An Assessment of the Likely Implications of the World Trade Organisation's Bali Package for Africa

Introduction

After its 8th Ministerial Conference in 2011, the World Trade Organisation (WTO) member states agreed to negotiate on a small but important package of the Doha Development Agenda (DDA) issues. This was reached after realising that the DDA was not making much progress and the small package became what is known as the Bali Package at the 9th Ministerial Conference in 2013. The Bali Package is the first substantive breakthrough for the WTO since the DDA began in 2001 and it consists of issues on agriculture, trade facilitation, cotton and Least Developed Countries (LDC). The most significant part of the Bali Package is the decision on trade facilitation and agriculture.

The trade facilitation agreement contains provisions for expediting the movement, release and clearance of goods, including goods in transit. This is a binding multilateral commitment to simplify and harmonise customs procedures in respect of activities, practices and formalities involved in collecting, presenting, communicating and processing data and other requirements for cross-border movement of goods. The agreement on agriculture dealt with public stockholding for food security purposes and understanding of Tariff Rate Quotas (TRQs) administration provisions of agricultural products.

However, the Bali package does not serve the interests of developing countries especially those in Africa, because of Africa's small share from multilateral trade. African share of world total merchandise exports declined from 6.3% in 1980[1] to 3.2% in 2013 whilst merchandise imports accounted for only 3.4% of world's total imports in 2013.[2] The decline can be attributed to among other factors the exportation of commodities like copper, coffee and diamonds which have fallen in value to manufactured goods like clothing and electronics whose value has sharply risen. Further, high transport costs of African exports also place its exports at a higher price when compared to other markets such as the Asian market. In addition, the multilateral trading rules are skewed in favour of the developed countries since most of the developing countries where not yet WTO members in 1947 when the rules were made.

Developing countries[3] and Civil Society Organisations (CSOs)[4] raised concerns during and after the Bali Ministerial Conference on the likely effects of the Bali Package on Africa in general and on their economies in particular. The Bali package will result in increased costs of implementation of the binding commitments such as regulatory, training, institutional and infrastructure costs. In addition, the agreement will likely result in higher import levels in developing countries because of weak export capacity.

After Bali, WTO members' attention has been on the post Bali agenda and the potential effects of this package. AFRODAD feels that there is need for developing countries to understand the impacts of the Bali Package and make informed decisions in the post Bali agenda so that they equally benefit from the multilateral trading system. The objective of this paper is to give a brief of the Bali Package's trade facilitation and agriculture agreements, assess their likely implications to Africa as well as proffer recommendations as the negotiations for the remaining DDA issues begins.

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[1] *UNECA (2004). Mainstreaming trade in national development strategies - An issues paper, E/ECA/CM.37/2, Addis Ababa.*

[2] *ECA databank, available on, http://www.uneca.org/pages/eca-databank, accessed 3 December 2014*

[3] *Herald (2014), Zim cautious on WTO pact, 17 January 2014, available on http://www.herald.co.zw/zim-cautious-on-wto-pact/, accessed 6 May 2014*

[4] *African Agenda (2013). Issue vol. 16 No. 5, Africa Trade Network Statement on the Bali Package, Page 8.*

Background

The DDA negotiations began in Doha, Qatar in 2001 and contain a work programme of 21 subjects for negotiations under the single undertaking principle (nothing is agreed until everything is agreed). The single undertaking principle means that all the 21 subjects under the DDA negotiations should be agreed first and the DDA will be adopted as a whole package. The 21 subjects include agriculture, Non Agriculture Market Access (NAMA), services, intellectual property rights, trade facilitation, dispute settlement and WTO rules among others. Since 2001, subsequent Ministerial conferences have been held prior to Bali, with agriculture and NAMA at the heart of all these negotiations. Most of these Ministerial meetings have failed to produce meaningful outcomes, with deadlocks being reached because of differences among member states. However, progress was made in 2012, when member states narrowed down negotiations to the Bali package, which is a small subset of the DDA agenda.

Currently the context of negotiations in the WTO has changed with geopolitical shifts since the emergence of new economic powers such as Brazil, China, Argentina, Pakistan, South Africa and India. The developed countries such as USA, European Union (EU), Canada and Japan used to dominate previous rounds of negotiations. However, with the emergence of new economic powers and increase in the WTO membership, the majority of whom are more active now; negotiations have become more complex making it difficult to reach agreements.

Since the Uruguay Round (1986-1994)[5], and more specifically the Seattle Ministerial Conference in 1999, African countries have been more organised and active during the DDA negotiations as a way of protecting their interests by forming alliances with other developing countries. Several countries have formed alliances or groups such as the African Group[6] and the Group of 33 (G33),[7] thereby increasing bargaining power on issues of common interest.

