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Briefing

Imagining a new negotiation strategy for LDCs at the WTO

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Key messages

- Important shifts in the world economy, trade and regional and global trade policies suggest that the negotiation positions taken by least developed countries (LDCs) at the current negotiations need to be revised.
- The defensive positions typically adopted in the past are no longer appropriate in the current context. LDCs have more to gain from a more aggressive position (more market access and deeper commitments in emerging and large developing economies).
- LDCs will have a greater chance of success in shaping rules and disciplines that are more compatible with their development needs through negotiations within the multilateral framework rather than in a bilateral context.
- In virtue of the lack of progress, all members need to evaluate the finalisation of the current negotiation round and define the topics of a new one.

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Introduction

The upcoming World Trade Organization (WTO) Ministerial Conference (MC) to take place in Nairobi, Kenya from 14-18 December 2015, provides another opportunity to finalise the current Doha trade negotiations round which started in 2001. A settlement may increase trust in the foundations of the multilateral trade system. Unfortunately, all signs suggest that, yet again, no agreement will be reached.

However, the negotiation premises have changed significantly from when the Doha Round (DR) negotiations were launched in 2001. Changing dynamics in the global economy, together with important structural transformation of the economies of least developed countries (LDCs), have seen a marked change in the structure of trade involving these countries. This is reflected both in the more diversified set of products that LDCs are exporting (especially with more manufactured goods being exported from these countries) as well as in the increasing importance of Brazil, China, India and other emerging economies as trading partners for LDCs. The growing importance of South-South trade for LDCs represents a significant departure from the prevailing dominance of North-South trade at the onset of the DR.

At the same time, the Nairobi MC is set to occur in the midst of a global trade slowdown. Trade growth has been weak in the aftermath of the global economic crisis, and particularly since 2010 (Hoekman, 2015). This has been reflected in a declining rate of growth in the ratio of global trade to gross domestic product (GDP). Indeed, recent data suggests that trade is lagging global output growth and, in fact, is beginning to decline. According to Constantinescu et al. (2015), this is not only the product of slow growth in GDP, but also the result of structural changes in the relationship between trade and GDP.

These, and other, important shifts in the world economy, in the structure of global trade and in trade policies both regionally and at the global level suggest that the negotiation positions taken by LDCs at the onset of the DR in 2001, and at the subsequent MCs in the lead up to the forthcoming negotiations in Nairobi, need to be revisited, reformulated and updated in order to take into account these changing realities.

There is also a feeling among negotiators, policy-makers, researchers and other stakeholders that there is little point in continuing to negotiate around the framework of the DR (Mehta, 2015). Although members such as the European Union (EU) seem to endorse (at least publically) the multilateral negotiations, they agree that significant recalibration is needed (European Commission, 2015). The DR is outdated and is not addressing the main concerns of either developed or developing countries. Therefore, there is a tacit understanding that whatever the outcome, this should be the last meeting to negotiate around this framework.

The intention of this brief is to provide insight into how the aforementioned changes in the world economy and in global trade have affected the negotiation positions of LDCs. We highlight potential courses of action for LDCs in several key areas. In general, we argue that the defensive positions that LDCs have typically adopted in the past are no longer appropriate in the current context, and that they have more to benefit from a more aggressive position to steer negotiations towards their development needs. This should imply more market access in emerging and large developing countries. Furthermore, we suggest that LDCs will have a greater chance of success in shaping rules and disciplines that are more compatible with their development needs through negotiations within the multilateral framework rather than in a bilateral context.

Negotiation background

The outcome of the Uruguay Round (UR), which concluded in 1994, was disappointing for both developing countries and LDCs within this grouping. Although it succeeded in including agriculture on the negotiating table, it did not address the most important trade-related development issues. The process to transform restrictions into tariff equivalents, for example, left many countries with large differences between the Bound and the Most Favoured Nation (MFN) tariffs (the so-called binding overhang), leaving members with substantial room to alter their tariffs and protect them from future reductions.

At the same time, the development agenda was becoming increasingly urgent. In the face of persistently low commodity prices in the years that followed the UR, it was clear that developing countries and LDCs would need to diversify their export supply, a task made more difficult by the distortions in the international trade system generated by tariffs and subsidies.

