9th WTO Ministerial: Nepal’s Concerns and Issues

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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
“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