



Trade Hot Topics

WTO Ministerial Conference in Buenos Aires: What's at stake for small, least developed and sub-Saharan African countries?

Collin Zhuawu and Teddy Y Soobramanien*

1. Introduction

The World Trade Organization (WTO) Geneva preparatory process is *sine qua non* for all WTO Ministerial Conferences. It has nevertheless proven challenging for small delegations, given their limited capacity in terms of technical staff and other forms of support to effectively engage in all discussions, amid a number of other commitments. The process toward the WTO's 11th Ministerial Conference (MC11), to be held in Buenos Aires in December 2017, is no exception. How to ensure the inclusiveness and transparency of the process while making progress? How can the outcome of the Ministerial, amid a plethora of other issues, be reflective of the interests of the diverse membership of the WTO? What should be the approach, strategies and priorities? The success of Buenos Aires will depend to a large extent on the ability of the system to manage a fair and transparent process, as well as its capacity to cope with expectations in terms of outcomes.

In this regard, and given their unique situation, it is important for small states, least developed countries (LDCs) and other small delegations to be realistic in terms of the outcomes they are seeking at MC11, and how these can be further developed

and advanced both in Geneva and at MC11. This represents an opportunity to ensure MC11 delivers on future work that is inclusive, particularly in view of the challenges these countries face to becoming integrated into the multilateral trading system.

This issue of *Trade Hot Topics* covers some key issues small states, LDCs and countries in sub-Saharan Africa (SSA) could focus on in the run-up to MC11 and beyond.

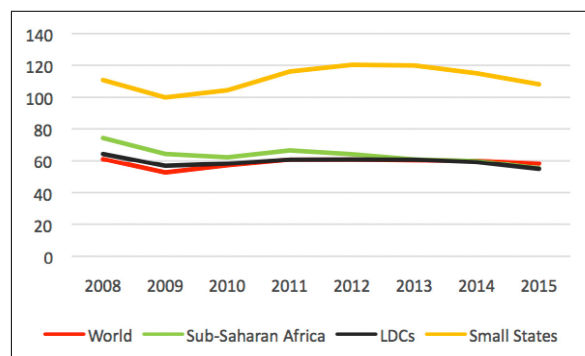
2. Small states, LDCs and SSA countries dependent on trade for growth and development

Small states, LDCs and SSA countries depend considerably on trade for their growth and development. Figure 1 below demonstrates the significance of trade in goods and services to gross domestic product (GDP) for each group compared with the world. It is evident that trade contributes significantly to the GDP of these countries. For small states, the average percentage contribution of trade to GDP has remained well above the world average, even though these countries face a number of challenges and vulnerabilities that constrain their fuller participation in international trade, leading to slower growth in their exports and a small share of global trade.¹ These challenges,

* The authors are respectively Trade Adviser in the Commonwealth Small States Office in Geneva and a.i. Head and Economic Adviser of the International Trade Policy Section, Commonwealth Secretariat. Any views expressed in this article are those of the authors and do not necessarily represent those of the Secretariat.

1 Soobramanien, T. Y. and Gosset, L. (2015) *Small States in the Multilateral Trading System: Overcoming Barriers to Participation*. London. Commonwealth Secretariat.

Figure 1: Contribution of trade to GDP, world, SSA, LDCs and small states, 2008–2015 (%)



Source: World Bank World Development Indicators.

include, among others, small domestic markets; dependency on a few foreign markets; high costs of doing business (owing to high costs of energy, transport and communication servicing); long distances from major markets; lack of export diversification and reliance on raw material exports; little resilience to natural disasters; fragile natural environments; and poor and underdeveloped infrastructure.

In this regard, small states, LDCs and SSA countries recognise the important role the WTO plays in providing a system that has the potential to support their trade interests and their economic growth and sustainable development. In addition, the WTO plays a crucial role in ensuring transparency and predictability in the global trading system. This is especially important given the continued uncertainty in the global economic and trading landscape.

3. Agriculture

Agriculture domestic support

Agriculture domestic support continues to be one of the priority areas for most WTO Members, including for small states, LDCs and SSA countries. Current discussions are focusing on identifying potential achievable outcomes for MC11. Any outcome in these complex negotiations would be a significant step. However, there are still huge gaps: some countries favour an overall limit on the domestic support that is fixed; others are calling for the complete removal of the Aggregate Measure of Support as a prerequisite for the consideration of other reforms in the domestic support negotiations.

