

BRIDGES NETWORK

BRIDGES AFRICA

Trade and Sustainable Development News and Analysis on Africa

VOLUME 3, ISSUE 1 – FEBRUARY 2014



Reflections on the Bali deal

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The gains for developing countries and LDCs under the S&DT provisions

POST-BALI

What do you think of the Bali outcome?

ECONOMIC PARTNERSHIP AGREEMENT

Europe-West Africa found a consensus on EPAs



International Centre for Trade
and Sustainable Development

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Trade Facilitation: What's in it for least developed and developing countries?



Ministers formally signed off on their first multilateral trade deal in nearly two decades on 7 December 2013 in Bali, after intense and difficult negotiations. The final agreement contains decisions on the three pillars of the Bali package: trade facilitation, some agricultural issues, and select development-focused provisions.

The Bali Package, analysts say, has the potential to provide a substantial boost to world trade, with some estimates indicating that it could increase global gross domestic product (GDP) by US\$ 1 trillion.

One of the key elements of the Bali Package is related to trade facilitation, which aims to simplify customs rules and reduce inefficiencies that create long lag times in cross-border flows of trade. Negotiations on trade facilitation were vigorous. Indeed, achieving this balance between establishing firm commitments in Section I with developing countries' respective needs for technical assistance and capacity building to implement them, as outlined in Section II, has long been a major stumbling block.

Much of Section II—which had been the “hardest nut to crack”—had been resolved in the days at the 26 November General Council meeting preceding the Ministerial Conference. A key factor in the outcome on trade facilitation was the African Caribbean and Pacific Group proposal, which was tabled in early 2013, and the process that followed. In this edition, Bridges Africa features a ground-breaking analysis of the key elements of the special and differential treatment (S&DT) provisions in the new Trade Facilitation Agreement and explains which milestones were introduced to break the deadlock on Section II. You can also read in this issue short analyses (one page each) on the Bali deal from various stakeholders around the world. We hope you will enjoy them!

In coming editions, Bridges Africa will continue to publish follow-up analyses on the outcome of Bali in order to explore how African countries can better harness the opportunities arising from the Bali Package and how to operationalise concretely the elements that were put forward. The editorial team believes that making sense of what happened in Bali in any case is important. Interpretations among policymakers and influencers will determine where negotiating energy will be channelled in the coming months and years.

As usual, we invite readers to participate in future issues of Bridges Africa by helping to identify emerging issues and relevant research. We welcome your participation and contributions.

Write to us at bridgesafrica@ictsd.ch.

TRADE FACILITATION

How the ACP proposal on S&DT brought gains for developing countries and LDCs

Alicia D. Greenidge and Ricardo M. James

The agreement on Trade Facilitation concluded at the WTO Ministerial in Bali offers groundbreaking special and differential treatment for developing and least developed countries. This article analyses key elements in the ACP SDT proposal that became part of Section II of the new Trade Facilitation agreement, from the perspective of its original drafters.

The successful conclusion of the Ninth WTO Ministerial Conference (MC9) in Bali, Indonesia yielded a decision on an agreement on Trade Facilitation (TF) which contains new binding rules and disciplines to facilitate the flow of goods across borders and mobilize global assistance for developing country and LDC WTO members. More importantly, however, the agreement contains a groundbreaking framework of S&DT to ensure that implementation of the TF provisions by these countries are dependent on their capacity to do so.

When members agreed in July 2004 on the Annex D modalities to negotiate a TF agreement as part of the Doha Development Agenda (DDA) round, assistance from developed countries for implementation in developing countries and LDCs was critically important. This commitment however, was only secured on a best effort basis in those modalities. On the other hand, developing countries and LDCs were able to secure in the modalities the principle that they would only be required to implement the disciplines to the extent of acquisition of capacity.

The proposal from the African, Caribbean and Pacific (ACP) Group of States tabled in April 2013 on S&DT was touted by the WTO Director General as having played a pivotal role in arriving at a consensus in the negotiations. The ACP proposal became the basis of negotiations in Geneva in the run-up to MC9 and for the final agreement reached by Ministers in Bali. The coalition between the ACP Group, LDC Group, and Africa Group was also key to enable final convergence among developing countries before commencement of the Bali Ministerial.

Key achievements on S&DT for developing countries and LDCs based on the ACP proposal

Section II of the TF agreement provides the mechanism for implementing the disciplines contained in Section I by developing countries and LDCs. More specifically, it is about the timing to notify implementation schemes. The following highlights key achievements from the ACP proposal found in the agreement.

- Self-designation of transition periods

In a marked departure from the norm in the WTO, members concurred that the TF Agreement would allow developing countries and LDCs to select their own implementation dates within three categories of implementation.¹ However, this concept came under challenge in the negotiations whereby certain proposals would force review and approval of the provisions and time periods notified by developing countries and LDCs. The ACP proposal removed those components and the Group's negotiators put forward arguments to successfully support their position now reflected in the final text.

- Process for the notification of Category C implementation dates

The notification process for Category C implementation dates is the heart of Section II. The TF agreement contains distinct steps for Category C for the notification of definitive implementation dates. These steps are structured to build confidence and predictability

for developing countries and LDCs on the one hand and for developed countries who would provide assistance on the other. While appearing on the surface to be detailed, the ACP process is designed with a built-in binding commitment from donors on assistance that was lacking in earlier draft texts and lacking in the 2004 TF negotiating modalities. This process, calibrated in a partnership approach, was first resisted by a few potential donor member countries.

Three important elements of the ACP Group Category C process are as follows:

1 Binding notification of assistance arrangements with donor members before notification of definitive implementation dates. While developing countries and LDCs would be able to decide their own transition periods, in the case of Category C, concerns remained about notifying such periods if no obligation existed in the text on donor members to provide assistance. Before the ACP proposal was tabled, the onus in the text was solely on developing countries and LDCs to seek out potential donors and notify dates without any matching obligation on assistance agreements. Many developing countries, including some ACP States, suggested a trust fund. Others sought an explicit binding commitment from donors in the text. Both approaches were opposed by donor members due to issues implicated in their domestic budgetary systems and because only best efforts on provision of assistance was articulated in Annex D. In any case, a trust fund may not have guaranteed all developing countries access to assistance or obligated donor members to contribute to it.

Surmounting the limitations in Annex D, the ACP negotiators introduced a binding commitment from donor members through a process. The ACP proposal imbedded into the text a requirement that assistance arrangements be notified by donor members and recipients by a date certain before developing countries and LDCs would be obligated to notify definitive implementation dates. This requirement enshrines the notion of a partnership as well.

2 Time for the assistance to be anchored. Developing countries and LDCs also wanted to ensure that assistance arrangements are mobilized sufficiently in the countries to lay the ground for choosing implementation dates. Donor members demanded the inclusion of provisional dates to enable early planning of assistance. However, notification of definitive dates is binding with consequences if not furnished on time. Therefore, the ACP proposal mandates a period of up to 18 months after arrangements are notified before definitive dates will be notified. LDCs are allotted a relatively longer period of time.

3 Extension of the deadline to notify definitive dates. The ACP text also provides developing and LDC members the option to request more time to notify definitive dates if a problem arises within the 2.5 years from entry into force of the agreement. Such problems could be a donor lacking or difficulty with assistance. Prior texts only contained the first rationale for extension.

In sum, the original version in earlier draft TF texts did not contain, among other things, 1) a binding requirement that assistance arrangements by donors be notified before definitive dates are notified, 2) an 18 month cooling off period after arrangements are notified, and 3) an option to request an extension to notify definitive dates where problems in assistance arose.

Early warning mechanism and the safeguard mechanism

Paragraphs 5 and 6 of Section II contain an early warning mechanism (EWM) and what the G90 called the safeguard mechanism, respectively. Under the EWM, the Committee can extend the implementation dates already notified if a country believes that it may not be able to meet its implementation deadline. The EWM includes an initial automatic extension, which was secured by the ACP proposal, if the time needed is under a certain period.



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Throughout the negotiations, many developing countries were also concerned that the binding principle in Annex D that implementation will not be required if capacity is lacking was in peril. The final agreement now enshrines these principles: a) a general principle found in Paragraph 1.2 of Section II, b) the definition of Category C and c) a new safeguard mechanism found in Paragraph 6 of the final text, which can be invoked where an extension is not granted or available under EWM procedures. The safeguard mechanism underwent intensive and difficult negotiations after the ACP Group and Africa Group worked together and presented a joint proposal to the WTO membership. It preserves a country's self-assessment of capacity to implement after all of the other procedures through to EWM have been exhausted. The assessment will not be subject to any unilateral objection. Instead, the assessment will be submitted to a third party review before deliberation by the TF Committee. LDCs will be able to invoke this procedure at any point in time.

