



Trade Hot Topics

Priorities for Small and Vulnerable Economies in the WTO: Nairobi and Beyond

Poorvi Goel, Stephen Fevrier and Teddy Y Soobramanien*

Background

Since the establishment of the World Trade Organization (WTO) more than 20 years ago, small and vulnerable economies (SVEs)¹ have sought to gain special recognition and treatment within the multilateral trading system due to their unique characteristics. It is beyond question that structural and systemic constraints based on a host of internal and exogenous factors including geography, market size and structure, demography, and climate change, make SVEs distinct among WTO members. The purpose of this issue of *Commonwealth Trade Hot Topics* is to contribute to the discussion on the adjustment of SVEs to the multilateral system, and present approaches to be considered on the road to the Nairobi WTO Ministerial Conference in December 2015 and beyond.

In 2001, the Doha Ministerial Declaration established a Work Programme for Small Economies, under the auspices of the General Council, 'to frame responses to the trade related issues identified for the fuller integration of SVEs

into the multilateral trading system, and not to create a sub-category of WTO members.' The Ministerial Declaration at Hong Kong in 2005 reaffirmed the need to 'adopt specific measures that would facilitate their [small economies'] further integration into the multilateral trading system, without creating a sub-category of WTO members.'

A number of *ad hoc* and discipline specific flexibilities have been negotiated and agreed in keeping with the mandate of the 4th Ministerial Conference in Doha in 2001. Notwithstanding the expansion of flexibilities, SVEs continue to face challenges in the expansion and deepening of their exports into global value chains. When considered as a group, they have been the slowest to return to trend growth in the post-crisis period and now confront a myriad of challenges, including deteriorating fiscal and current account positions as well as elevated levels of external debt. While domestic policy interventions are critical elements within the policy toolbox required to respond to these challenges, the multilateral system can play a

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¹ Small, vulnerable economies (SVEs) are those WTO members that, in the period 1999 to 2004, had an average share of (a) world merchandise trade of no more than 0.16 per cent or less, (b) world trade in non-agricultural products of no more than 0.1 per cent, and (c) world trade in agricultural products of no more than 0.4 per cent. In the Commonwealth, there are 31 small states, defined as sovereign countries usually with a population of 1.5 million people or fewer.

more meaningful role in this effort by moving beyond ad hoc and issue specific responses to systemic and cross-cutting solutions for SVEs.

The 10th WTO Ministerial Conference (MC10) in Nairobi, Kenya, offers an opportunity for SVEs to present concrete suggestions on how the multilateral trading system can provide a tailored response of a systemic nature that would support the beneficial integration of SVEs into the world economy.

It is undeniable that SVEs suffer from a combination of inherited and inherent characteristics that impede their ability to integrate into the global economy.² A compelling body of empirical evidence has emerged that supports the proposition that they confront peculiar structural limitations, including: high production costs; small internal markets; a narrow range of export products and services; small and highly specialised labour markets; high transportation costs; and physical isolation from external markets.³ Moreover, high fixed costs of private sector activities imply cost disadvantages and a more concentrated market structure that is less competitive. In the public sector, these cost structures result in higher transactional costs and reduced service volumes.⁴ While it is accepted that international trade can assist in overcoming rigidities related to scale, the ultimate impact of international trade on SVEs is limited.⁵

Given their cost structures, SVEs have traditionally relied on exports from sectors where the export price includes market or institutional *quasi* rents.⁶ These have usually taken the shape of high remunerative prices for commodities benefiting from non-reciprocal preferences, particularly in the European market. Reforms to the European Union import regime for commodities, including bananas and sugar, have led to the erosion of the trade preferences enjoyed by many African, Caribbean and Pacific (ACP) SVEs.⁷ These changes in the external environment led by the enforcement of multilateral rules have resulted in severe economic

displacement and painful adjustments in many SVEs – particularly those mono-crop microstates that benefited from non-reciprocal preferences. Indeed, no other group of developing countries, including least developed countries (LDCs), has been obliged to undertake such wide-ranging adjustments during the past two decades.