The Bali Package and its likely impacts on Africa

This section discusses the Bali Package and the likely impacts to Africa of two main agreements of the Package which have the potential to derail development namely; the agreement on trade facilitation and agriculture.

a) Agreement on Trade Facilitation

The trade facilitation agreement contains provisions for standardised worldwide rules for all members with regards to imports and exports by streamlining customs procedures and regulations at ports of entry. These commitments are legally binding and require developing countries to make capital investments and technology upgrades. The majority of the agreement is aimed at creating transparency in measures applicable to imports, exports and transit traffic through various publication and notification requirements. These documentation and procedures should be available on internet. The agreement has provisions for technical assistance and separate provisions that are specific to different areas of trade facilitation. In addition, the agreement sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.

The agreement contains some flexibilities for developing countries and LDCs, allowing them to come up with their own schedule of implementation according to given categories that are determined by each country's implementing capacity. Each member state is also allowed to set its own time frame for the

[5] The Uruguay round negotiations covered almost all trade issues including tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO among others

[6] *The African Group is composed of all the 41 African WTO members*

[7] *The G33 also called "Friends of Special Products" in agriculture is a coalition of 46 developing countries pressing for flexibility for developing countries to undertake limited market opening in agriculture in the WTO*

implementation of the agreement. If the country (developing or LDC) has low capacity implementation, it is not required to implement until such capacity is available. Further, LDCs only undertake commitments that are possible given the extent of their individual development, financial and trade needs and their administrative and institutional capacities.

Trade facilitation has been hailed by some quarters as a win-win solution for the poor and rich countries. Trade facilitation has also been widely acceptable as a major constraint to regional integration and this agreement is seen by some as a panacea to smooth movement of goods and services amongst member states. Proponents of the trade facilitation agreement such as the US based Peterson Institute for International Economics, claim the trade facilitation agreement could add US$1 trillion to the world's economy.[8] Nevertheless, the predicted US$1 trillion potential gains may not be of much significance to most African countries. Africa has a small share of world trade with only 3.2% of world exports and 3.4% of world's total imports in 2013[9] which means the gains to Africa may be little when compared to big players such as EU, USA and China who have a higher share.

To the contrary, these customs procedures are standard in the developed and emerging countries which they have already adopted hence diverting African countries' focus from fundamental challenges they are currently facing in movement of goods and services across their borders. This means African countries have to undertake legislative, policy and infrastructural changes to be able to comply with the provisions. Therefore, trade facilitation will benefit developed countries since it will open gateways by quickening up the entry of their goods into the developing countries' territories.

Further, the text does not address how it will stimulate exports, which are vital if developing countries are to take advantage of trade facilitation. Given that the vast majority of the African countries are net importers, this will cause greater economic difficulties to these countries hence balance of payment problems and increased external competition. Balance of payment problems has a knock on effect on debt service for some African countries because reduced export receipts means a country has less foreign currency to meet its debt obligations. This may lead to some countries failing to make debt repayments to their creditors or debt becoming unsustainable in the long run.

In addition, member states are obliged to amend their existing customs legislation and institutional frameworks to effect the agreement. The legislative and institutional changes will be augmented by corresponding investments in infrastructure. This means some countries will end up prioritising improving their customs systems and development of port infrastructure over other pressing national programmes such as health, education and food security. On the other hand, failure to abide by the agreement, a member state can be taken to the WTO Dispute Settlement Mechanism (DSM) for legal action if the commitments are not adhered to.

The agreement was made worse by the removal of financial support from the original text, leaving only technical support. However, the technical assistance aspect has no binding donor commitments especially from the developed countries and does not indicate neither the source of the funding nor mobilisation mechanisms. Even though there are existing donor capacity building and technical assistance such as the aid for trade, the Bali Package requires more coordinated resource mobilisation efforts. The trade facilitation agreement is just but one aspect of the issues under the DDA negotiations but already member states have agreed to start the implementation of the agreement contrary to the single undertaking principle. Under the single undertaking principle, all the issues under the DDA negotiations would be agreed as a whole package rather than a single or few-(*continued...*)

[8] *Peterson Institute for International Economics (2013), Pay off from the World Trade Agenda, Report to the ICC Research Foundation, Washington DC*
[9] *ECA databank, available on, http://www.uneca.org/pages/eca-databank, accessed 3 December 2014*

issues. Although there was stiff resistance from developing countries, in November 2014 member states adopted a Protocol of Amendment to insert the trade facilitation agreement into the WTO Agreement. However, the agreement can only come into force after two thirds of members have completed domestic ratification with only Hong Kong[10] ratifying the agreement by December 2014.

b) Agreement on Agriculture

The agricultural issues focused primarily on changing the current rule on public stockholding for food security purposes and, secondarily, on export competition, TRQs and cotton. The major debate on agriculture was on the public stockholding for the purpose of food security and there were two viewpoints on the price benchmark for the valuation of the food stocks countries can legally hold at a time. Public stockholding for food security concerns the limitation of the internal agricultural support, where the volume was calculated in 1992 when the Agreement on Agriculture (AoA) was reached. The prices used are based on 1986 - 1988[11] levels, which no longer take into consideration current trends. India, on behalf of the G33 group preferred to use current prices, not the 1980s prices in the AoA.

