

9th WTO Ministerial: Nepal's Concerns and Issues

Posh Raj Pandey, Ph.D.

Puspa Sharma

South Asia Watch on Trade, Economics and Environment (SAWTEE)

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Background : Snapshot on the Doha Round (1)

- ▶ Doha Development Agenda
 - “Development” a major objective
 - Negotiations one half of the work programme
- ▶ “Single Undertaking” –no option to pick and choose
- ▶ Result of commitments to continue reform
 - Creation of register for Geographical Indications (Article 23.4 of TRIPs)
 - Continuation of reform process in agriculture (Article 20 of the Agreement on Agriculture)
 - Progressive liberalization in services (Article 19 of GATS)
 - General Council Decision of 2000 on implementation-related concerns

Background : Key areas of negotiation under Doha Round (2)

- ▶ Implementation–related issues and concerns
- ▶ Agriculture
 - Substantial improvement in market access
 - Reduction of, with a view to phasing out, all forms of export subsidies
 - Substantial reductions in trade-distorting domestic support
 - Special and differential treatment
- ▶ Services: Progressive liberalization
- ▶ Market access for non-agriculture: to reduce, or as appropriate eliminate, tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers

Background: Key areas of negotiation under Doha Round (3)

- ▶ Trade-related Aspects of Intellectual Property Rights (TRIPS)
 - Establishment of a multilateral system of notification and registration of geographical indications for wine and spirit
 - Relationship between the TRIPs Agreement and the Convention on Biological Diversity (CBD), the protection of traditional knowledge and folklore, and other relevant new development
- ▶ Relationship between trade and investment, later dropped in the “July Package”
- ▶ Interaction between trade and competition policy, later dropped in the “July Package”
- ▶ Transparency in government procurement, later dropped in the “July Package”

Background : Key areas of negotiation under Doha Round (4)

- ▶ Trade facilitation
 - Review, and as appropriate, clarify and improve freedom of transit (Article V)
 - Review, and as appropriate, clarify and improve fees and formalities connected with exportation and importation (Article VIII)
 - Review, and as appropriate, clarify and improve publication and administration of trade regulations (Article X)
- ▶ Rules
 - Anti-dumping and countervailing duties
 - Subsidies and countervailing duties
 - Regional trade agreement
- ▶ Dispute settlement understanding
- ▶ Trade and environment
- ▶ Others: electronic commerce, small economies, debt and finance, technology transfer

Background : Doha and LDCs (1)

“We recognize that the integration of the LDCs into the multilateral trading system requires meaningful market access, **support for the diversification of their production and export base, and trade-related technical assistance and capacity building** ... commit ourselves to the objective of **duty-free, quota-free market access** for products originating from LDCs... agree to work to facilitate and **accelerate negotiations with acceding LDCs**...urge to explore the **enhancement of the IF** with a view to addressing the supply-side constraints of LDCs.”

(para 42 and 43 of Doha Declaration)

Specific decisions related to LDCs: Services (1)

LDC Service Modalities (TN/S/13, 5 September 2003)

- ▶ Members shall exercise restraints in seeking commitments from LDCs
- ▶ Flexibility for LDCs for opening fewer sectors, liberalizing fewer types of transactions, and progressively extending market access in line with their development situation
- ▶ Special priority to providing effective market access in sectors and modes of supply of export interest to LDCs
- ▶ Positive measures to increase participation of LDCs
 - Promotion of investment in LDCs
 - Reinforcing export/import promotion programmes
 - Promotion of LDCs' infrastructure and service exports
 - Improving the access of LDCs' services and service suppliers to distribution channels
- ▶ Commitments to provide access in Mode 4

Specific decisions related to LDCs: Services (2)

Waiver Decision (TN/S/17, 29 November 2011)

The Eighth WTO Ministerial Meeting of December 2011, through a waiver decision, decided to allow Members to provide preferential treatment to service and service suppliers of LDCs.

Scope

- ▶ Preferential treatment to services with respect to the following measures
 - number of services suppliers allowed;
 - value of transaction or assets;
 - total quantity of service output;
 - number of natural persons that may be employed;

Contd...