Measures of importance for SVEs

Towards the establishment of a new architecture for SVEs, the WTO membership can build on many of the lessons already learned from the expansion of the basket of available flexibilities – from longer transition periods and shallower commitments in market access, to linking implementation to the acquisition of capacity. The implementation framework pioneered in Section II of the WTO Trade Facilitation Agreement which links developing country commitments to the acquisition of capacity, is an innovation and a significant precedent that can be replicated to the benefit of developing countries on a host of disciplines, particularly with respect to Rules.

This approach, however, suggests a *generalised* developing country flexibility that would not provide SVEs with a concession qualitatively different to those received by other developing countries. Indeed, to the extent that this approach can be adapted, SVEs should seek to entrench this framework for implementation within all new multilateral disciplines. While further development of such a framework marks progress and provides SVEs with additional tools, the implementation framework remains a piecemeal and *ad hoc* solution that does not fundamentally address the structural limits of SVEs.

The main constraints to the development of SVEs cannot be only addressed through longer implementation periods. Indeed, neither shallower commitments nor longer implementation timeframes can adequately address the structural constraints faced by SVEs. For this reason, SVEs should see the post-Bali work programme and the

2 Grynberg, R and Remy, J Y (2003), 'Small Vulnerable Economy Issues and the WTO', in Mbirimi, I, Chilala, B and Grynberg, R (eds.) From Doha to Cancun: Delivering a Development Round, Commonwealth Secretariat.

3 Ibid.

4 International Monetary Fund (2013), Macroeconomic Issues in Small States and Implications for Fund Engagement, IMF.

5 Ibid.

6 Grynberg, R and Remy, J Y (2003), 'Small Vulnerable Economy Issues and the WTO', in Mbirimi, I, Chilala, B and Grynberg, R (eds.) From Doha to Cancun: Delivering a Development Round, Commonwealth Secretariat.

7 International Monetary Fund (2013), Macroeconomic Issues in Small States and Implications for Fund Engagement, IMF.

8 Grynberg, R and Remy, J Y (2003), 'Small Vulnerable Economy Issues and the WTO', in Mbirimi, I, Chilala, B and Grynberg, R (eds.) From Doha to Cancun: Delivering a Development Round, Commonwealth Secretariat.

road to Nairobi as an opportunity to seek incremental adjustments in multilateral rules, but more fundamentally to renew the call for a more systemic approach to the treatment of the unique constraints faced by SVEs.

Fisheries subsidies

The deployment of capacity enhancing subsidies poses the twin risks of creating an unequal playing field between subsidising and non-subsidising countries, but more importantly, capacity enhancing subsidies can have a negative impact on marine ecology and ecosystems. The Doha Ministerial Conference launched negotiations to 'clarify and improve' WTO disciplines on fisheries subsidies. Four years later, at the Hong Kong Ministerial Conference in 2005, WTO members agreed to strengthen disciplines, including through a prohibition of certain forms of fisheries subsidies that contribute to overcapacity and overfishing. The challenge now facing negotiators is to develop stronger rules while respecting the important policy concerns of WTO members, particularly developing and least developed countries.⁹ More precisely, the challenge for the membership continues to be the balancing of ecological sustainability and trade concerns with flexibilities for developing countries which do not deploy capacity enhancing subsidies or those SVEs which lack the capacity and resources to provide potentially harmful levels of support.

To ensure that the prohibitions proposed in the negotiating text do not function as a blunt object that unduly limits the ability of SVEs from providing much needed support to small and artisanal fishers, in 2010 the SVEs proposed a special carve-out from the proposed general prohibitions in favour of SVEs. The proposal captioned in TN/RL/GEN/162 seeks to secure exemptions for vessels under a certain size. The proposal sets out detailed conditions for qualifying members to access the proposed flexibility. In the context of the SVEs seeking both cross-cutting and issue specific flexibilities, the referenced SVEs proposal is one element of an overall approach that should be considered for inclusion into the package of proposals to be considered in the post-Nairobi context.

In the lead-up to Nairobi, and in the absence of consensus on a more comprehensive menu of prohibitions and flexibilities, members should seek

to make progress wherever possible. In this regard, there appears to be a high degree of convergence on the prohibition on subsidies that impact on vessels engaged in illegal, unreported and unregulated (IUU) fishing. This general approach has been endorsed by the international community in Sustainable Development Goal (SDG) 14.6, which aims by 2020 to 'prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing', and to 'eliminate subsidies that contribute to IUU fishing'. Goal 14.6 further urges members to 'refrain from introducing new such subsidies, recognising that appropriate and effective special and differential treatment for developing and least developed countries should be an integral part of the WTO fisheries subsidies negotiation'.