The other option was an interim solution until a permanent one is agreed. Member states agreed on an interim solution, known as the "Peace Clause" as well as to negotiate an agreement for a permanent solution, for adoption by the 11th Ministerial Conference in four years time from the Bali conference. During the interim solution period member states will not take each other to the WTO's DSM under the AoA in relation to support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes that existed before the date the decision was made.

The biggest shortcoming of the Peace Clause to most of the developing countries is that it applies only to stock holding programmes currently underway or existing by December 2013 when the agreement was reached. Developing countries that did not have such programmes are not allowed to implement them after December 2013, which may threaten food security.

Another concern of the Peace Clause is the ability of member states to conclude the negotiations for a permanent solution within the agreed four years given that the DDA contentious issues have been dragging on since 2001. Critically, the negotiations for a permanent solution will have a knock on effect on the AoA rules including the definition of the different types of subsidies according to their alleged level of trade distortion. This is likely to be contentious since opening negotiations for the existing AoA rules provides a window of introspection for developing countries, a move likely to be contested by developed countries.

There was nothing new with regards to export competition and cotton issues from Bali except the political statement to ensure they are lowered. This is despite the negative effects of trade-related developments, especially export subsidies and measures, domestic support and non-tariff measures on market access and export competition of cotton products exported from LDCs to developed countries. The issue of cotton subsidies has resulted in devastating impacts on cotton growers in West African countries namely Benin, Burkina Faso, Chad and Mali because of depressed world prices. On TRQs, it was agreed that member states must evaluate the allocation of licenses, and when licenses held by private operators are under-filled for reasons other than those that would be expected to be followed by a normal commercial operator.

10 https://www.wto.org/english/news_e/news14_e/fac_10dec14_e.htm

11 *WTO Agreement on Agriculture, Annex 3*

Recommendations

The Bali Package did not cover the full round of the DDA but set the pace for future negotiations of the remaining subjects. The Ministers in Bali instructed the Trade Negotiations Committee to prepare a clearly defined work programme on the remaining DDA building on their decisions. This is an opportunity for African countries to strongly address some of the issues cited in this paper. The following are recommendations for African countries to consider:

(i) With regards to trade facilitation, Africa and other developing countries should invoke the single undertaking principle, whereby all the agreements will be implemented when the whole DDA negotiations are completed. This means the trade facilitation agreement's entry into force should be linked to the conclusion of the DDA and the single undertaking principle. The advantage of the single undertaking is that big issues (agriculture and NAMA) in the DDA are interconnected and therefore must be tackled together rather than in isolation;

(ii) There is need for African countries to conduct a detailed needs assessment of its trade facilitation requirements. The outcome of the needs assessment should then build a strong and factual case for capacity building, technical assistance and more importantly financial assistance at the WTO;

(iii) African countries should take advantage of provisions for implementation flexibilities in the trade facilitation agreement if they are facing challenges at the moment. The flexibilities allow self designation of binding provisions with different implementing phases and time frames depending on one's capacity. These flexibilities also allow policy space for most Africa countries that are still at various stages of development of their customs management and systems but facing challenges at the moment.

(iv) African countries should stick to the G33 proposal as presented by India which aims to remove WTO obstacles to food security. This includes updating the international reference price from the 1980s which makes any administered price today seem like a massive subsidy. This will give developing countries an opportunity to have a retrospect of the AoA rules, hence address unfair rules, which are in favour of the developed world.

(v) African countries should consolidate or adopt complimentary domestic policies that enable them to take advantage of the potential trading opportunities that will arise from the DDA negotiations. These include among others, addressing supply-side constraints, production of dynamic export products, and escalating regional integration efforts in critical areas such as infrastructure and industrial development.

(vi) There is need for active and sustained engagement from African CSOs by helping to shape the agenda through research that inputs new ideas, mobilising citizen support and advocacy for progressive outcomes.

Conclusion

International trade can be used as an engine for growth and poverty reduction but Africa has not been able to meaningfully tap the gains from multilateral trade. This can largely be attributed to dependence on export of primary commodities due to low value chain development. Even though the Bali Package contains a few issues of the DDA, it helped breathe some life into the stalled DDA negotiations. Even if the Bali package brought an unsatisfactory result, it is nevertheless a first step by developing countries to change totally the unfair rules of the AoA. However, more work needs to be done in order to complete all the remaining issues for negotiation under the DDA.

For African countries to maintain policy space and flexibilities in the DDA negotiations, the trade facilitation agreement implementation has to be linked to the conclusion of the DDA under the single undertaking principle. The early harvest on trade facilitation should not come at the expense of agreeing on binding rules on food security proposals and agriculture which is the mainstay of many economies in Africa. The Peace Clause is just but a temporary solution of public food stockholding programmes for food security purposes and African countries should continue to push for the G33 proposal. The G33 proposal will result in the review of the AoA, enabling developing countries to have a retrospect of the AoA rules to ensure that more policy space is given to developing countries. The policy space allows them to invest in productivity and production output that result in improved food security and livelihoods. Therefore, Africa needs to push for the development pillar of the DDA that will provide greater access to developed countries' markets in order to improve the livelihoods of their people.

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