Developing countries, including small states, LDCs and SSA countries, are also prioritising special and differential treatment (S&DT) issues that would give them flexibilities as well as level the playing field. For example, LDCs and small vulnerable

economies (SVEs) are seeking the preservation of special flexibilities identified so far in the course of the negotiations, including through exemption from any reduction commitments, *de minimis* entitlements and the provision of technical assistance and capacity-building to address institutional and financial constraints faced in the implementation of disciplines. Most small states, LDCs and SSA countries are not heavy/big subsidisers of agriculture and violators of WTO rules on agriculture domestic support. While their agriculture sectors face threats from subsidised imports, small states, LDCs and SSA countries have to consider imports in products where production is negligible or non-existing. The use of subsidies by their trading partners has implication for the competitiveness of their agriculture exports, particularly to their traditional preferential markets, as there is a possibility of them being pushed out of the market. Also of critical importance is the need to take into account the possible negative effects of implementing reform programmes on net food-importing developing countries, some of which are small states, LDCs and SSA countries.

Special safeguard measures for developing countries

This continues to be an issue of considerable interest to developing countries, as it will give them the flexibility to temporarily increase tariffs in cases of import surges or price depressions. Special safeguard measures (SSM) will benefit small states, LDCs and SSA countries particularly in the event of import surges, providing countries with the policy space to tackle the influx of imports, including subsidised imports, which may pose a significant threat to domestic production. However, the problem hindering countries in reaching a consensus is that agriculture-exporting countries have linked progress on the SSM to progress on an agricultural market access package as a whole. This is because they are concerned about the potential negative effects of an SSM as a standalone item, as it would enable some Members to roll back from their Uruguay Round commitments. Given the small size of their domestic markets and their non-subsidising characteristics, small states may want to consider making a case of their unique circumstances so as to be heard at the MC11. For LDCs, agriculture is a highly strategic sector, contributing 80 per cent of employment, such that SSM would provide these countries with a policy tool to help preserve the strategic importance of the sector in the event of import surges or price declines.

Public stock-holding

Most small states, LDCs and SSA countries are interested in public stock-holding, given the need for food security for their poor and disadvantaged communities. A public stock-holding is a policy tool that governments can use to purchase, stockpile and distribute food when needed. Most of these countries face resilience challenges after experiencing natural disasters and flooding, which have an impact on food security. Furthermore, the impact of climate change on resources, such as maritime resources or forests, rising sea levels, extreme weather events (e.g. El Niño, cyclones etc.) and rising temperatures have broader implications for small states, LDCs and SSA countries' food security. Exposure to weather-related disasters is likely to increase in intensity and frequency as a result of climate change. For instance, it has been suggested that the number of hurricanes has increased by 25 to 30 per cent for each degree of global warming. Yet small states, which are prone to hurricanes, lack the resources to amass food stocks.

Current negotiations are focused on looking for a permanent solution, which is scheduled for the MC11 in accordance with the Nairobi Ministerial Decision. To date, a 'peace clause', issued at the 9th Ministerial Meeting in Bali in 2013, is operational and allows public stock-holding by developing countries of traditional food staple crops, in compliance with certain conditions. However, a number of issues still need to be resolved, in particular the possibility of stockpiling programmes disrupting international markets or affecting the food security of others. In addition, governments that purchase food at prices higher than the market price are considered as subsidising. As a result, the search for a permanent solution has led to public stockpiling discussions being linked with broader agriculture negotiations and domestic support.

Besides lacking the resources to be able to build food stocks, small states and LDCs are also likely to be adversely affected in the event that a major stockholder unloads its stocks on the world markets. This would affect prices for similar export products of small states, LDCs and SSA countries. In this regard, it will be important for these countries to make a case of their unique circumstances so they can be heard at MC11.

In order to make progress on agriculture, the Committee on Agriculture in Special Session chair will intensify dedicated discussions on each pillar –

domestic support, SSM, public stock-holding, etc. (Job/AG/107). While different linkages are being made, it appears that the biggest challenge lies in building consensus among Members with different positions (defensive/offensive).

4. Fisheries

The negotiations on disciplines on fisheries subsidies in Geneva are now at an advanced stage, with Members discussing legal-based texts. Small states, LDCs and SSA countries are not heavy subsidisers (some are not subsidisers at all) and, as such, threats to their fishery resources from overfishing through illegal, unreported and unregulated fishing and the fishing of overfished stocks would come mainly from external sources that can afford to subsidise. To this end, some of their main interests include the preservation of policy space for inland, artisanal and small-scale fisheries sectors, so they can grow and develop these sectors; that countries that provide the highest magnitude of harmful subsidies should bear the greater burden of the disciplines; that fisheries subsidy disciplines should be consistent with the realities facing small states, LDCs and SSA countries; the provision of technical assistance and capacity-building to develop effective management regimes for fisheries; that S&DT should be made an integral component of fisheries subsidies disciplines and be unconditional, curbing subsidies that cause overfishing and overcapacity; and that disciplines on fisheries subsidies and fisheries management criteria should be easily enforceable in developing countries. Some small states are also arguing against any discipline relating to fisheries management.