In the absence of convergence on the broader agenda on fisheries subsidies, SVEs should consider the targets outlined in Goal 14.6 of the SDGs as a reasonable target for an outcome for a Ministerial Decision at Nairobi. Members may further consider the inclusion of elements of the African, Caribbean and Pacific group proposal on transparency measures contained in JOB/TNC/46¹⁰ into the agenda for the 10th Ministerial Conference. As noted above, SVEs should consider linking the implementation of new commitments to the acquisition of capacity.

Services

The services sector in SVEs is vital in overcoming disadvantages of smallness and remoteness and improving their resilience. Expansion of the services sector has implications for increased growth, employment, competitiveness, export and investment for these economies. Of particular importance to SVEs is expansion of tourism and health services (which are labour intensive in nature and therefore lead to employment creation), the ICT sector (which facilitates knowledge transfer and leads to faster growth) and financial services. Improved services regulation for attracting investment and enhancing competitiveness is consistent with the substance of trade negotiations, and it would benefit SVEs to consider a more ambitious posture on trade in services, ahead of the WTO MC10.

In the landscape of international trade agreements, the conclusion of the Doha Round is still elusive

⁹ https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm

¹⁰ JOB/TNC/46; 15 March 2015.

after 14 years, and this lack of focus has resulted in a proliferation of regional trade agreements with different implications of services sectors in SVEs and the threat of marginalisation. The WTO General Agreement on Trade in Services (GATS) comprises negotiations on market access, domestic regulations, GATS rules, and implementation of LDC modalities. On market access, there has been little progress in the last decade under GATS, and progress appears to be linked to progress in agriculture and NAMA negotiations. Under domestic regulations, there is intermittent progress with disciplines to ensuring that licensing requirements, transparency procedures and technical standards do not constitute disguised restrictions on trade in services.¹¹ If there is progress on this front, service providers from SVEs may face less difficulties in accessing other markets. Similar to market access, negotiations under GATS rules are mostly stalled at the conceptual stage, as progress has proved challenging. The success of GATS lies in the implementation of the LDC modalities, wherein members were granted a 'waiver' that would release them from the obligation to provide non-discriminatory treatment to all trading partners when providing more favourable treatment to LDC services and service suppliers.¹² Operationalising this waiver was adopted as part of the LDC package at the 9th WTO Ministerial Conference in Bali in 2013.¹³

The 10th WTO Ministerial Conference in Nairobi represents an opportunity for SVEs to develop positions under GATS to secure greater market access in services sectors, identify cross-cutting domestic regulations for reform, and develop strategies towards market liberalisation of strategic domestic services sectors. This includes possibly developing a more extensive list of commitments for modes 1 and 2 in selected sectors to liberalise discriminatory measures affecting all included sectors. Furthermore, the Special and Differential Treatment (S&DT) architecture of the Trade Facilitation Agreement can provide a framework for an SVE S&DT provision under GATS which is focused, flexible and country-specific, with members inserting their specific interests and requests into an agreement.

Barring the LDC services waiver, there has been little progress in WTO on the post-Bali services agenda for SVEs. SVEs can push for a widening of the 'LDC umbrella' and an extension of these preferences to include SVEs that are not already included in the LDC category. Preferential market access to suppliers of services, and increased technical and financial assistance to strengthen domestic capacity, will advance the goal of 'free and fair' participation and result in strong development linkages for these service-dependent economies.

Outside of the WTO ambit, there are a growing number of regional and plurilateral trade negotiations going on. In the services sector, for example, there is the Trade in Services Agreement (TiSA), to liberalise trade in services. It involves, at present, 24 WTO members, including the EU, who together account for 70 per cent of world trade in services. Given the importance of the services sector to the SVEs, it is important for SVEs to monitor and access information on TiSA to assess potential implications with a view to the design of policy options in line with the emerging global trade landscape. In particular, instead of a defensive reflex on the TiSA, it is better to actively monitor and respond to TiSA-based proposals in the GATS negotiations.