The DR was launched in 2001 to address these issues. It constituted a chance to reform and improve the multilateral trade system. At the outset, good progress was achieved, with members agreeing on the negotiation framework and other issues. This included agreement, for example, on the way that tariffs would be reduced in agricultural products (the tiered formula approach) and on how non-ad-valorem tariffs should be transformed into ad-valorem equivalents for negotiation purposes. However, by the time of the Cancun MC in 2003, which involved more topics and a greater number of countries, complications in the negotiations had begun to appear. For their part, developed countries were reluctant to reduce their support to agriculture; while many developing countries were not willing to loosen protection on industrial products. By the Hong Kong MC in 2005 hopes where renewed but negotiations finally stalled over several complicated issues and, despite attempts to relaunch negotiations in 2008, there was no further progress until the Geneva and Bali

MCs in 2011 and 2013, respectively. Here, a strategy of seeking to agree on topics in which there was less conflict among members, while leaving more complicated issues for further negotiation, paved the way for the conclusion of the trade facilitation agreement of 2013. At the same time, an increase in the negotiation of free trade agreements (FTAs) lessened interest in some countries in reaching a multilateral agreement. More recently, the surge of mega-regional agreements, such as the Trans-Pacific Partnership (TPP), has posed another challenge to the multilateral system (Mendez-Parra, 2015).

Changing dynamics in the global economy suggest that it may be time to re-visit the development agenda. The trade profile of LDCs has evolved since the commencement of negotiations in 2001. Even amid high oil prices, the share of mineral fuels and lubricants in LDCs' merchandise exports has fallen (from 24.4% in 2001 to 16% in 2013). LDCs are still exporting food products but they are also exporting more manufactured goods (up from a share of 12.4% of merchandise exports in 2001 to 21.9% in 2013).

Moreover, LDCs are no longer trading with the same partners. In 2001, the EU, the United States (US) and Japan accounted for more than 50% of total LDC exports. By 2013, these countries accounted for half that share. Other countries, particularly China and India, are now more important export destinations for LDCs than the US and Japan. The share of LDCs' trade with the rest of the world has also expanded significantly, in part reflecting substantial growth in intra-regional trade. These shifting trade patterns reflect the growing importance of South-South trade, a significant departure from the dominance of North-South trade that was a feature of global trade at the onset of the DR.

These changes suggest that the negotiation positions adopted by LDCs during negotiations (particularly at the Cancun MC) are now outdated and in need of revision ahead of the Nairobi MC. Moreover, the aforementioned trade slowdown means that, at least at present, trade may present lower import demand from either developed countries or emerging economies (Hoekman, 2015). This, coupled with lower commodity prices and generally sluggish economic growth, suggests that the interest in finalising the negotiation might be renewed.

Finally, many WTO members have started to adopt protectionist measures, particularly since 2008. Regardless of whether these measures are seen as a response to, or the cause of, the global trade slowdown, they are particularly harmful to LDCs (Evenett & Fritz, 2015). These protectionist measures have not taken the standard form of tariffs and other restrictive instruments already under disciplines; but instead have tended to be adopted in other more subtle ways with the objective of either protecting domestic markets or artificially enhancing competitiveness in third markets, thereby competing directly with the products of LDCs. The WTO provisions on these instruments tend to be ambiguous and, frequently, non-existent.

Changing priorities

To date, LDCs have tended to follow a defensive strategy in the WTO negotiations. This has been reflected in their concerns on preference erosion and special products, and their focus on special and differential treatment (SDT) provisions. These priorities are designed both to protect their access to developed country markets and to shield their domestic markets from any negative effects resulting from the trade reform process.

Some of these concerns are still valid. SDT provisions are seen by LDCs as essential in negotiations to secure a balanced effort by all WTO members based on their economic capabilities. However, the changing dynamics discussed above suggest that some of the positions taken by LDCs need to be reformulated. In particular, LDCs need to adopt a more demanding approach, especially with respect to their trade with the emerging economies. In this section, we delineate the main points of concern for LDCs within the current global trade environment and provide some suggestions on what the next negotiating agenda for LDCs should entail.