Small states and LDCs have been advancing their interest through the African, Caribbean and Pacific (ACP) Group, which has also submitted a legal text (TN/RL/GEN/192). While the ACP text reflects fairly on small states, LDCs and SSA countries' interests, it must be stressed that the text is based on the lowest common denominator of all ACP members and, as such, does not completely capture specific interests for these countries. It may be too late to incorporate into the ACP text any additional inputs from these countries in the Geneva process. However, this does not limit them from advancing their fisheries-related interests, such as those on S&DT and technical assistance and capacity-building, in terms of both training and infrastructure for the modernisation and management of fishery resources, at MC11.

5. Special and differential treatment

The issue of S&DT has been on the Doha Agenda for a long time, with very limited success achieved. The approximately 148 S&DT provisions in the WTO Agreement are largely crafted using best endeavour language, and are associated with complex procedures built into the articles, which limit the intended flexibilities. In addition, they are non-binding in nature, with some lacking clarity, which makes them difficult to operationalise. Furthermore, some S&DT provisions have limited transition periods, and some have burdensome conditionalities, which make it difficult for developing countries to use them effectively. As a result, developing countries, including small states, LDCs and SSA countries, have not been able to take advantage of these S&DT provisions to effectively participate in the multilateral trading system.

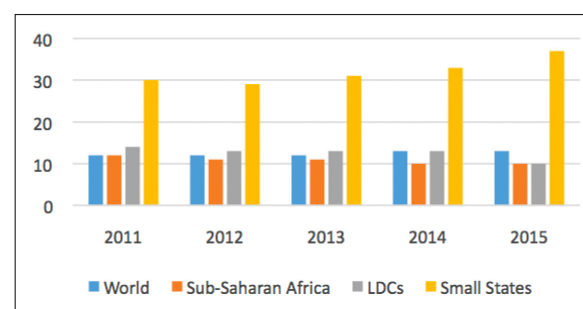
On 19 July 2017, during the Committee on Trade and Development Special Session, the G90 introduced its S&DT proposal (Job/Dev/48 or Job/TNC/60), expressing hope that it would lead to detailed and substantive discussions with a view to fulfilling the mandate in Paragraph 44 of the Doha Ministerial Declaration of 2001. Despite being a low-ambition proposal, aimed at a positive outcome at MC11, the traditional providers of S&DT did not receive it positively.² While the 'providers of S&DT' openly said that the G90 proposals had remained unchanged and deviated from what had been agreed during the Geneva process towards the Nairobi Ministerial Conference, it seems their major concern relates to lack of differentiation within the developing countries and the larger developing countries benefiting from S&DT. This is despite the fact that some of the S&DT measures proposed by the G90 are systemic and should not be linked to 'providers of S&DT'.

6. Services domestic regulations

Currently, trade in services negotiations are focused on domestic regulations, with a number of countries looking at the possibility of an outcome on domestic regulation at MC11. The intention of the discussion, as laid out in the Council for Trade in Services Decision of 1999 to establish a Working Party on Domestic Regulation, is to develop 'any necessary disciplines to ensure that measures relating to licensing requirements and procedures, technical standards and qualification requirements and procedures do not constitute unnecessary barriers to trade in services', as outlined

in Article VI.4 of the General Agreement on Trade in Services (GATS). The new disciplines should be presented in such a way that they prevent undesirable regulatory practices that restrict trade in services. Negotiations in this areas are important for some small states, LDCs and SSA countries to enable them to develop regulatory frameworks for certain services sectors where regulations do not exist. The issue is also of importance to these countries with regard to the preservation of their policy space, especially in view of the significance of services, particularly for small states (Figure 2).

Figure 2: Contribution of trade in services to GDP, world, SSA, LDCs and small states (%)



Source: World Bank World Development Indicators.

However, domestic regulation is a complex area, covering, for example, qualifications and licensing requirements and procedures, which are sensitive issues for small states, LDCs, SSA countries and, indeed, many others. Thus, small states, LDCs and SSA countries have to strike a balance between developing regulatory frameworks that allow them increased market access to developed countries, particularly mode 4, and at the same time bearing in mind that new regulatory frameworks would also have them open up their sectors to the stronger services suppliers from developed countries.