Conclusion

The TF Decision in Bali may be criticized as a win for its original proponents, the developed WTO members. However, it must be recalled that several proposals were tabled by developing and LDC proponents in the course of negotiations that addressed their interest to be part of making multilateral disciplines to benefit their own export and import realities. Many proposals were tabled by members on S&DT reflecting a major gulf between developed and developing countries. However, a novel approach to S&DT and assistance to developing countries and LDCs in implementation emerged in the negotiations that had to be secured and become a workable precedence in the WTO. These results significantly altered the narrative on S&DT in WTO negotiations and provide a template for future solutions to problems in S&DT. The ACP Category C process found in the text also furnishes a binding component for assistance that was lacking in the 2004 Annex D modalities.

WTO members are mandated by Ministers to take further steps in 2014 and 2015 before the TF agreement can become operative. In addition to concluding TF negotiations, the TF decision, first seen by members in Bali, establishes a Preparatory Committee on Trade Facilitation, open to all members, to 1) ensure the expeditious entry into force of the Agreement and 2) prepare for the efficient operation of the agreement upon its entry into force. Though part of the DDA single undertaking, a Protocol of Amendment to insert the Agreement into Annex 1A of the WTO Agreement will be drafted. Paragraph 47 of the Doha Declaration allows for early agreement to be reached and implemented on a provisional or definitive basis and to be taken into account in assessing the overall balance of the negotiations. The agreement is subject to a "legal review for rectifications ... that do not affect the substance of the agreement." The first meeting of the Preparatory Committee was held on 31 January 2014 but the only agenda item was to elect the Chairman. Ministers instructed the WTO General Council to meet no later than 31 July 2014 to a) annex Category A commitment notifications to the Agreement, b) adopt the Protocol of Amendment, and c) open the Protocol for acceptance until 31 July 2015. Entry into force of the agreement will be upon acceptance by two-thirds of the membership, in accordance with Article X of the WTO Agreement. According to the final provisions in the TF agreement itself, if a member accepts the protocol after entry into force, Category B and C definitive date notifications will count from entry into force, not from the date the member accepts.

Independent from the issue of entry into force, countries availing themselves of Section II might wish to begin updating their national needs assessments against the final Section I provisions and determine the Categories for their eventual implementation of the provisions.

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- ① Category A are those provisions not requiring a transition period and will be implemented upon entry into force of the Agreement. Category B are those provisions designated for implementation after a self-selected transition period, and Category C are those provisions that will be implemented upon acquisition of capacity through assistance after a self-selected transition period.

WTO

Bali and the future of multilateral trade

Sofia Baliño

A deal at the WTO's Ninth Ministerial Conference in Bali, Indonesia, could now see the global trade body turn over a new leaf.

Trade ministers meeting on the Indonesian island province of Bali announced last December that they had finalised negotiations for a global trade pact - the first since the WTO opened its doors in 1995. The so-called Bali package covers only a small fraction of the Doha Round mandate, established by the WTO in 2001, with the more difficult topics left for further down the road. The systemic impact, however, could be substantial if WTO members manage to hold onto this momentum.

A failure in Bali would have been devastating for the multilateral trading system as we know it. Success, though, begs its own set of questions, namely whether achieving the first multilateral trade deal in nearly 20 years is enough to reinvigorate the WTO's negotiating function in the long-term - especially as bilateral, regional, and plurilateral agreements take an increasingly prominent role on the world stage.

Meanwhile, the emergence of the so-called "new issues," such as energy, exchange rates, or investment, have caused many to question whether the mandate from 2001 still matches up with the needs of the global economy - and if not, whether the WTO is equipped to adapt to an ever-changing trade landscape.

The Bali deal

The package reached in Bali had three parts: an agreement on trade facilitation (TF); four texts on select agriculture issues; and a short series of items related to developing and least developed countries (LDCs).

Choosing to focus on just a subset of the Doha Round negotiations - rather than dealing with it as a whole - was a major departure for the 159-member body, which had previously long held onto the notion that an "early harvest" was not an option.

Only in mid-2011, after a last-ditch effort to finalise the Round as a whole failed, did members decide instead to break the negotiations into parts, and later review the various pieces for balance. While an attempt to achieve a Doha mini-package fell apart only a few months later, just ahead of the December 2011 Geneva ministerial, WTO ministers did agree to declare the Round officially at an impasse, committing themselves to pursue "new negotiating approaches" to break the stalemate.

Trade facilitation quickly emerged in 2012 as an area where an agreement might be feasible. Although not originally part of the Doha Round mandate, trade facilitation had been one of the fastest moving areas of the negotiations in recent years, and had long been considered a possible candidate for a WTO "early harvest" should one come to fruition.

Trade facilitation aims to reduce red tape and bureaucracy at the border, an issue of particular relevance for landlocked developing countries, where passing goods through customs checks can take weeks, in some cases months. The Bali agreement in this area has been touted by its proponents as a win-win for all, with the most optimistic estimates predicting that it could yield a US\$1 trillion annual boost in world trade.

A last minute stand however on the topic by Cuba on the final night of negotiations nearly scuppered the entire Bali conference. Havana, with the support of Bolivia, Venezuela, and Nicaragua - also part of the Bolivarian Alliance of the Americas, or ALBA - pushed for the

Bridges Daily Updates - WTO Ninth Ministerial Conference

The WTO's Ninth Ministerial Conference was held in Bali, Indonesia from 3-7 December. As with all previous ministerials, Bridges reporters were on-site providing daily updates on the negotiations as they developed. These five "Daily Updates" are available at the link above for your reference, in both HTML and PDF formats.

language that would have prohibited members from applying discriminatory measures to "goods in transit, or to vessels or other means of transport from other members," aimed at taking down the US embargo imposed in 1960.

Negotiators burned the midnight oil looking for a compromise - which, when it came, stated that members would not maintain any "voluntary restraints" or "other similar measure on traffic in transit," but that this was "without prejudice to existing and future national regulations, bilateral and multilateral arrangements related to regulating transport consistent with WTO rules." The ministerial declaration also included a line reaffirming members' commitment to the principle of non-discrimination enshrined in the trade body's core legal foundation, the General Agreement on Trade and Tariffs (GATT), as updated in 1994.

With regards to agriculture, the Bali texts deal with three main issues: tariff rate quotas, public stockholding for food security purposes, and export competition. Though all of the agriculture proposals hit their share of setbacks in the negotiating process, the issues surrounding public stockholding at one point also threatened to derail the show.

Backed by the G-33 coalition of developing countries with large populations of smallholder farmers, the group - led by India - had pushed for greater flexibility under WTO rules for purchasing food at administered (government-set) prices when building public stocks for food security purposes. However, some developed and developing countries questioned whether allowing unlimited levels of market price support to count as minimally trade distorting might actually lead to the opposite effect, while potentially causing food security problems elsewhere should excess grains be dumped onto third country markets.

The public stockholding issue dominated most of the Bali conference, with the G-33 coalition itself splintering as the negotiations went on. Indian Commerce Minister Anand Sharma took a strong stand on the subject at the meeting, telling a packed press conference that his country's right to ensure its own food security was "non-negotiable."

The final text now commits members to negotiating a permanent solution, with a peace clause - also known as a legal "due restraint" mechanism that would commit WTO members to not launch disputes in this area - serving as an interim arrangement until then. The deadline to conclude a permanent solution is scheduled as the WTO's eleventh ministerial conference, expected for 2017. In the meantime, only stockholding schemes in place on the date of the Bali decision will be covered by the new arrangement.

Public stockholding was not the only farm trade fight featured in the context of these talks. Ahead of Bali, a proposal by the G-20 coalition of developing countries - not to be confused with the G-20 group of major industrialised and emerging economies - on agricultural export competition served to raise the blood pressure of delegates negotiating in Geneva.

At the WTO's 2005 ministerial conference in Hong Kong, ministers had agreed to eliminate all export subsidies and similar measures by 2013. However, the US and EU have argued that this pledge was made conditional on the completion of a full Doha deal.