Market access and preference erosion

LDCs have been weary of the effect on their exports of a generalised improvement in market access (via reductions in the MFN), particularly in developed countries, because of preference erosion. The countries comprising the African, Caribbean and Pacific Group of States have been very emphatic about this problem. They are eager to try to prevent preference erosion arising from reductions in MFN tariffs. Any reduction in the MFN tariffs will reduce the margin of the preferences enjoyed by LDCs in developed countries. However, there is no scope in the negotiations to prevent the erosion of preferences occurring as a result of the growing number of countries that receive the same level of access due to FTAs.

This suggests that preferences are being, and will continue to be, eroded by other mechanisms outside the multilateral negotiations. As a result, even though LDCs may succeed in containing or delaying the reduction in MFN tariffs, they are powerless to prevent non-LDCs from matching preferential access in developed countries to non-LDCs. Consequently, LDCs have little to gain from devoting too much energy and focus towards opposing preference erosion in the negotiations.

Improving market access in other destinations

Negotiations are set under the premise that the liberalisation commitments made by countries should be in line with their level of development and stature in world trade. In this respect, there is a group of developed countries that are expected to make major commitments in terms of liberalisation; a group of developing countries that should make milder concessions under SDT; and a group of LDCs that are exempt from making any commitment (but are still encouraged to do so). The motivation behind this approach is grounded in a dominant North-South trade paradigm wherein developed countries are the main export destinations for LDCs. While this was certainly the case at the end of the 1990s and even in the early 2000s when the DR negotiations were launched, it is no longer true. As we showed earlier, the BRIC countries and other emerging market players are becoming major trading partners for LDCs. Moreover, many large emerging economies are currently responsible for the rise in protectionism.

These trends suggest that LDCs should look to secure enhanced market access into emerging markets. LDCs must aim to secure commitments from these countries to liberalise their tariffs in agriculture and with respect to non-agricultural market access (NAMA) so that they fall in line with the commitments made by developed countries.

An effective strategy for LDCs might be to support the position of large developing countries on market access (and in the other pillars) in agricultural products in developed countries, in exchange for better access into the markets of key developing countries.[1] LDCs would need to revise their position on preference erosion (as argued above) and adopt a more positive approach towards tariff cuts in countries that grant preferences.

This may also require LDCs to adopt a more active strategy with respect to SDT for these countries. Currently, members self-select into the main negotiation groups (developed countries and developing countries),[2] which in turn define the depth of commitments that they are expected to make as well as the exceptions, waivers and implementation periods under the SDT provisions. Given the substantial heterogeneity among the economies that comprise the developing country group, the approach of self-selection is no longer coherent (Lopez Gonzalez et al., 2011). There are countries within this grouping that are in a position to make additional and deeper commitments (for instance, industrialised countries such as Korea, Israel and Taiwan) that are closer to those already made by developed countries. In principle, all G20 members, given the sizes of their economies, should adopt the same level of commitment.

These countries should be required to make larger cuts on their bound tariffs and implement other disciplines, currently only applied by developed countries. Moreover, they should have a more limited list of sensitive and special products, which will increase the reach of their tariff reductions. The reform of the SDT regime should also lead to the adoption of the Generalised System of Preferences by these countries.

Finally, in terms of special products, LDCs should align themselves with the position of seeking to restrict the number of products and define the criteria to be used in the selection of designated products. In particular, LDCs need to avoid exceptions on market access into large developing countries such as India and China.

Thinking ahead

An agreement on the complete DR in Nairobi is highly unlikely. A recently published draft declaration suggests that no agreement has been reached in the most important areas of negotiation.[3] Even so, further disagreement and the continuation of negotiations would be very undesirable. A good outcome would be the finalisation of the current DR (at this stage, the outcome does not matter) and the establishment of a new negotiation round. This must include the collection of whatever possible from the current round in the form of plurilateral agreements and the setting of principles that are in line with the features of the current world trade environment and which address the concerns of all WTO members.

Global (or regional) value chains are an increasingly prominent feature of world trade. In this context, typical deep integration policies aimed at eliminating behind-the-border barriers and harmonising disciplines across countries are becoming as important as the elimination of tariff barriers between countries. Developing countries and LDCs are in a difficult position with respect to these issues. Policy-makers frequently state the importance of participating more actively in value chains and integration into value chains is regarded as an important tool for economic transformation in developing countries. Achieving this may require the adoption of disciplines that developing countries and LDCs have previously refused to negotiate in the multilateral forum. In particular, it may require liberalisation of the regulations that discriminate against foreign suppliers of goods and services, but also the inclusion of disciplines on investment and competition policy and government procurement.