7. Non-agriculture market access

Negotiations on non-agriculture market access (NAMA) have stalled since 23 July 2015, when the Negotiating Group on Market Access (NGMA) last had a substantive meeting, as Members could not agree on the scope and level of ambition of talks to open up markets for trade in industrial goods. The NAMA negotiations are aimed at reducing or completely removing tariff and non-tariff barriers for non-agricultural goods, in particular for products of export interest to developing countries and LDCs, including through less than full reciprocity, so as to help these countries effectively participate

² The number of proposals for S&DT was reduced from 88 to 10.

in the international trading system. To date, a group of countries³ has submitted a proposal (TN/MA/W/144/Rev.1) that calls for MC11 to agree on a number of actions aimed at bringing about greater transparency and access to information related to government regulations on food and product safety, so as to facilitate the participation of micro, small and medium-sized enterprises (MSMEs) in global trade.

The proposed actions include the development of a common internet portal for sharing information, increased/greater consultation with stakeholders and the notification of changes to domestic regulations on sanitary and phytosanitary (SPS) measures and technical barriers to trade (TBT). For instance, easy access to information on changes to countries' SPS and TBT regulations would help lower trade costs for MSMEs, making them competitive, as well as assisting them to understand market access opportunities in other countries. However, adoption of these measures may increase the administrative burden in small states, LDCs and SSA countries, and also impinge on a country's right to regulate.

Moreover, some countries are questioning the mandate of the NAMA negotiating group to discuss these issues, given that these proposals would also cover agricultural products. Some Members are concerned about the extent to which a foreign party can play a part in determining the best regulatory interests of another based on the grounds that it might affect their trade. In addition, the major market access barrier for small states, LDCs and SSA countries' products going to developed countries markets is that of compliance with developed countries' SPS and TBT measures, rather than access to information. In this regard, it may be important for small states, LDCs and SSA countries to look into the possibility of obtaining assistance that would help them comply with the SPS and TBT measures of their trading partners.

8. New issues

Although there is already a Work Programme on e-commerce, current e-commerce discussions are covering both long-standing and new issues. e-Commerce, together with issues related to investment facilitation, is under discussion at the WTO, with some Members, mostly developed countries and several developing countries, trying

to push for decisions at MC11. The major argument for pushing the negotiations is that considerable changes to the global economic and trade landscape have taken place since the inception of the Doha Round in 2001, notably the rise of e-commerce and digital trade, making it important to expand the negotiating agenda to cover issues relevant to modern business practice.

A number of developing countries, including small states, LDCs and SSA countries, have expressed the view that, before they can engage in negotiations, they still need to understand the potential benefits of e-commerce and investment facilitation and the role these can play in enhancing their trade opportunities. They are also concerned about the significant digital divide between developed and developing countries, which ranges from infrastructure, to technical capacity, to logistics, as well as the wide gap between their policies and laws. As such, most developing countries are demanding that, before they engage in the negotiations on e-commerce, they be allowed to accumulate a better understanding of the developmental dimension of e-commerce and the digital divide, and how this latter can be reduced for the benefit of developing countries, and to assess their e-commerce trade readiness. For small states, LDCs and SSA countries to participate meaningfully in the on-going discussion, they must understand the obstacles they face that prevent them from taking advantage of rules and disciplines that will be developed on e-commerce and investment facilitation.

9. Beyond MC11

As small states, LDCs and SSA countries prepare for MC11, they must also think beyond the Ministerial, particularly in terms of focusing on what may be achievable under the Doha Round, and prioritise incremental gains. Besides continuing to advance issues identified in this paper in a post-MC11 period, it is important for small states, LDCs and SSA countries to take stock of the Doha Round, which is now in its 16th year of negotiation, and assess what is possible and achievable, particularly in view of the limited success of the Round in terms of delivering development-friendly outcomes. Such an assessment would also help countries understand existing mandates in a more substantive way. A review of progress on the Doha Round is also important considering that the global economic

³ Co-sponsors of the submission include the EU; Hong Kong, China; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu ('Chinese Taipei'); and Singapore.

and trade landscape has undergone considerable transformation since the Round's inception.