In the months leading up to Bali, the G-20 suggested that some formal assurances were still needed of WTO members' commitment to resolving the matter. The final language agreed in Bali "reaffirms" members' commitment to eliminating these export disciplines as an outcome of the Doha talks, while encouraging them to continue their domestic reform processes to reduce such subsidies in parallel.

Also agreed in Bali was a provision that would allow developed countries to ease their farm import quotas in cases where such quotas were regularly left unfilled. Separately, members also decided to exempt certain farm subsidy schemes - such as "general services" programmes involving soil conservation or rural employment, among others - from certain ceilings, on the grounds that these cause minimal trade distortions.

In the area of development, the Bali package establishes a "Monitoring Mechanism" for special and differential treatment (S&DT) - which at the WTO refers to specific provision for developing countries - including the possibility for developed countries to provide the former with more favourable treatment.

This mechanism would analyse and review the implementation of S&DT provisions across all the WTO Agreements, with the option of making recommendations to the relevant WTO bodies for launching negotiations on such provisions if a problem is identified.

The other four developing country texts in the Bali package refer specifically to LDCs. These include terms for operationalising the services waiver agreed at the 2011 Geneva ministerial, which permits members to grant preferential treatment to LDC services and service suppliers; more favourable rules of origin; duty-free quota-free market access; and a new set of dedicated discussions on the controversial subject of cotton trade.

Maintaining momentum

What the Bali deal will actually mean for world trade in the long run remains to be seen. Officials predict that the trade facilitation deal, for instance, could take as many as two years to implement. Under WTO rules, two-thirds of the membership must ratify the pact in order for it to apply to those members. How countries use the flexibility provided under the public stockholding text is another key area to watch.

Meanwhile, the looming question in trade negotiators' minds is what the WTO should do next. Notably, the final Bali declaration features several paragraphs on "post-Bali," including a directive to develop a work programme that would deal with the outstanding Doha Round issues. WTO members have 12 months to develop such a plan, which also has to be consistent with the 2011 ministerial guidance of exploring new negotiating approaches -including ways to work past the "most critical and fundamental stumbling blocks."

What this language could lead to in practice is still an open question. Resolving some of the Doha Round's most difficult issues - agriculture, industrial market access, and services - is expected to be difficult, if not impossible, particularly given the widely-held view that these three are inextricably interlinked.

Some have suggested that a possible way forward could include future WTO mini packages, such as the one seen in Bali. Others counter that the circumstances that allowed for the Bali deal might not hold for other elements of the Doha Round.

Another option that has been gaining traction in certain circles is the possibility of pursuing 'plurilateral initiatives' that could later be extended to the whole WTO membership - a controversial topic. While some have warned that this could detract from the multilateral process, others have said that these efforts could be just the sort of "flexible negotiating approaches" that WTO members are looking for. In the meantime, new plurilaterals are expected to take shape.

In 2012, for example, a group of WTO members announced that they would be initiating negotiations on a plurilateral deal on services trade. The talks for this Trade in Service Agreement (TISA) are now well underway, with the next round of negotiations set for February 2014.

And on 24 January on the sidelines of the World Economic Forum in Davos, Switzerland a group of 14 WTO members - including the US, EU, and China - announced that they were launching a new plurilateral initiative aimed at achieving "global free trade" in environmental goods. The initiative will eventually lead to formal negotiations, though participants have not yet confirmed a timeframe for these.

The group, which also includes Australia, Canada, Costa Rica, Chinese Taipei, Hong Kong, Japan, Korea, New Zealand, Norway, Switzerland, and Singapore, reportedly make up 86

percent of trade in the environmental goods tentatively expected for tariff liberalisation. Global trade in environmental goods, according to US data, amounts to just under US\$1 trillion a year. Tariffs on such goods, however, can be as high as 35 percent.

Liberalising trade in environmental goods and services had been part of the Doha Round negotiating mandate, with members directed to find ways to lower tariff and non-tariff barriers in this area. The talks languished however on the WTO stage due largely to questions over what constitutes an environmental good and which products a final global deal might cover.

Meanwhile, the idea to attempt plurilateral talks on green goods has been quietly building steam over the past year, ever since the Asia-Pacific Economic Cooperation (APEC) forum - a regional coalition of 21 members - reached a non-binding commitment to lower tariffs to five percent or less on a list of 54 environmental goods by the end of 2015.

Calling the APEC deal and the product categories included a "good start," the Davos group behind this new initiative has said that they hope to develop a "future oriented agreement" that would be adaptable to the evolution of new technologies, as well as capable of addressing other barriers to trade in the environmental sector.

Participants in this effort have said that they hope to bring their agreement under the WTO umbrella. Once the number of participants covers a high enough percentage of world trade on the list of goods agreed-upon - usually 90 percent, as seen with the WTO's Information Technology Agreement - the pact's benefits would be extended to the global trade body's entire membership. Concessions, however, would only be required from its signatories.

A rare opportunity

No one can say for certain what lies in store for the WTO as it begins this next chapter, particularly given the Doha Round's long and troubled history. There is the risk that the post-Bali glow could fade, and calls for creativity, flexibility, and new approaches might ultimately go unheeded, especially as politics and domestic concerns come into play.

Conversely, WTO members could use Bali for what it is: a rare opportunity to start fresh, in a new global context, while making sure to remember the lessons of over a dozen Doha years.

As we enter the new year, efforts to close mega-regionals like the Trans-Pacific Partnership (TPP) or the Transatlantic Trade and Investment Partnership (TTIP) are ramping up, and other new plurilaterals may emerge along the lines of TISA and the environmental goods initiative. Whether these processes succeed or stumble, they will have a wide-ranging impact on how negotiators see trade reform. Meanwhile, the global economy is finally emerging from half-a-decade in crisis, and is eagerly looking for opportunities to move forward.

It is also important to remember that one of the WTO's key functions is as an arbiter of global trade rules. A quick glance at some of the more recent disputes brought to the trade body - covering topics from seal products, to fisheries, to renewable energy support policies - demonstrates the extent to which environment-related issues are increasingly intertwined with trade policy. Negotiators therefore might be advised to consider whether the WTO edicts from two decades ago match up with today's environmental policy landscape, and if not, where changes can be made.

In all the uncertainty ahead, what is clear is that the global economic landscape will continue to change, and quickly - WTO members can ill afford to let this Bali boost pass.



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POST-BALI

Thoughts on the “Bali deal”


Antoine BARBRY

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This article is the author's personal point of view and does not represent the official opinion of the OIF in any way.

Will the buzz of the Bali deal, which was concluded after weeks of intensive work, linger in our mouths as the taste of a great wine that begs to be drunk some more or does the international community risk having a bad 'hangover'? Of course, neither option is correct; rather, it is a combination of both. The birthing of a multilateral agreement is always unusually complex, as is its monitoring.

I will only briefly mention the technical content of the various chapters of the 'Bali Deal'. As a keen observer, I am more interested in the drivers that led to a positive outcome for the first time since the creation of the WTO, as well as the dynamics of these negotiations and the potential lessons we can draw from them.

However, before any in-depth analysis can be made, the following question must be answered: was a deal really struck in Bali? It may seem like an odd question to those who were present – exhausted yet relieved – at the closing ceremony of the ministerial. But let us remember a few stubborn facts: there are still dozens of brackets in the section devoted to trade facilitation and the negotiators have given themselves until July to finish 'cleaning up' the text. Now that the agreement has received the ministers' 'political blessing', one can assume that this will in fact be the case; however, it is not guaranteed. It will also take some time for the text to complete the parliamentary ratification process and be validated by at least two thirds of the member countries, as is the case for all multilateral agreements. One might say that the announcement made in Bali slightly jumped the gun.

Why was a 'deal' made in Bali when one was never made before?

Of course, the answer to this question is complex and many-sided. It seems obvious that, this time, the leading stakeholders in this system really wanted this to be successful. After reading the text of the agreements, it is clear that the United States and above all the European Union accepted to remove certain demands, especially concerning trade facilitation, in order to reach a positive outcome. The political will to reach an agreement was stronger than the concrete benefits that could be gained. It was important for members to show that they still believed in, and fully took part in, the multilateral system. For the European Union and the United States, the 'political cost' of failure, for which they would largely have been blamed, was probably considered too high. In addition, although they could choose from a wide range of tools to further their trade objectives (bilateral, regional, cross-regional agreements, etc.), they probably did not want to bury the WTO for once and for all. Indeed, it still remains the appropriate setting to press for certain issues to be resolved and is the only negotiation framework in which all the members are involved.