Agriculture and NAMA negotiations

SVEs have managed reasonably well in having their concerns and interests reflected in the Agriculture and Non-Agricultural Market Access (NAMA) negotiations. The current draft negotiating texts (Rev.4 in Agriculture and Rev.3 in NAMA) contain explicit references to the SVEs and the treatment to be accorded to them with respect of the three pillars of the agriculture negotiations, viz. Market Access, Domestic Support and Export Competition. In light of the lack of definitional clarity on what constitutes a 'small economy' in the WTO context, members have agreed that all countries that do not breach an agreed threshold of participation in international trade would benefit from special treatment under the modalities ascribed to SVEs. Accordingly, for both agricultural and (NAMA) industrial goods countries below predetermined threshold during a base period

¹¹ Draft Disciplines on Domestic Regulation Pursuant to GATS Article VI.4, Informal Note by the Chairman, Room Document, 20 March 2009.

¹² WT/L/847.

¹³ WT/MIN(13)/43.

would benefit. Countries with less than 0.1 per cent of world NAMA trade for the reference period of 1999 to 2001 (or best available data as contained in document TN/MA/S/18) would benefit. A parallel yet differentiated approach was also agreed for agriculture. Countries with a participation in world agriculture trade not exceeding 0.40 per cent would be granted special flexibilities with respect to the obligations to be agreed.

Indeed, SVE specific provisions provide for an alternative path to the further liberalisation of agricultural lines through attenuated tariff reductions. In addition to tariff reduction flexibilities, the draft modalities also provide benefits for SVEs through a Special Safeguard Mechanism (SSM) to respond to volatility in import volumes and prices.

S&DT applies in general to a wide spectrum of developing countries. The recognition of the specific situation of SVEs and insertion of dedicated provisions for them are steps in the right direction, which at a minimum should be maintained should the negotiations proceed on the basis of the draft texts referenced above. While the draft modalities elaborate a more defensive posture for SVEs, consideration should be given to more market seeking and offensive approach to identified products of export interest to SVEs. The current agriculture text is limited in that regard but does contain an often overlooked element that can be built upon, as in a future work programme. Specially, the modalities provide that '[d]eveloped country Members and developing country Members in a position to do so shall provide enhanced improvements in market access for products of export interest to Members with small, vulnerable economies.' In the NAMA context, in recognition of the non-tariff barriers (NTBs) faced by SVEs in export markets consideration should be given not only to market seeking proposals but also addressing NTBs from a transparency standpoint in the immediate term and from a systemic standpoint in the longer term. Some organisations such as the ITC and UNCTAD in Geneva which are already working on NTB issues might provide assistance to allow SVEs to better understand and address NTBs.

The efforts towards the integration of SVEs into the global trading system have at once been

necessary and insufficient. The world economy and production structures for both agriculture and industrial products are rapidly evolving, with the potential to impact or disrupt the dynamics or even ethos of the current negotiations. These external factors are already having an impact on the negotiations – with some members seeking to discard the development dimension of the Doha Development Agenda and looking to focus more on market access. Indeed, externally generated pressures are likely to have an impact on the level of ambition being sought and the nature and scope of flexibilities. Inevitably this will impact on the positions and strategies to be adopted by the SVEs. The incremental progress reflected in the concessions made by the WTO membership in favour of SVEs represents tacit acceptance of the special circumstances and needs of SVEs. These concessions while necessary have proved insufficient to fulfil the mandate of securing the beneficial integration of SVEs into the global economy. Moreover, given their declining relative share of global trade and challenges in moving up the value chain, SVEs should seek to more frontally address their developmental challenges through a more systemic approach to addressing their structural constraints at the multilateral level.¹⁴

Nairobi and beyond

With the lapsed deadline, 31 July 2015, for the completion of a post-Bali work programme as mandated by ministers at Bali, and extended by the General Council, developing countries, led by SVEs can build upon the submission JOB/TNC/50¹⁵ 'Proposals for Bridging Gaps on Remaining Doha Development Agenda Issues and Development Outcomes for the WTO Tenth Ministerial Conference' and call for the frontloading of modalities within the post-Bali work programme. The referenced submission recognises the need for special treatment for LDCs and SVEs and calls for a raft of ad hoc and issue specific flexibilities for both LDCs and SVEs.

