

Regional Consultation Seminar
South Asian Positions in the WTO Doha Round
SAFIT, Phase III
18 June 2010, Colombo

Event Report

The Regional Consultation Seminar under Phase III of the project ‘South Asian Forum for International Trade (SAFIT)’ was organized by CUTS CITEE at Colombo on 18th June 2010, in collaboration with the Institute of Policy Studies (IPS), Sri Lanka. The Seminar, with the objective of facilitating discussions on framing of common negotiating positions by five South Asian Countries (Bangladesh, India, Nepal, Pakistan and Sri Lanka) in the Doha Development Round (DDR) of WTO negotiations, had the participation of trade negotiators, academicians, civil society representatives and media from the programme countries.

The proceedings started with an inaugural session followed by three technical sessions, one each on Agriculture, NAMA and Services. Each of the technical session had a panel constituting a chair, a presenter and two discussants. Open floor discussions were conducted after each presentation in order to deliberate on the view points and suggestions of the participants. The following sections of this event report provide session wise summary of the presentations and discussions.

1. Inaugural

Inaugural Address – Saman Kalegama, Director, IPS Sri Lanka

Introduction to the SAFIT Project – Archana Jhatkar, Policy Analyst, CUTS CITEE

Key-note Address – Anwarul Hoda, Former DDG of the WTO

The inaugural session started with introductory remarks by Saman Kalegama, who highlighted the increasing relevance of common South Asian (SA) positions in the WTO negotiations, given the success of most of the existing coalitions in the WTO. Kalegama pointed out that increase in the number of issues dealt within the WTO framework has aggravated divergence within the WTO members from the South Asian region and it is extremely important to regain regional unity in issues of common interests, as was the case at the start of the Doha Round. This is particularly important if South Asian countries, which together account for only about 2 per cent of global trade, are to withstand pressure from larger players and call attention to their common interests. He said that consultations of this nature would sensitise policy makers about the need for framing common stance and thereby enable the region to participate more effectively in the WTO Process.

Archana Jhatkar, in her welcome address, introduced the project, stating that the SAFIT initiative aimed at providing negotiating inputs to South Asian negotiators keeping also in view the democratic deficit in trade policy formulation in these countries. The initiative, riding on its success, is into the third phase in which the policy recommendations made through the earlier phases are being updated in the light of the new developments that have been taking place in the Doha Round negotiation.

Anwarul Hoda resounded the opinion that there exists commonalities in the positions adopted by South Asian countries given the state of play of the ongoing negotiations, and lauded the Seminar’s objective of facilitating regional consultation to realise the goal of forming an active

alliance from the region. Prof. Hoda also opined that though the Doha Round has been prolonged, he agrees with the present WTO chief that 80 per cent of the mandate of talks has been covered so far and once concluded, the results hold many promising prospects for developing countries and South Asian region will also benefit from the outcomes. The decision to completely eliminate export subsidies within a short time frame and the broad agreement on reduction of domestic subsidies etc are signs of significant progress. Major advances have also been achieved in the areas of Trade Facilitation negotiations, S&DT treatment and flexibilities for developing countries in Agriculture and NAMA. Further, Hoda made four significant comments regarding the state of play of the Doha Round negotiations:

- Though the negotiations have not reached the threshold in issues covering Rules, Geographical Indications, fisheries subsidies, Environmental Goods and Services etc. and the members are poles apart in some of the outstanding issues, once an agreement is reached with respect to market access modalities in Agriculture and NAMA, there will be rapid progress in other areas as well.
- Resolution of the outstanding issues highly depends on the contribution of G20 countries and the willingness of the US to yield to the demands for substantial reduction in farm subsidies. Addressing a few other concerns like abandoning the practice of ‘zeroing’ in Anti Dumping calculations is also key to galvanising the negotiations.
- The developing countries must reflect upon how far S&DT and flexibilities are in their interest. As these countries are adopting outward looking economic policies, demand for more S&DT provisions is proving to be a poor bargaining tool to bring down the developed countries’ barriers. In future rounds members must concentrate more on general rules and less on S&DT provisions.
- The general tendency to attach more value to FTAs would prove futile in future and it is important for the WTO process that the members realise that the removal of tariffs on the MFN basis ultimately will and should wash away the preferences created by FTAs. All members should therefore better employ their negotiating capital and capacities for the benefit of multilateral trade liberalization.