What about the other stakeholders?

When it comes to the LDCs, limited progress for rules of origin or the implementation of the waiver on trade in services had already been reached in Geneva, before the ministerial started. They demonstrated a great deal of flexibility in Bali, but did not manage to influence the negotiations – nothing new then. Clearly, the lines that divide the group, especially when it comes to providing DQTF market access for 100% of exports to developed countries, do not help their cause.

However, certain countries did somewhat better.

Some succeeded to a limited extent, like the African countries who managed to convince the European Union to put aside several of its objectives concerning trade facilitation and became the only ones to decide which measures would be implemented and to set the schedule. Others succeeded to a larger extent, like India who showed both its capacity to impose its agenda and its will to enforce it. It is becoming more and more crucial for the other stakeholders in this system to monitor the jolts and changes in national Indian politics. Finally, the ALBA countries (Bolivarian Alliance for the Peoples of Our America) also pulled off a PR stunt when they temporarily – albeit spectacularly – blocked the final chapter of the negotiations by bringing to the forefront the issue of the American embargo on Cuba.

What about the countries belonging to the Organisation Internationale de la Francophonie?

This is a difficult question to answer. The Organisation Internationale de la Francophonie (OIF) is comprised of northern and southern states and governments, from the most industrialized countries to the least developed countries. Therefore, taking stock of the situation as a single state of play is extremely risky. The meeting of French-speaking ministers, which took place the day before the ministerial started, allowed for fruitful discussions and the confirmation of the common wish to reach an agreement based on a compromise that respected everyone's main interests.

Since most French-speaking countries are in sub-Saharan Africa, and thus considered to be 'developing countries' or 'least developed countries', it is only by examining the results achieved for these categories that we can measure the success of French-speaking countries for this deal. In any event, the French-speaking regions welcomed the fresh boost the multilateral system received, since it is the only framework that respects the interests of the least influential stakeholders.

Bali's success was also due to the role of specific individuals, above all, the new Director General, Roberto Azevêdo. Without his active participation, no deal would likely have been made. He benefited from several advantages: his in-depth knowledge of the topics at hand after spending ten years leading negotiations for his country, his friendships with the various ambassadors, the trust of key stakeholders and the 'honeymoon period' that is often granted to newcomers in similar positions. However, he was able to leverage these initial advantages. The manner in which he conducted the negotiations in Geneva and Bali – tactfully but also decisively and pragmatically – impressed many negotiators, who were less convinced by the method used by his predecessor, Pascal Lamy.

Other individuals also played a key role. Especially Michael Froman, the US Trade Representative, whose relationship with President Obama came in very handy, and Gita Wirjawan, the Indonesian Minister of Trade, who fully played his role of facilitator. At different moments in the process, actions were also taken by several Ambassadors (Hong Kong, Singapore and Jamaica, among others) who played no small part in finding 'technical' solutions to issues, in convincing their capitals to lower their demands, and in playing the role of moderator for unwilling countries.

Finally, what can the Bali Deal teach us about the multilateral system?

Above all, and this will come as no surprise, nothing beats the genuine will of parties (or at least of powerful ones) to reach a compromise agreement, even if they drag their feet. However, the context surrounding the negotiations is also important, as are the roles played by individuals in key positions (the most influential negotiators, the President of the Ministerial, group coordinators, and, of course, the Director General of the Organization). The essential role played by facilitators during such complex negotiations cannot be stressed enough.

Make no mistake, the positive outcome of Bali was absolutely not guaranteed, and the agreement could have been derailed several times. It took the passionate determination of all involved and many sleepless nights spent working to reach the draft of the first multilateral deal relating to trade. And it will take just as much commitment and skill to give life to this agreement and continue the work of the Doha Cycle.

POST-BALI

Bali: A platform to resume the negotiations on the remaining Doha Development Agenda



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The package resulting from the Ninth World Trade Organization (WTO) Ministerial Conference in Bali, Indonesia marks the successful culmination of a negotiation process in which members explored the possibility of concluding agreements in specific areas of general interest ahead of schedule. The most substantial of these results is the agreement on trade facilitation, the implementation of which will demand significant cooperative efforts directed toward those countries that require technical assistance and capacity building. Regional development banks and the World Bank have already pledged their support in this undertaking.

Although the Bali Package has demonstrated WTO members' ability to achieve results—which certainly has not been the tone of the past 13 years—it should be viewed as a platform from which to resume negotiations on the remaining pending areas of the Doha Development Round. Many analysts agree that the possibilities of advancement through partial agreements have been nearly exhausted, echoing the words of Brazil's Minister of External Relations, Luiz Alberto Figueiredo, who stated in the plenary sessions in Bali that we must now move on to the “full harvest.”

What remains to be accomplished is enormous, and it hinges on agriculture. Do the countries with the most heavily subsidized agriculture have the political capacity to initiate reforms that would eliminate trade-distorting domestic support and export assistance? This is a task primarily for the most developed economies, and strong internal political support will be required to bring about the necessary modifications.

An ambitious outcome in agriculture must be counterbalanced by substantial concessions in other areas, including industrial products and services. Given the growth and performance of the emerging economies, they must prepare themselves for a greater level of concessions than anticipated in 2001. Furthermore, such liberalisation will be a direct benefit for other developing countries, given that an increasing portion of South-South trade is related to manufactures. However, it is unclear whether the present agenda of the Doha negotiations is sufficient to achieve a balance of results that would make approval by national parliaments feasible.

The changes that have come about in the ‘new global economy’—especially the organization of production into global value chains—demand new and improved multilateral regulations. Regulations on foreign investment, competition policy, export restrictions and taxes, subsidies, and measures that would foster mitigation of climate change or innovation are just a few of the topics that have been mentioned as part of the future agenda.

In the WTO, members should initiate transparent exchanges and analyses on these new areas to assess the economic and social impact of potential new agreements that will help guide policy decisions. One alternative is for the final package of the Doha Development Round to include the decision to initiate negotiations in these new areas, along with additional efforts aimed at achieving multilateral consolidation of the advances in liberalisation that have been made by many countries through free-trade agreements.

POST-BALI

WTO Bali outcomes: What does it mean for global trade?



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This piece presents the author's personal view and does not represent the view of SACU.

On 6 December 2013, following the 9th WTO Ministerial Conference held in Bali, Indonesia, the European Trade Commissioner, Karel De Gucht, remarked "we have saved the WTO". The Bali Ministerial reached agreement on some of the areas of negotiation: Trade facilitation, a package for Least Development Countries (LDCs) and agriculture. With the exception of trade facilitation, the decisions with respect to agriculture and LDCs have not created binding commitments and have merely created the platform for further work and negotiations. In addition, these three areas represent only a marginal component of the overall Doha Development Agenda. Even in the area of Trade Facilitation, where an agreement was reached, implementation and the realisation of the benefits thereof will take time given that a large number of members still need to ratify the agreement and invest extensively in capacity and resources to meet their obligations. The importance of the Bali outcomes therefore lays not so much in the actual content of the agreements and decisions, but rather in the indication that WTO members are again willing to negotiate. This has breathed new life into the Doha Round, which was essential, as the relevance of the WTO faded in the face of the number of regional agreements being negotiated.

For Africa in general, and Southern Africa in particular, this resuscitating of the Doha Round is most welcome. The conclusion of the Doha Round and delivering on the Doha Development Agenda remains essential to African economies for their growth, development and global integration ambitions. This is especially true as the global trade landscape becomes dominated by regional trade agreements, particularly the mega regionals (TPP, TTIP and RCEP). Regional Trade Agreements will continue to dominate, as the scope, coverage and depth of such agreements are tailored to specific trade and geopolitical interests of negotiating parties. These agreements, and in particular the mega regionals, will define the global trade and geopolitical landscape in the coming years. The Bali outcomes may not stem the tide of regional agreements, but by reaffirming the commitment of members to the global trade system, it does create the space for the multilateral system to reaffirm its role and importance in regulating global trade. A strong multilateral system will ensure that WTO members not party to the mega regionals are not marginalised and isolated in global trade. However, this will require the WTO to significantly reform its agenda, as well as expand and strengthen its monitoring and dispute settlement ability, specifically assisting developing and LDCs to better utilise these measures. The approach toward negotiations in the WTO will also need to be considered, with some subsets of the WTO membership pursuing plurilateral agreements like the Trade in Services Agreement. The implications of these remains uncertain and care should be taken that this does not detract from the conclusion of the Doha Round, which remains the ultimate goal.

