade facilitation, dealing with NTMs and integrating services markets is much more complex than traditional trade liberalization. It is a platitude that tariffs can be reduced at the stroke of a pen by the Minister of Finance, while regulatory reform cannot. But not enough is being done to deal with the implications of this. What are needed are mechanisms that mobilize stakeholders, help governments identify priorities for action, and hold governments more accountable for results.

A useful focal point is to “think supply chain” (Hoekman and Jackson, 2013). Whether one likes it or not, supply chains are the way production occurs in a globalized world economy. Every country is part of a multiple supply chains. Participation in international value chains offers great prospects for

firms in poor countries to specialize in narrow manufacturing and processing activities in ways that was not feasible just a few decades ago. Contrary to what is sometimes argued, supply chains are very relevant to low-income countries, which often are engaged as suppliers of natural resources (minerals etc.) – where there may be potential for economies of scope (e.g., leveraging railways or roads to increase the return on investments in agricultural exportables) – or otherwise benefit from natural endowments (e.g., tourism). There is great potential to benefit from international value chains – whether as a supplier of foodstuffs to large global retail chains following entry into a country or a supplier of specialized intermediate inputs that exploit specific regional comparative advantages.

A company's ability to participate in international supply networks depends greatly on government policy choices regarding the extent of restrictions on market access at home and in export markets, and the efficiency of border management and transport, logistics and other services. Even if tariffs on exported goods are zero, firms that confront high and uncertain border costs, complex and restrictive rules of origin or inefficient and unpredictable logistics services will not be able to compete with firms in countries that do not confront such costs.

In practice, many of the policies that affect supply chain costs are regulatory in nature. Many pertain to –impact on – the service sectors that are the inputs into production and determine the competitiveness of firms. The relevant policies and procedural requirements are generated by a multiplicity of agencies with generally very little in the way of communication and coordination or any consideration of trade impacts. Making progress in removing or reducing the supply chain cost-increasing policies requires coordination across many government agencies as well as engagement with business. Steps in this direction can be made at national level through the creation of a high-level body that has the mandate to bring the relevant regulatory bodies and enforcement agencies together, enhance the understanding of all concerned regarding the effects of the status quo on trade and identify approaches that can reduce negative trade impacts while not impinging on the achievement of regulatory objectives.

The challenge in making progress in lowering trade costs is to determine what exactly needs to be done. Often it is not enough to fix just one thing or another – in practice a “bundle” of policy-induced constraints may need to be addressed for a nation to become an attractive location or for firms to invest in the facilities that are needed to make a value chain work. There are “tipping points”. A recent report, WEF (2013) argues that any comprehensive approach to reducing supply chain barriers requires governments to engage with the business community. Firms that are involved in the management of value chains, that provide transport and logistics services or that are engaged in wholesale and retail distribution can all provide information on the factors that affect (reduce) supply chain efficiency in a given country/region.

A first priority is to elicit this information. A central component of any such effort is to put in place mechanisms to collect data on factors affecting supply chain operations. These data can then be used to identify ‘clusters’ of policies that jointly generate the major supply chain barriers for industries that are particularly important or that have the greatest potential (based on inputs from business and economic analysis). This must be complemented with a process to identify what the priority clusters of policies are and to agree on a specific implementation action plan to address the bundle of policy-induced constraints that are identified. It is important that this process includes feedback loops between government and business to allow everyone to monitor progress, which again will have to include a mechanism through which data are collected and made public to determine whether performance indicators are improving.

These may seem rather obvious prescriptions but such approaches are rarely pursued with an explicit focus on what matters from a trade costs/supply chain perspective. Instead governments (and the international and development organizations that provide support to countries) tend to focus on specific policy areas – Customs; transport; standards; etc. A supply chain lens would help ensure that efforts to improve policy and lower trade costs are not pursued in silos but involve a cross-cutting

approach so as to identify what matters most from the viewpoint of investors and an operations/efficiency perspective. A supply chain lens will also help in identifying where development agencies can be more effective in the provision of trade-related assistance from an economic integration perspective.

Complementing law with more jaw-jaw

The WTO is geared towards the negotiation of enforceable commitments. This is its primary strength: binding disciplines reduce uncertainty for traders who know that the dispute settlement mechanism can be used to ensure that governments live up to what they sign on to. But a precondition for the negotiation process to work is that a subject generates cross-border spillovers (affects the terms of trade) *and* that countries have a reasonable sense of what the orders of magnitude are of the net benefits of any specific proposed deal. One of the implications of the supply chain/network approach suggested above is that it would generate information on the various policy areas that are relevant from a trade cost reduction standpoint, and help ensure that in negotiating disciplines *all* the major sources of barriers are targeted. The WTO tends to take a “silo approach”, addressing policy areas in isolation. In practice, given that regulation and domestic policies are increasingly the source of market segmentation and a determinant of the profits that accrue to domestic vs. foreign firms and factors of production, some degree of positive integration (agreement on common rules or mutual recognition) may be needed to achieve joint increases in economic welfare (e.g., Antras and Staiger, 2012). Determining what would do so is not straightforward—it certainly may not suffice to focus on just one policy instrument. Figuring out what matters most, and what policy areas should be on the table jointly, is something that will take substantial preparatory work. Moreover, in some areas it simply may not be possible or appropriate to negotiate binding rules and the best that may be feasible is to increase transparency and the information that countries have about the aim and effects of policies. This is the case in particular when it comes to behind-the-border regulatory policies as cooperation will be required by the regulatory agencies that are charged with their design and implementation.