2. Session I: Agriculture in the DDR and South Asian Positions

Chair: Fredrick Abeyratne, Senior Programme Analyst, UNDP

Presenter: Anwarul Hoda, Former DDG of the WTO

Discussant (1): Anura Herath, Sri Lanka Country Management Facilitator, IFAD

Discussant (2): Kamal Karunagoda, Agricultural Economist, Department of Agriculture

Presentation

The session started by noting that more than one third of the workforce in SA is employed in agriculture and there are serious concerns regarding low productivity in the agricultural sector consequently affecting livelihoods and poverty. Agriculture negotiations is the most vital part as far as participation of SACs in the WTO process is concerned.

Anwarul Hoda, gave an overview, covering the main issues, progress made and remaining disagreements in the three pillars of agriculture negotiations viz, (i) Market Access, (ii) Domestic Support and (iii) Export Competition. Prior to the framing of Agreement on Agriculture (AoA) these three areas were almost entirely without specific disciplines.

Reduction of highly trade distortive domestic support given by developed countries to their respective farm sectors have been the most sensitive issue. Disciplines were brought in with the framing of AoA in the form of Aggregate Measure of Support (AMS) with commitments to schedule/declare the most distortive support measures and decide upon appropriate modalities to reduce them. The contentious issue here is that there exists escape clauses and definitional opacity that allows the developed countries to continue with high level of support. In addition, there exists high amount of 'water' between committed level of reduction in bound rates of support and the actual amount of support currently given in these countries.

On the Market Access side, developed country markets still poses a lot of non-tariff measures (NTMs) and tariffication of these measures has ironically led to higher tariff barriers. Tariff ceiling is a very sensitive issue to developed countries and they argue that the ceiling limit of 150 per cent is too low for them. On the other hand developing countries have been concentrating on S&DT treatment and flexibility clauses that would allow them to reduce their tariffs by a lesser amount and also protect their domestic sectors with tariff walls in case of contingencies like sudden import surges.

In both these broad areas South Asian Countries (SACs) can collaborate in future in order to properly define trade distortive support measures and induce more reduction commitments in the same as well as refocus on tariff reduction modalities, proper treatment NTBs etc. SACs may also strike common ground with respect to the issues including (i) fixing of sensitive products at 4 per cent of tariff lines as well as tariff caps for developing countries at 100 per cent and that for developed countries at 150 per cent, (ii) contribution to tariff simplification process and (iii) drafting the fine points of the special safeguard mechanism.

Comments by Discussants

Kamal Karunagoda and Anura Herath cited the case of Sri Lanka's experiences regarding designation of Special Products and raised the issue of implementation problems that may arise once the Doha Round is completed. They argued that while it is important for the SACs to stand together in pushing forward outstanding issues of their interest, availing flexibilities and usage of instruments of protection that results from the WTO negotiations may not help in resolving the long standing problem of low productivity in the region that requires special and targeted domestic policy initiatives. It was highlighted that competitiveness must be self attained and initiatives to enhance intra regional trade may be effective in this regard and shall be pursued alongside multilateral trade liberalization agenda.

Floor Discussion

The main points raised during the ensuing discussion was that of the efficacy of forming South Asian coalition at this later stages of negotiations, the measures that can be taken to prevent evasion of reduction commitments on domestic subsidies by developed countries and the feasibility of reviving the South Asian Free Trade Agreement (SAFTA).

It was recommended that with respect to the issue of curbing the tendency of 'box shifting' in order to evade reduction commitments in domestic subsidies, SA countries shall pursue the proposal for review and revision of blue box and green box criteria for making the support measures included therein are less trade distorting. At least one discipline shall be brought forth that would ensure that the so called 'decoupled income support' included in the green box must only be available to poor farmer. The session ended with the note that framing of common

positions in these areas of WTO negotiations by SACs would only help countries from the region to advance the spirit of economic cooperation and revitalise the earlier initiatives for facilitating intra-regional trade under SAFTA.