While multilateral trading rules account for all but one dimension of the overall basket of challenges faced by SVEs, the WTO can serve as a more robust vehicle for market-based reforms that also fundamentally addresses identified structural constraints. Hence, meaningful WTO reforms can serve to integrate SVEs into the global economy

¹⁴ Background paper containing key policy options and strategic guidance for Commonwealth Caribbean States, Stephen Fevrier, 2015. -

¹⁵ JOB/TNC/50; 30 July 2015.

while better insulating them from externally generated shocks that all too often compromise growth and set back development.

To be sure, longer transitional periods and flexibilities cannot change the inherent structural limits imposed on small economies including small internal markets, high transportation costs and low connectivity, susceptibility to climate change, physical isolation from markets, high energy costs, high cost of capital, and a narrow and specialised workforce. For this reason, SVEs should see the post-Bali work programme and the road to Nairobi as an opportunity to seek incremental adjustments in multilateral rules, but more importantly, to renew the call for a more systemic approach to addressing the challenges faced. An adaptable framework similar to the one pioneered through the Trade Facilitation Agreement which ties implementation to the acquisition of relevant capacities should become a feature in future multilateral trade agreements

As negotiators enter the final stretch before the curtains go up in Nairobi, SVEs should aim to find an outcome at MC10 or implant the following into a post-Nairobi framework: preserve the Agriculture

and NAMA flexibilities; support measures that aim to provide greater transparency with respect to subsidy programmes and practice; the agreement to prohibit subsidies that impact on IUU fisheries; the expansion of the LDCs services waiver 'umbrella' to SVEs; and transparency measures, mapping and reporting on NTBs.

From a systemic standpoint, the WTO remains the 'only game in town' through which SVEs can implant their interests on the rules of trade. Their numbers and the 'consensus rule' of the WTO provide proponents with negotiating leverage beyond their physical or political-economic size. Should members retreat to options outside of the WTO, this would have a significant impact not only on the rules of trade but SVEs will have no means of influencing the nature of those rules. Indeed, the conclusion of the Trans-Pacific Partnership portends a new paradigm in international trade given the size of the bloc and the quantum of trade that these new rules will be subject to. In the end, SVEs can play a constructive role even while seeking to secure positive outcomes on the specific disciplines noted above.

International Trade Policy Section at the Commonwealth Secretariat

This Trade Hot Topic is brought out by the International Trade Policy (ITP) Section of the Trade Division of the Commonwealth Secretariat, which is the main intergovernmental agency of the Commonwealth – an association of 53 independent states, comprising large and small, developed and developing, landlocked and island economies – facilitating consultation and co-operation among member governments and countries in the common interest of their peoples and in the promotion of international consensus-building.

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

Scope of ITP Work

ITP undertakes activities principally in three broad areas:

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

ITP Recent Activities

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

Selected Recent Meetings/Workshops Supported by ITP

12 -13 November 2015: Emerging Global and Regional Trade Issues for the Commonwealth Pacific Region, held in Tonga.

15 - 16 October 2015: Meeting for Commonwealth Caribbean Countries in Preparation for the 10th WTO Ministerial Conference, held in Bridgetown, Barbados.

29 September - 1 October 2015: Expert Group Meeting on Trade in Sustainable Fisheries, held in Geneva, Switzerland.

23 - 24 June 2015: Commonwealth Trade Symposium: 'Shaping a Global Trade Agenda for Development', held in Johannesburg, South Africa.

18 - 19 June 2015: Workshop for Commonwealth African Countries in Preparation for the 10th WTO Ministerial Conference, held in Kigali, Rwanda.

18 May 2015: Workshop on Post-Bali Issues and Preparation for the 10th WTO Ministerial Conference: A South Asia Perspective, held in Colombo, Sri Lanka.

25 - 26 March 2015: Consultative Meeting of Commonwealth Expert Group on Trade, held in Malta.

3 March 2015: Meeting of Market Access and Other Issues relevant to Small States in Geneva: Options in the Post-Bali Context, held in Geneva, Switzerland.

15-16 December 2014: International Conference on 'Mega Trading Blocs: Implications for Developing Countries' held in New Delhi, India

5-7 November 2014: 7th South Asia Economic Summit (SAES VII): Towards South Asia Economic Union and the Launch of the Publication on *Regional Integration in South Asia: Trends, Prospects and Challenges*, held in New Delhi, India

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