In addition, it is important for small states, LDCs and SSA countries to assess the impact of new issues on their economies and to think strategically, particularly given their limited capacity to effectively engage in all WTO discussions. An assessment of the Doha Round coupled with the prioritisation of issues that are achievable would enable LDCs, small states and SSA countries not only to understand the issues under discussion but also to be more proactive, with a view to achieving incremental gains in areas of interest to them. In addition, it would allow LDCs, small states and SSA countries to provide the required policy guidance to contribute to the negotiating process.

10. Conclusion

Preparations for MC11 to be held in Buenos Aires on 10–13 December 2017 are still on-going, and expected to gather momentum in the next three months, in terms of efforts to define its scope and expectations, and may include the drafting of a Ministerial Declaration. The remaining period before MC11 is crucial for small states, LDCs and SSA countries, which must use this time to review the state of play at the WTO in areas of interest to them, focus on what may be achievable, set their priorities for MC11 and map up their strategic options in the light of overall developments. A pro-small states outcome at MC11 depends on small states' input into the process towards the Ministerial. Amid global uncertainties and major geopolitical changes, this may be an opportunity for this group of countries to gain recognition. Post MC11, small states, LDCs and SSA countries should take stock of the Doha Round with a view to identifying priority issues that are achievable and that can bring about incremental gains for them.

International Trade Policy Section at the Commonwealth Secretariat

This Trade Hot Topic is brought out by the International Trade Policy (ITP) Section of the Trade Division of the Commonwealth Secretariat, which is the main intergovernmental agency of the Commonwealth – an association of 52 independent states, comprising large and small, developed and developing, landlocked and island economies – facilitating consultation and co-operation among member governments and countries in the common interest of their peoples and in the promotion of international consensus-building.

ITP is entrusted with the responsibilities of undertaking policy-oriented research and advocacy on trade and development issues and providing informed inputs into the related discourses involving Commonwealth members. The ITP approach is to scan the trade and development landscape for areas where orthodox approaches are ineffective or where there are public policy failures or gaps, and to seek heterodox approaches to address those. Its work plan is flexible to enable quick response to emerging issues in the international trading environment that impact particularly on highly vulnerable Commonwealth constituencies – least developed countries (LDCs), small states and sub-Saharan Africa.

Scope of ITP Work

ITP undertakes activities principally in three broad areas:

- It supports Commonwealth developing members in their negotiation of multilateral and regional trade agreements that promote development friendly outcomes, notably their economic growth through expanded trade.
- It conducts policy research, consultations and advocacy to increase understanding of the changing international trading environment and of policy options for successful adaptation.
- It contributes to the processes involving the multilateral and bilateral trade regimes that advance more beneficial participation of Commonwealth developing country members, particularly, small states and LDCs and sub-Saharan Africa.

ITP Recent Activities

ITPs most recent activities focus on assisting member states in their negotiations under the WTO's Doha Round and various regional trading arrangements, undertaking analytical research on a range of trade policy, emerging trade-related development issues, and supporting workshops/ dialogues for facilitating exchange of ideas, disseminating informed inputs, and consensus-building on issues of interest to Commonwealth members.

Selected Recent Meetings/Workshops Supported by ITP

12 July 2017: Enhancing Connectivity to Enable Graduation with Momentum in LDCs, Global Aid for Trade Review held in Geneva, Switzerland in collaboration with UNCTAD.

26-27 June 2017: Emerging Global and Regional Trade Issues for the Caribbean, St. Lucia.

6 June 2017: Trade in Fish Related Aspects of SDG 14: What Next?, held in New York, United States in collaboration with UNCTAD and WTO.

25 - 26 May 2017: African Regional Consultation on Multilateral, Regional and Emerging Trade Issues, held in Port Louis, Mauritius.

5 May 2017: Making UK Trade Work for Development Post-Brexit, Expert Group Workshop held in Oxford, United Kingdom in collaboration with the Blavatnik School of Government.

21 - 22 March 2017: Ad Hoc Intergovernmental Expert Meeting: Trade-related Fisheries Targets under Sustainable Development Goal 14, held in Geneva, Switzerland in partnership with UNCTAD, FAO, UNEP, ACP, IOI.

10 March 2017: Commonwealth Trade Ministers' Roundtable Meeting held in London, United Kingdom.

10 - 12 November 2016: Workshop on Productive Capacity and LDC Graduation, held in Beijing, China in partnership with UN DESA and Peking University.

1 - 2 November 2016: Update of Post-Nairobi and Preparation for MC 11, held in Port Vila, Vanuatu in partnership with WTO, EIF and PIFS Secretariat.

27 - 28 September 2016: Implementing the Sustainable Development Goals and Achieving Inclusive Trade, WTO Public Forum, held in Geneva, Switzerland.

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