This suggests that WTO members should consider creating platforms for dialogue and learning. Such platforms could aim at bringing in the relevant regulators and increasing their awareness of the effects of their activities on trade costs. A multilateral trade facilitation agreement is important in part because it could help mobilize national attention for the importance of lowering trade costs and create a platform that would bring border management agencies into the ambit of the WTO processes (through a Committee, transparency and reporting requirements, etc.). But whether or not progress proves possible on trade facilitation and something is agreed in Bali, it will not generate the kind of cross-cutting focus that is needed to “think supply chain” – it will not extend to services, or to product standards, as well as areas that are not yet subject to WTO rules, e.g., competition and investment policies. Thus, even if trade facilitation is agreed, launching a process with regulators and the business community that centres on a supply chain approach to assessing policies should be considered in the WTO. This could start with a set of national studies as was done for services in the first half of the 1980s. Better understanding of what it takes to be part of and move up the value chain is important for development.

A cross-silo-cutting platform for dialogue and peer review would also be a good vehicle to re-attract engagement by business in the WTO. A number of the suggestions discussed previously on how one might go about identifying key policy drivers of national trade costs could benefit from the support by an organization like the WTO. For example, businesses are likely to be concerned about the potential repercussions of providing data and going public on the excess costs that they face that are caused by government agencies (including corruption or other abuse of power). The WTO could play a role in addressing these types of constraints, by helping to design and put in place mechanisms that on the one hand provides assurance to businesses of confidentiality in case of sensitive information while on the other hand assuring governments that the information that is provided is valid.

Conclusion

The raison d'être of the WTO is to negotiate binding agreements on trade-related policies. It has not had much success in fulfilling this role in the last decade. Part of the reason is arguably the approach that has been taken towards SDT, which results in an unwillingness of even large and relatively advanced developing countries to engage in trade liberalization commitments on an equal basis as high-income countries. SDT needs to be rethought.

Recall the main elements of the current (and historical) approach to SDT:

Less than full reciprocity: Maintaining tariffs makes little sense in a world economy that is increasingly organized in international production networks that criss-cross borders, with firms in different countries specializing in specific activities that are needed to produce a final good. Imports are needed to be able to export. Tariffs, even at low rates, simply throw sand into the gears of supply chains. Seeking to do less (or nothing at all) in WTO tariff negotiations implies higher trade costs for firms and perhaps exclusion from participation in production networks.

Preferential access to export markets: This can make a difference for firms in beneficiary countries that are “on the edge” –i.e. without the preferential margin they would not be competitive. But given relatively low MFN tariffs in the countries that grant tariffs, and the fact that preferences do nothing to address the barriers created by NTBs and NTMs (either at home or in the export market), the value of preferential access is limited.

(New) Rules: There is a good case for a differentiated approach to determining the coverage of new policy disciplines, especially when these imply significant implementation costs. The Doha Round trade facilitation talks are a test case in this regard. One hopes that an agreement will be struck in Bali and that there will be a credible commitment to provide countries that need it with the resources to implement the various provisions of an agreement. More generally, seeking to pursue new multilateral rule-making on a consensus basis with the presumption that any form of cooperation on disciplines with respect to regulatory measures that affect trade should apply to all WTO members is not a desirable not an effective approach. Consideration should be given by the WTO membership to shifting back to a “club approach” for new rule-making –through plurilateral agreements – in areas that are not already covered by WTO disciplines (Lawrence, 2006; Hoekman and Mavroidis, 2013). This would be a way of pursuing greater differentiation within the ambit of the WTO as opposed to doing so through PTAs. If no agreement proves possible on trade facilitation in Bali, countries should consider pursuing a plurilateral agreement on this subject. This could also allow some of the “supply chain” approaches to regulatory barriers to trade proposed above to be explored on a pilot basis, among a subset of WTO members. A trade facilitation plurilateral agreement need not be limited to binding disciplines – it could also comprise a mechanism that involves peer review and dialogue regarding good practices, and be a vehicle for bringing in national regulators as well as development agencies/specialized organizations with technical expertise and resources that can be used to help governments improve policies.

Aid for trade: The AFT initiative is one of the few significant post-2001 results to date from an economic development perspective. Many have justifiably questioned how much it has achieved and what it can achieve. Much depends on how that initiative is implemented and whether it is sustained. In my view AFT can have the greatest positive impact if it is allocated so as to address the sources of trade costs that reduce the competitiveness of firms in developing countries. This is of course a big agenda, and there are numerous agencies, national and multilateral, that can and do provide support to governments with this aim. The value added of AFT is arguably likely to be highest when it focuses on areas that are covered by the WTO: trade-related policy, broadly defined as measures that have a direct impact on trade costs. Much of the focus of AFT is on infrastructure investment and “productive

capacity”, areas that development institutions would engage on in any event.⁴ What they are less naturally inclined to focus on in a consistent manner over time are non-tariff measures, including policies affecting trade and investment in services. Using AFT to support the types of mechanisms and platforms mentioned above would be relatively low cost but could potentially have a high payoff. One such payoff would be to move the WTO to become a global institution where the substance of policy is discussed and debated, whether or not a policy area is subject to binding disciplines, as opposed to being a body that focuses predominantly on the negotiation and enforcement of policy commitments. The WTO is the only *global trade policy* organization extant. It should not be in the business of doing development projects. Focusing AFT on *policy*, on helping members to identify options for strengthening the likelihood that *policy institutions* will promote the public good, and putting in place mechanisms and processes to assist members to deal with the “regulatory silo problem” that exists in all countries could make the WTO more effective in safeguarding the level of trade openness that exists today and supporting progress towards further integration of the world economy.

⁴ Although it must be recognized that these agencies substantially increased the attention and the level of support provided in these areas following the launch of the AFT initiative—which was of course a key objective of the trade community.

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