1 High agricultural prices in the last decade have not affected food net importers. This indicates that they should not have reservations about a reduction in the different forms of domestic support and export subsidies.

2 The classification of LDCs is defined as per the United Nations' definition.

3 WTO 2015, "Draft of Nairobi Ministerial Declaration", 27 November 2015. (RD/WTO/7*).

This may appeal to some of the members that are disenchanted with the progress of the DR and have looked for alternatives in mega-regionals such as the TPP. In this way, the centre of the world trade liberalisation strategy would be back in the multilateral sphere, where developing countries and LDCs may have more tools available to them to steer results in their favour and ensure that their interests are better represented.

At the same time, developing countries and LDCs need to fight to introduce more disciplines on the use of certain instruments by developed countries and other emerging economies. For example, they should look to introduce limitations on the value added tax rebates that favour exports of countries that use these type of taxes.

The upcoming negotiation round should include, among its rules, the possibility of adopting more limited scope agreements (limited by subject) and other variable geometry agreements (limited by the number of countries). These type of agreements should be defined to allow any member to join whenever it is ready. The Single Undertaking has proven to be a major impediment to negotiations and progress towards reaching an agreement. The WTO should acknowledge that countries may not always be prepared to agree on everything and, therefore, build some flexibility into the negotiation process.

Although under SDT rules LDCs are exempt from commitments, they must reduce their tariffs and other forms of protection to inefficient sectors in their economies. This should not be seen as an effort but as an opportunity to facilitate productivity growth and diversify their production and trade structures. Minimum barriers to trade is a necessary condition for integration into global value chains.

The adoption of a common LDC position in the negotiations (the G90 group) has failed in both representing the interests of its members and facilitating the whole negotiation. Such a large group is particularly heterogeneous in trade and economic interests. LDCs must be ready to work with other relevant members that share similar trade interests. In this way, LDCs will see their position better reflected and negotiations will be more effectively facilitated.

Conclusion

The economic context in LDCs and the global trade environment more generally has evolved significantly since the negotiations started in 2001. In particular, the structure of LDC trade has changed markedly in the last 15 years. The product structure of LDC trade is becoming more balanced; and the growing importance of South-South trade for LDCs represents a significant departure from the earlier dominance of North-South trade patterns. At the same time, there has been a marked slowdown in global trade since 2010, and many WTO members have started to adopt protectionist measures, particularly since the onset of the global economic crisis. These changing dynamics suggest that LDCs need to revise their negotiation strategies and adopt a more aggressive approach that steers negotiations towards more effectively meeting their development needs. This includes looking for more market access in emerging economies and incentivising domestic trade reform.

LDCs must pay less attention to defending their positions against preference erosion in developed economies. This is because FTAs signed by developed countries are generating preference erosion for LDCs regardless of the multilateral agreement. Instead, LDCs must place greater emphasis on improving their market access in other destinations, particularly in emerging economies that are currently self-selecting into the 'developing countries' group. LDCs must target commitments from these countries to liberalise tariffs in agriculture and with respect to NAMA so that they are more in line with those made by developed countries. Similarly, LDCs need to adopt a more aggressive strategy with respect to SDT by requesting that the large emerging economies are included among those that will share the heaviest part of the liberalisation effort in the future negotiation round.

LDCs must not be afraid to negotiate issues related to behind-the-border protection and the domestic regulatory framework – all of which are key for the development of value chains – at the multilateral level. Some LDCs and developing countries have included many of these issues in current FTAs. Ultimately, LDCs will have a better opportunity to shape a new set of rules and disciplines that are more compatible with their development needs in the multilateral framework rather than in a bilateral context.

14 years have passed since the launch of the DR. The expectations that the DR could provide a basis to assist countries in their development process have been transformed into boredom and frustration. Many of the topics under negotiation are old and irrelevant. The world, and particularly LDCs, deserve a new package of rules and disciplines that can properly address the new set of challenges and opportunities present in the current global trade environment. The best outcome of Nairobi would be for the MC to pave the way for a new negotiation round that considers the new realities and challenges that developing countries face.

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