Commissioner De Gucht's remarks that the WTO has been saved therefore needs to be approached with a measure of caution. Bali did deliver an outcome, albeit significantly less developmental than many would have hoped for. Bali did, however, give renewed impetus to the multilateral system and with it the hope for the conclusion of the Doha Round. The WTO may have been saved in Bali but it still remains in a critical condition.

POST-BALI

Bali: “It always seems impossible until it is done.”


Mario Matus

Chilean Ambassador and Permanent Representative to the World Trade Organization (WTO), to the World Intellectual Property Organization (WIPO) and to United Nations Conference on Trade and Development (UNCTAD)

With a quote from Nelson Mandela, “It always seems impossible until it’s done,” the Chairman adjourned the Ninth Ministerial Conference of the World Trade Organization (WTO). Like all true negotiations, the process was plagued with uncertainty, bouts of euphoria, and periods of discouragement. The final result was the so-called Bali Package, which many feel should be called the ‘Azevêdo Package’ in honour of the excellent work of the Director-General. In these brief lines, it is appropriate to focus on the Package’s primary component, trade facilitation, for which, incidentally, Chile led discussions on one of the topics that was considered impossible at the beginning of the process: the matter of customs cooperation.

Commercial scope

The World Bank, the Organisation for Economic Co-operation and Development (OECD), and the Peterson Institute for International Economics estimate an overall reduction in trade costs through which the agreement would increase global gross domestic product (GDP) by US\$ 1 billion. For purposes of comparison, current world GDP is roughly US\$ 77 trillion. Other studies indicate that the economic benefit of every dollar in assistance to support trade facilitation reforms in developing countries could equal as much as US\$ 70.

Non-commercial consequences of the Bali Package

The most obvious non-commercial consequence of the Bali Package is renewed confidence in the WTO. Nineteen years after its creation, the organization has finally produced solid results with new disciplines that will have a direct impact on the well-being of the world population.

Also, the special, differentiated treatment of developing countries will take on a new form. At the moment, there are roughly three types of WTO member countries: developed, developing, and less developed. Under this agreement, developing countries will be required to indicate autonomously the point at which they plan on implementing each one of their obligations: immediately (Category A); within a defined period (Category B); or at some point in the future, in which they will receive financial aid and technical assistance (Category C). Developed countries will be bound upon the effective date of the agreement. It is understood that the most advanced and emerging developing countries will list most of their obligations under Category A, with just a few under Category B and none at all under Category C. The result will mark the beginning of a new segmentation of the developing countries within the WTO.

Finally, the Package gives rise to some uncertainties. Will this agreement provide sufficient motivation for WTO members to once again channel their political energies into the multilateral trade system? Will the positive atmosphere created in Bali be sufficient to drive progress toward the definitive conclusion of the remainder of the Doha Development Round? How will implementation of the Bali Package affect such processes as the Trans-Pacific Partnership (TPP), the Transatlantic Trade and Investment Partnership (TTIP), and the Comprehensive Regional Economic Partnership (CREP)? Given the attempt by a group of countries to block the Bali agreement, it is fitting to wonder if the final conclusion was simply a result of circumstance, or if it constitutes a precedent for the institution. In other words, will the WTO witness renewed attempts to introduce topics unrelated to trade, taxing the organization’s decision-making process? Or, will a minority faction abuse ‘formal objections’ to the detriment of the vast majority? Only the future will tell.

POST-BALI

The relevance of the decision: From consensus in Bali to developing fair and equitable agendas



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I make these reflections without having been involved in the negotiations on this occasion. I have participated in other complex negotiations, such as the Doha Round, but this latest has without a doubt produced an encouraging outcome for the multilateral system and for those who still believe in the fundamental principles that served as the basis for the organization and the trade liberalisation processes as an option for economic growth.

Furthermore, Bali demonstrates the importance of a consensual decision-making system and the relevance of bearing the demands and aspirations of developing countries in mind. Of course, this holds true only when such demands are fair, without using the World Trade Organization (WTO) to erode the very principles behind its existence. Unfortunately, in the case of Doha, certain countries with little or no belief in multilateralism, the WTO, or fair and equitable world trade regulations attempted to hinder the process. Those constituents that attempted to bring about the failure of the negotiation process with their dark agendas once again left their mark. Their actions tarnish their international images and severely limit the opportunities for development and job creation in their countries.

All countries win equally in this process, as it has enabled the progression of slow and obstructed discussions. While it may have thwarted some aspirations, it has ensured the continuation of the system. Those countries that negotiated in good faith, presenting proposals based on specific needs, came out ahead. In terms of covering a portion of the financing needs of developing countries over the next five years, these countries will gain a considerable share of savings and commitments, like those of the European Union.

The system is fortified by allowing the advancement of trade facilitation processes that will positively impact the flow of trade, especially among small businesses, and that will reduce the costs of trade by approximately 10 percent. Accelerating customs procedures contributes to trade that is expeditious and economical—but most important, transparent—with a goal of reducing the inefficiency and corruption that are so apparent in developing countries, including in Latin America.

From a commercial point of view, those regions that are committed to a balance between multilateral disciplines and regional progress with regulations that further integrate their countries will be strengthened through their inclusion in the dynamics of global commerce. For members, who for years have had a stake in the fortification of the WTO, these results are a testament to the multilateral system's increased credibility, while they also give new members the confidence of knowing that it was worthwhile to take a chance and comply with the requirements of the system. The LDCs will especially benefit from the unilateral opening to their exports on the part of developed countries as a stimulus for increased access to markets and investments. There are certain areas, such as electronic commerce, in which—in spite of managing to eliminate customs duties on electronic transmissions—it is still necessary to redouble efforts in matters related to trade and new technologies, areas in which there are numerous potential opportunities for developing countries. Without a doubt, members can now count on an organization graced by more favourable winds from the shores of Lake Geneva.

POST-BALI

The World Trade Organization post-Bali



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“We have put the world back in the World Trade Organization.” With these words, the Director-General of the WTO, Roberto Azevêdo, expressed the importance of the agreement reached in the Ninth Ministerial Conference that took place in Bali, Indonesia.

The conclusion of this process left us with more questions than answers, the first of which—and the one that sticks in the mind of the trade world after the festivities have died down—is the following: What is the true relevance of the agreement reached by the 159 ministers? Even though, by all accounts, the Bali Package may generate billions of additional dollars in trade, the true implications of the agreement lie largely in the systemic impact it will have on multilateralism.

However, it is necessary to take a careful look at the inarguably positive outcome, as we must not forget that the Bali Package is really only a sampling of the ambitious proposals made in the Doha Development Agenda in 2001. Many of the most complex matters were not even addressed; consequently, the accomplishments made in Indonesia are simply the first fruits of a more ambitious project yet to be concluded.

From the journey embarked upon in Doha 12 years ago, the Bali conference partially revived the discussion on trade facilitation—an agreement that was most interesting for its innovation and for being the one that addressed the most subjects, but used language that called for a reserved reading. The agreement on agriculture and cotton, which did not address subsidies as effectively as one had hoped, and the agreement on development left us with more aspirations than solid commitments.

The Bali Package and the successful media impact achieved were a welcome relief to the system, but the key players' commitment to multilateralism remains precarious. This brings about other unanswered questions: Is the Bali Package the beginning of a new phase of negotiations in the multilateral trade system or simply a reflection of the maximum concessions countries are willing to make within the framework of the WTO? Will the explosion of regional agreements dictate the new trade regulations with the inclusion of WTO+ and WTO-X measures, or can Bali reset the stage? Has the current emergence of mega trade agreements—such as the Trans-Pacific Partnership Agreement (TPP), the Association of Southeast Asian Nations and six other nations (Australia, China, India, Japan, New Zealand, and South Korea (ASEAN+6), and the Transatlantic Trade and Investment Partnership (TTIP), in which economic superpowers negotiate regionally—reduced members' interest in negotiating trade regulations within the WTO? In the medium term, all of these questions and everything they imply will be answered by the countries' political will and commitment to trade liberalisation and governance.