Specific decisions related to LDCs: Services (3)

- types of legal entity through which a services supplier is permitted to supply a service; and
 - participation of foreign capital in terms of limits on foreign equity or the absolute value of foreign investment.
- ▶ “Any measure” subject to “prior approval” by the Council for Trade in Services

Other provisions

- ▶ Submission of notification by preference giving country
- ▶ Requirement of consultation
- ▶ Not to raise barriers or create undue difficulties
- ▶ Right to have recourse to dispute settlement mechanism
- ▶ Annual review
- ▶ Termination after 15 years

Specific decisions related to LDCs: DFQF (Hong Kong)

- ▶ Duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs in a manner that ensures stability, security and predictability.

(But, commitments to provide duty-free and quota-free market access for at least 97 percent of products originating from LDCs)

- ▶ Developing-country Members permitted to phase in their commitments with appropriate flexibility in coverage.
- ▶ Transparent and simple preferential rules of origin which contribute to facilitating market access.

Specific decisions related to LDCs: Others (1)

- ▶ **Agriculture:** not required to undertake reduction commitments
- ▶ **Non-agriculture market access:** not required to apply formula or participate in sectoral approach, but expected to substantially increase their level of binding commitments
- ▶ **Trade facilitation**
 - required to undertake commitments to the extent consistent with their development, financial and trade needs or their administrative and institutional capabilities
 - Recognition of the requirement of technical assistance and support for capacity building
 - Implementation not required if support and assistance not forthcoming

Specific decisions related to LDCs: Others (2)

- ▶ **Enhanced Integrated Framework (EIF)**
 - Providing increased, predictable, and additional funding on a multi-year basis
 - Strengthening in-country EIF secretariat
 - Effective and timely delivery of increased financial resources and programmes
- ▶ **Aid for trade:** to build supply-side capacity and trade-related infrastructure
- ▶ **Waiver:** Positive consideration to the request for waivers by LDCs and decision be taken within 60 days

Specific decisions related to LDCs: Others (3)

- ▶ **Coherence arrangements:** Donors, multilateral agencies and international financial institutions to coordinate their work
- ▶ **TRIMs Agreement**
 - LDCs allowed to maintain any existing measures incompatible with TRIMS agreement, and also to introduce new TRIMs incompatible measures
 - Any measures incompatible with TRIMs agreement to be phased out by 2020
- ▶ **TRIPs Agreement**
 - Extension of transition period for LDCs till 2021
 - Declaration on TRIPs and Public Health

Things have changed since the launch of the Doha Round

- ▶ Global financial crisis
- ▶ High and volatile food and commodity prices
- ▶ Significant preference erosion due to growing number of RTAs
- ▶ Weak commitment on Aid for Trade
- ▶ Istanbul Programme of Action

Minimalist agenda for Bali

- ▶ Some element of agriculture
- ▶ Trade Facilitation Agreement
- ▶ Development issues
 - LDC Package
 - DFQF and market access
 - Cotton
 - Preferential rules of origin
 - Operationalization of services waiver
 - Special and differential treatment

Nepal's concerns (1)

▶ Agriculture

- Peace clause/due restraint may not be sufficient
- Full flexibility to exceed domestic support limit to buy, stock and supply cereals and other food items to ensure food security

▶ Trade Facilitation Agreement: Current negotiation covers: i) new discipline ii) customs cooperation iii) flexibilities for developing countries and LDCs; and iv) implementation plan

- No implementation requirement until required assistance flows
- Dedicated support window beyond AfT and EIF

Nepal's concern (2)

▶ Development issues

- DFQF market access
 - Immediate extension of DFQF on non-overlapping tariff lines
 - Concrete time line for implementation of remaining 3 percent
 - Political statement from developing countries
- Preferential rules of origin
 - RoO should be defined taking into account supply-side and productive capacities of LDCs and should be easy to comply with (e.g., Canadian GSP of flat 25 percent value addition)
 - Guidelines should be *binding*

Nepal's concern (3)

- Operationalization of services waiver
 - Need of some concrete deliverable, not limited to post-Bali process
 - Immediate commitment from Members to offer the preferences provided in their regional/bilateral agreement(s)
 - Delinking Mode 4 from Mode 3
 - Well-articulated post-Bali Work Programme
- Special and differential treatment
 - Role of monitoring mechanism should be prescriptive, rather than descriptive
 - Clear commitment towards Cancun-28 proposals

Conclusion

- ▶ Strong commitments from all Members on multilateral trading system and to conclude the Doha Round within specific deadline
- ▶ No solution should be sought beyond WTO, such as regional trading arrangements
- ▶ No plurilateral solution

Thank you