We must not lose sight of the leadership exercised by the new Director-General, Roberto Azevêdo, who is very knowledgeable and experienced in the complex dynamics inherent in the multilateral system—including the corresponding formalities and timelines—and is an especially privileged witness to all the lessons learned as a result of the prolonged stagnation of the Doha Development Round.

He should be proud of having convinced the world of the success in Bali, as a failure—at least in terms of negotiations—would have signified that the WTO was on a road to irrelevance with all the related consequences, which have been repeatedly analysed.

ECONOMIC PARTNERSHIP AGREEMENT

West Africa, EU Reach trade deal

The EU and West Africa have reached a compromise on an Economic Partnership Agreement (EPA), following over a decade of negotiations. The trade pact is meant to provide 16 West African countries with long-term access to the European market, without being subjected to tariffs or quotas.

The EU and West Africa have reached a compromise on an Economic Partnership Agreement (EPA), following over a decade of negotiations. The trade pact is meant to provide 16 West African countries with long-term access to the European market, without being subjected to tariffs or quotas.

The two sides reached a deal at the senior official level on 24 January, and at the chief negotiators' level last Thursday. Sources say that while a political endorsement is needed, this is merely a formality. Along with being initialled and signed, both sides will then have to ratify the deal in their respective legislatures.

In the days preceding the agreement, EU Trade Commissioner Karel De Gucht had met with Senegalese President Macky Sall and Commission of the Economic Community of West African States (ECOWAS) President Kadré Désiré Ouedraogo, as well as other high-level politicians, in an effort to clear up outstanding issues.

The sixteen African countries included in the deal are Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo, and Mauritania.

According to the European Commission, West African countries account for 40 percent of all trade between the EU and African, Caribbean and Pacific (ACP) countries.

October deadline

The goal of Economic Partnership Agreements is to provide for trade reciprocity, promote sustainable development, and advance regional integration by encouraging ACP countries to enter negotiations with the EU in regional groupings, rather than individually.

Negotiations for these agreements began over a decade ago; however, only the Caribbean and four African countries - Mauritius, Madagascar, Seychelles, and Zimbabwe - have finalised their EPAs so far.

The slow pace of the negotiations has long been a source of tension between the EU and African countries. In an effort to speed up the talks, the European Commission announced in September 2011 that it would be imposing 1 October 2014 as a deadline for the withdrawal of market access regulation "MAR 1528" - which currently provides duty-free, quota-free market access to ACP countries.

The aim of this deadline, Brussels explained, was to give these countries added incentive to conclude regional EPAs, as well as to start implementing their existing ones. Should the developing countries not ratify an EPA by this new deadline, they could potentially lose their free access to the European market.

With the October deadline fast approaching, trade and development ministers from five EU member states - Denmark, France, Ireland, the Netherlands, and the United Kingdom - recently asked the European Commission to show more flexibility in its EPA negotiations.

The 5 December letter, addressed to the EU High Representative for Foreign Affairs Catherine Ashton, EU Commissioner for Development Andris Piebalgs and EU Trade Commissioner Karel de Gucht, raises concerns regarding "the current situation" involving

the interim EPA ratification deadline, given that "regional EPA negotiations continue to face significant difficulties."

Unexpected outcome

The news that negotiators had finalised the EU-ECOWAS EPA was unexpected, many experts commented to Bridges, given the various challenges that had emerged over the years.

For instance, one of the major difficulties in the EPA process came from the lack of integration within West Africa itself, and the two different economic structures in place in the region- the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (UEMOA/ WAEMU).

In addition, most ECOWAS members are least developed countries (LDC), which experts had warned gave them less incentive to conclude an EPA, since their LDC status would still have made them eligible for duty-free, quota-free market access under the EU's "Everything but Arms" scheme even if no deal was signed.

However the stakes were different for non-LDCs in the region, such as Ivory Coast and Ghana, which had agreed on an EPA with the EU in 2007 in order to maintain preferential access to the EU market. Nigeria - the region's largest economy - and Cape Verde, meanwhile, have no EPA with Brussels, but do currently benefit from the EU's Generalised System of Preferences (GSP).

Market access, development assistance

Last October, ministers had pushed for the EPA negotiations to resume, after a prolonged stall in the talks. Resolving differences over market access offers and the EPA Development Programme (EPADP, known as PAPED in French) - a scheme meant to address the West African development needs with regards to the EPA - were flagged as being particularly important.

In the case of market access, West Africa had originally offered to open 70 percent of its market over 25 years. However, that proposal was reportedly deemed insufficient by the EU, which had pushed for an 80 percent market opening within 15 years.

Sources confirm that the two sides have agreed that West African countries will liberalise 75 percent of trade over a 20-year transition period.

This final level was backed by the decision of ECOWAS ministers to implement a regional Common External Tariff (CET) by 1 January 2015. However, some experts stress that the parallel developments of the new market access offer and the regional CET has not allowed trade officials the chance to determine how to best align the two.

With regard to development assistance, both parties agreed that the EPADP will need a set of accompanying measures and development assistance in order to help to build capacity, implement the EPA, and support domestic reforms.

The agreed assistance amount is €6.5 billion for the 2015-2019 period, lower than the €15 billion that West African countries had requested. However, some commentators have said that €6.5 billion could be enough to cover the costs of the programme's activities over that time.

"Now we have to define the conditions for disbursement to benefit from this funding... in order to allow our sub-region to be competitive and enhance its integration," said ECOWAS Commission President Kadré Désiré Ouedraogo, according to the Agence de Press Sénégalaise.

MFN clause

Another topic that had proven particularly difficult in the negotiations was the Most Favoured Nation clause.

Brussels had originally requested that, should West Africa later grant preferential access to any other countries, it also provide the EU with the same treatment. However, West Africa had insisted that it wanted to retain the possibility of advancing its cooperation with southern countries.

Negotiators have reportedly agreed that West Africa will grant the EU any new favourable tariff treatment provided to another commercial partner, as long as the latter has a share of international trade higher than 1.5 percent and whose degree of industrialisation is above 10 percent in the year prior to the agreement's entry into force.

Experts say that these criteria could include preferences granted to partners such as India, China, and Brazil. Preferences granted to other African and ACP countries will be exempt from this requirement, however.

Agricultural subsidies

The issue of agricultural subsidies has long been divisive, since the EU did not wish to include it within the EPA's scope. The two sides eventually agreed to ensure the transparency of their respective policies and domestic support measures.

To this end, Brussels will regularly report to West Africa its actual measures, including their legal basis, their nature, and the related amounts. Under the terms of the deal, the EU has also agreed to refrain from using export subsidies for farm goods exported to West African markets.

Compromises on non-execution, rules of origin

The non-execution clause, which allows parties to suspend commitments in cases of human rights or democracy violations, had been another point of contention between the two sides.

West Africa had been against including in the EPA a clause that it termed as political, while the EU wanted to include the possibility of trade sanctions in the agreement. Sources say that the draft deal ultimately dropped this clause.

With regards to rules of origin, the EU has reportedly accepted West Africa's request in this area, including with regards to cumulation and the need for asymmetry, given the inequalities in economic development between the two sides.

Stay tuned! Bridges Africa will closely follow the EPA negotiations in Africa in the coming months.

INTELLECTUAL PROPERTY

South Africa, pharmaceutical industry face off on patent reform

South Africa's efforts to reform its intellectual property (IP) regime in order to improve access to medicines has sparked a firestorm lately, with major pharmaceutical companies openly at odds with civil society and developing countries.

South Africa's efforts to reform its intellectual property (IP) regime in order to improve access to medicines sparked a firestorm in January 2014, with major pharmaceutical companies openly at odds with civil society and developing countries

The draft IP policy was published in September 2013, with the country currently taking steps toward its eventual implementation. The changes would establish a system of substantive patent examination, and would also strengthen the existing criteria for "patentability." These revisions, proponents say, would make it easier for generic drugs to compete in a market that has long been dominated by the research-based pharmaceutical industry.

"The current system allows pharmaceutical companies to obtain multiple patents on the same drug, even for inventions that do not fall under the country's definition of innovation," various civil society organisations have said in advocating for the reform.

The existing regime, they added, thus allows these companies to extend their monopolies and charge inflated prices for medicines, while making it difficult for generic manufacturers to compete.

However, the leak soon thereafter of a memo aimed at helping major drug companies undermine the proposed change has escalated the row, with South African Health Minister Aaron Motsoaledi openly comparing the industry campaign to "genocide."

Civil society, developing countries weigh in

Several developing countries, along with a coalition of civil society groups, have spoken up in support of South Africa, during a meeting of the World Health Organization's (WHO) Executive Board end of January, 2014.

The industry response is "unacceptable in a country facing one of the world's most acute HIV and [tuberculosis] epidemics," Médecins Sans Frontières said at the meeting, noting that medicine prices in South Africa are up to 35 times higher than in countries where generics have a greater market share.

Some civil society organisations have formally called on the WHO Executive Board to adopt a resolution expressing solidarity with the African country. WHO Director -General Margaret Chan has similarly expressed her concern, saying that "no government should be intimidated by interested parties for doing the right thing in public health."

Public health and access to medicine is believed to have been greatly affected by the international agreement on TRIPS instituted at the Uruguay Round in 1994.

The WTO's main agreement on IP, which offers intellectual property protection to drug discoveries and innovations, has been a source of contention between pharmaceuticals and Non-governmentals in the public health circles.

ENVIRONMENTAL GOODS

"Green Goods" trade initiative kicked off in Davos

A group of 14 WTO members – including the US, EU, and China – has agreed to pursue "global free trade" in environmental goods, announcing end of January their plan to negotiate a plurilateral deal that would eliminate tariffs on such products.

A group of 14 WTO members - including the US, EU, and China - has agreed to pursue "global free trade" in environmental goods, announcing their plan to negotiate a plurilateral deal that would eliminate tariffs on such products end of January.

"We are convinced that one of the most concrete, immediate contributions that the WTO and its members can make to protect our planet is to seek agreement to eliminate tariffs for goods that we all need to protect our environment and address climate change," the participants said in a joint statement, on the sidelines of the World Economic Forum in Davos, Switzerland.

The group plans to use the list of environmental goods agreed by the Asia-Pacific Economic Cooperation (APEC) group as a starting point for their discussions. APEC members had announced in 2012 that they would reduce tariffs on a list of 54 green goods - such as wind turbines and solar panels - to five percent or less by the end of 2015. However, that regional pact was non-binding for its 21 members, and featured many products that already have low tariffs.

Participants in this new initiative did not say how long they expect negotiations to take, nor did they say when these would be formally launched. However, they did say that the agreement - while first tackling tariffs - is meant to be a "future oriented" pact that might later address other barriers to green goods trade.

Total global trade in environmental goods reached nearly US\$955 billion in 2012, according to US data, with tariffs on some products as high as 35 percent.

Critical mass needed

Along with the US, EU, and China, current participants in the initiative also include Australia, Canada, Costa Rica, Hong Kong, Japan, Korea, New Zealand, Norway, Singapore, Switzerland, and Chinese Taipei - a group that together makes up 86 percent in global environmental goods trade.

The group intends to bring this deal into the WTO as a most-favoured-nation (MFN) style pact. For this to happen, however, enough participants would need to sign on for the pact to have a "critical mass" - in other words, to cover a sufficiently high percentage of environmental goods trade. This number is often set at 90 percent, as seen with the WTO's Information Technology Agreement, a plurilateral tariff-cutting mechanism for information and communication technology products.

Once enough participants have signed on to reach this critical mass, the agreement's benefits would be extended to the global trade body's entire membership, though only its participants would be required to make concessions.

"All WTO members need better access to the goods and technologies that protect our environment and combat climate change," EU Trade Commissioner Karel De Gucht said on 24th January 2014. "Today's commitment is an important trade contribution towards addressing key environmental challenges as part of our broader, ambitious sustainable growth agenda."

The group says it is interested in bringing other WTO members on board, without specifying which members exactly. The participants have particularly stressed the importance of including all major traders.

Post-Bali momentum

The announcement comes just weeks after WTO members concluded a global trade deal at their ministerial conference in Bali - their first of such in nearly two decades - that resolved some of the less contentious topics of the Doha Development Agenda.

Trade watchers say that one of the main challenges for WTO members in 2014 will be to establish a "work programme" to address the remaining Doha Round issues, which are expected to be more difficult to resolve.

Trade ministers involved in the environmental goods initiative, such as US Trade Representative Michael Froman, have said that these types of "fresh, credible approaches to trade negotiation" could serve to keep the Bali momentum going in Geneva.

Lowering tariff and non-tariff barriers in environmental goods and services (EGS) were part of the Doha Round's original negotiating mandate.

The negotiations, however, have struggled to advance at the WTO, with members at odds over issues such as how to identify these goods, and what products a global deal in this area would cover.

When the APEC deal was announced in 2013, some in the trade and climate community had hoped that this could lead to a rejuvenation of EGS talks at the WTO.

However, the idea of multilateralising the APEC deal - and making it binding - has received a lukewarm approach from some of the WTO's members, sceptical as to whether outside agreements should influence discussions at the global trade body.

Washington is among those members to have advocated for plurilateral and regional negotiations as ways to advance trade liberalisation, while serving also as a complement to the multilateral process. However, some WTO members have questioned whether these types of efforts actually detract from multilateral talks, particularly as plurilaterals such as the proposed Trade in Services Agreement gain steam.

The post-Bali agenda was the main focus of a separate meeting held in Davos by Swiss Federal Councillor Johann Schneider-Ammann, which was attended by WTO Director-General Roberto Azevêdo and a group of two dozen ministers.

Along with calling for "fresh and credible approaches" to address the rest of the Doha Round agenda, the Swiss official also reported a "common understanding" among ministers that the new work programme must address Doha's hardest topics: agriculture, industrial market access, and services.

The newroom

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US Senate approves Farm Bill

The US Farm Bill cleared its penultimate hurdle on February 4th 2014 passing the Senate by a 68-32 margin just days after the House had approved the compromise legislation.

There was little doubt that the Senate would clear the bill, after negotiators from both congressional chambers announced a compromise on the details just a week before.

The legislation now requires presidential approval in order to become law; the White House has indicated that President Barack Obama will sign the bill.

The bill, which sets US agricultural spending for the next five years, would cost taxpayers nearly US\$100 billion annually, with the bulk of the spending directed towards domestic food stamps.

Though debate around the bill was vicious at times, dragging out the process over a two-year period, lawmakers ultimately compromised by slashing direct payments, instituting new crop insurance subsidies, and trimming US\$16 billion over 10 years from the bill when compared to existing policy.

Some Farm Bill observers are now concerned with the sorts of programmes that US farmers will adopt, including over whether the shift to crop insurance - which is where the bulk of commodity-related spending will be directed - could potentially distort trade.

The bill's key insurance provisions require that farmers select from one of two insurance options: Price Loss Coverage (PLC) or Agricultural Risk Coverage (ARC).

Some experts have argued that these types of crop insurance programmes are likely to be considered trade-distorting support, and therefore subject to WTO limits within the "amber" box category.

US farm support in recent years has trended towards growth in what is considered minimally trade-distorting, which is not subject to limits and is notified under the WTO's "green" box.

EAC-EU EPA negotiations move forward

A three day ministerial negotiations on the Economic Partnership Agreement (EPA) between the East Africa Community (EAC) Partner States and the European Commissioner for Trade concluded in Brussels on 30th January 2014. This followed EAC-EU EPA negotiations reached by the EAC-EU technical and Senior Officials.

The ministerial meeting saw agreement on some issues but consensus could not be built on others with some such as "Rules of Origin" slated for further discussions.

Agreements were reached on the outstanding subjects such as the chapter on Institutional Arrangements, Dispute Settlement and Final Provisions with the exception of the article relating to the Cotonou Agreement (non- execution clause).

The Parties could not, however, find a compromise on export taxes and MFN clause.

The negotiations on the Economic Partnership Agreements (EPAs) between the European Union and the African, Caribbean and Pacific countries (ACP countries), meant to be concluded by December 31, 2007, have been a complex process.

Over the years the negotiations have become a source of tension(s) between the EU and African countries and have so far ended in a status quo.

In an effort to entice their ACP Parties to accelerate the negotiations, the European Commission set 1 October 2014 as a deadline for the withdrawal of a market access regulation "MAR 1528" — which currently provide(s) DFQF market access to ACP countries.

Should the developing countries not ratify an EPA by this new deadline, they could potentially lose their free access to the EU market.

The current negotiations for the Economic Partnership Agreement between the East African Community and the EU started in 2007 with the initialing of the Framework EPA on 27th November 2007.

European Commission announces 2030 climate, energy goals

The European Commission unveiled its 2030 climate and energy policy framework on 22 January 2014, calling for a 40 percent greenhouse gas (GHG) reduction target below 1990 levels and an EU-wide binding renewable energy target of at least 27 percent.

While the GHG target is below the level some experts and green groups had called for, European Commission President José Manuel Barroso told journalists in Brussels that the target was both “ambitious and affordable.” Barroso situated the package in the context of international negotiations under the UN Framework Convention on Climate Change (UNFCCC), which is aiming to achieve a global climate agreement by the end of 2015. UNFCCC Secretary-General Christiana Figueres welcomed the announcement, saying on social media site Twitter that the “EU Commission keeps EU on track.”

A recent Commission report indicated EU energy costs are twice those of the US - sparking competitiveness concerns in the growth- and jobs-hungry continent.

The 2030 package will succeed the bloc's “20-20-20” goals - which set emissions reduction, renewables, and energy efficiency targets for the end of this decade. Current estimates suggest the EU is likely to fall short of meeting the energy efficiency objective - the only non-binding 2020 goal.

The announcement also included a legislative proposal for a market stability reserve under the EU's Emissions Trading System (ETS), which has faced major difficulties in recent years.

A binding renewable energy target of 30 percent had been bounced around during the consultation period. The 22nd January announcement indicates that the new, lower figure will not be translated into binding national targets, leaving room for national preferences and circumstances.

EU Commissioner for Climate Action Connie Hedegaard has said that without this flexibility, the proposal would be “dead as of today - politically speaking.”

Tensions ran high in the months prior to the framework release, as member states battled for different 2030 outcomes. December 2013 saw ministers from eight EU member states - including France and Germany - forward a letter to the Commission calling for “robust” renewable energy targets.

Cotton trade: China shift on stockpiling policy sparks questions

China appears to be moving away from its practice of building cotton stocks, in a move that analysts say marks a dramatic shift in policy. In a related development, two other major players in the global cotton market - the US and Brazil - also engaged in a separate tussle on the subject towards the passage of a new Farm Bill in Washington.

The stockpiling programme was notably absent from a released policy document outlining China's agricultural priorities for the year. Instead, a new programme with target prices will deliver region-specific subsidies to ease the change for farmers.

Any change in Chinese cotton policy is expected to have international ramifications on trade, production, and prices, given the Asian giant's status as the world's top producer, consumer, importer, and holder of these stocks. Cotton prices are expected to fall regardless of what happens, some agriculture experts have told Bridges. Acquisitions for the country's stocks, believed to be half the world's holdings, have buoyed prices in recent years.

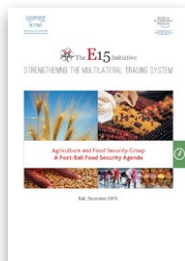
As a current net importer of the fibre, a release from the country's stocks would alleviate the need for China to buy cotton from abroad. It could even become a net exporter if domestic production exceeds consumption, barring changes elsewhere.

The latter would be a “worst case scenario,” experts say, especially if the existing reserves are dumped on international markets. US-based farmers, the largest exporters of cotton to the Asian country in recent years, would likely be among those to bear the brunt of the impact. Others, such as poor producers in West Africa would also have to be wary of releasing their holdings at the same time as China, for fear of depressing prices further.

National stocks of other countries pale in comparison to China's 12.6 million tonnes. India and Brazil, the next largest holders, have 1.9 million and 803,000 tonnes, respectively. Beijing is expected to trim its stocks to 10.5 million tonnes by the end of the season. Soy stockpiles are also expected to be reduced.

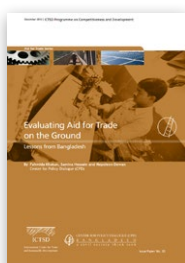
Meanwhile members of the Brazilian cotton farmers' association, ABRAPA, visited Washington early January 2014 to express their frustration to US policymakers over the content and slow pace of reform, as the process to pass a new Farm Bill drags into its third year.

Publications and resources



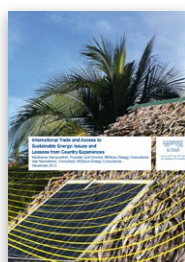
Agriculture and Food Security Group: A Post-Bali Food Security Agenda – ICTSD – February 2014

This policy analysis paper was prepared for the E15 Agriculture and Food Security Group by Theme Leader, Stefan Tangermann. The paper builds on group discussions of the proposals and analysis submitted to the group and subsequently discussed. Initiated by ICTSD in 2011, the E15 Initiative is a partnership of the ICTSD and the World Economic Forum to create a non-partisan, expert-led multistakeholder dialogue aimed at exploring options for strengthening the governance and functioning of the multilateral trade system. <http://bit.ly/1ePluTp>



Evaluating Aid for Trade on the Ground: Lessons from Bangladesh– ICTSD – December 2013

This study assesses the effectiveness and impact of AfT in Bangladesh. By doing so, it also tries to identify the reasons of the decline in disbursements which is quite uncommon among other least developed countries. The study argues that the results of AfT are somewhat mixed for Bangladesh. More important, the study shows that the lack of efficient administrative mechanisms, limited human capacity, political instability, and stringent donor requirements are major reasons for low absorption capacity. <http://bit.ly/1euCkvo>



International Trade and Access to Sustainable Energy Issues and Lessons from Country Experiences – ICTSD – December 2013

This paper explores, among other things, how some trade-related barriers could be addressed within the context of a sustainable energy trade agreement for a positive impact on expanding access to sustainable energy. <http://bit.ly/1dXYJwy>



List of Environmental Goods An Overview –ICTSD –December 2013

This paper briefly examines the early history behind the development of formal lists of environmental goods including the OECD's illustrative list and APEC's Early Voluntary Sector Liberalization (EVSL) lists and the purposes for which they were developed. <http://bit.ly/1dXYTEn>



Transforming the APEC Outcome on Environmental Goods into a Broader Sustainable Energy Trade Initiative: What are the Options? –ICTSD –December 2013

This paper provides options for transforming the APEC initiative, stemming from the Honolulu mandate, into a more comprehensive "Sustainable Energy trade Initiatives", SETIs and proposes options for this transformation in three phases. It provides a policy guide toward establishing SETI into enforceable legal footings. <http://bit.ly/1aVOFd6>



Removing Trade Barriers on Selected Renewable Energy Products in the Context of Energy Sector Reforms: Modelling the Environmental and Economic Impacts in a General Equilibrium Framework-ICTSD –December 2013

This paper answers the question by examining the dynamics and interactions among economic and environmental factors such as exports and imports, carbon emissions, energy and electricity prices, employment generation and income, import tariffs and local content measures (LCRS). <http://bit.ly/1nN5DNR>



The Implementation of Exhaustion Policies: Lessons from National Experiences-ICTSD –December 2013

This paper examines the exhaustion doctrine from a comparative perspective by presenting different regional and national experiences (the United States, the European Union, Brazil, China and India). It offers insights into the how properly tailored doctrines can contribute to innovation and well-being. <http://bit.ly/1ip0ulH>



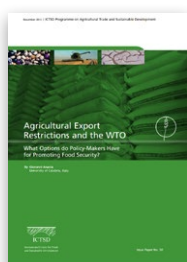
Protecting Shared Traditional Knowledge: Issues, Challenges and Options-ICTSD –November 2013

This paper provides an overview of the different facets of this complex issue and suggests a number of options on how to address it. <http://bit.ly/1fWM4x7>



Working Together: How to Make Trade Contribute to Climate Action-ICTSD –November 2013

This information note explores the potential for synergy and cooperation between the trade and climate change regimes and answers related critical questions. <http://bit.ly/1fKxjVz>



Agricultural Export Restrictions and the WTO: What Options do Policy-Makers Have for Promoting Food Security?-ICTSD –November 2013

This paper examines the likely trade, food security and development implications of various options for disciplining agricultural export restrictions. <http://bit.ly/1k7sHqv>



G-33 Proposal: Early Agreement on Elements of the Draft Doha Accord to Address Food Security-ICTSD –October 2013

This piece looked at how rules, policies and practices in this area can affect trade and food security, in the run-up to the global trade body's ninth ministerial conference this December. <http://bit.ly/MrnZ8H>

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