3. Session II: NAMA Liberalisation: Priorities for South Asia

Chair: Anwarul Hoda, Former DDG of the WTO

Presenter: Zafar Mahmood, HEC Foreign Professor of Economics, Pakistan Institute of Development of Economics (PIDE)

Discussant (1): Agneshwar Sen, Joint Director General, Office of the Zonal Joint Director General of Foreign Trade, India

Discussant (2): Amity Sen, Senior Assistant Trade Editor, The Economic Times, India

Presentation

Zafar Mahmood started his presentation by stating that South Asian countries recognize the vitality of freer, fair and equitable international trade for prosperity, development and alleviation of abject poverty from the region and therefore have participated in the NAMA negotiations with the objective of fulfilling these objectives. He covered the main the outstanding issues in NAMA viz., extent of product coverage, reconciliation of the modalities of tariff reduction (through the non-linear 'Swiss Formula'), interpretation of 'less than full reciprocity' i.e., developing countries' entitlement to decrease tariffs to a lesser extent than DCs, and over a longer period of time.

The other major outstanding issues include effects of tariff peaks and cascading for sectors of direct export interest to developing countries, reduction of Non-tariff Barriers (NTBs) including import quotas and technical barriers and the so called 'sectoral approach' wherein members are expected to eliminate or substantially reduce tariffs on specific products. In addition, Least Developed Countries (LDCs) are concerned that generalized tariff reduction would erode preference now enjoyed by them and therefore seek a solution for the same.

Gauging the significance of these issues for SACs, Mahmood suggested that SA must evolve a negotiation strategy that results into such ground rules, which ensures S&DT rights for developing nations and LDCs. In order to secure maximum tariff reductions for products of their export interest, SA should determine the extent to which it is willing to liberalize its trade to win tariff reductions and removal of NTBs by developed partners. Though the general focus must be on reduction of bound rates, for products where SA does not have potential comparative advantage it may agree to steep cuts in both bound and applied tariff rates and also must insist on conversion of all specific duties into *ad-valorem* from DCs.

Further, Mahmood suggested that SA should strive to seek substantial reductions or eliminations in tariff peaks and escalations for products of its export interest and also must seek flexibility in 'staging' of tariff reductions, i.e., longer period than DCs. SACs need to press for international financing for training of public officials, screening industrial countries' policies, and building a network with other developing countries to evolve a joint negotiation stand. His major recommendations were as follows:

- The principle of 'less than full reciprocity' in reduction commitments must be adhered to and flexibilities must be appropriate and adequate to address domestic sensitivities in SA.

- The ‘anti-concentration clause’ could adversely affect sensitive sectors as it could reduce flexibilities to identify which sectors and products are sensitive and need protection. So a careful stand needs to be developed.
- SA should take a position for the exclusion of their sensitive products from the list of bound goods.
- The issue of tariff peaks and escalation (i.e., cascading) in developed countries need to be separately dealt in negotiations from that of tariff reductions on other industrial products.
- On ‘remanufactured goods’ South Asia needs to develop a careful position since there are divergent views. There are fears that trade in these goods might harm local competing industry and degrade environment. Others view remanufactured goods’ imports as a cheap source of consumption for poor.
- SACs must insist that participation in sectoral negotiations should be voluntary and needs to take a joint and the strongest possible position in this regard, otherwise it poses the threat of eroding the control of domestic industries of strategic interest.
- LDCs are exempt from applying the reduction formula. But any reduction in tariffs will erode their preferences. Therefore, LDCs must closely watch the progress in this area of negotiations.

Comments by Discussants

The discussants pointed out that the modalities are yet to be finalised and the horizontal mechanism for tariff reduction should be closely and more deeply considered and analysed by SACs before a common position can be framed. The other substantial area is that of sectoral and before categorically refraining from reducing tariffs in specific sectors that are of export interests to developed countries, the developing countries may consider the modalities proposed for sectoral negotiations and may take aggressive stance for restricting the product coverage and other details thereof and use it as an effective bargaining tool for leveraging demand in other areas of negotiations. The issue of dealing with NTBs is the next highly important issue and in addition to the suggestions made in the presentations concrete proposals shall be prepared and submitted by the SACs in this regard.

Floor Discussion

The major questions raised were with respect to definition of NTBs in the NAMA negotiation and the adequacy of flexibilities granted to developing countries. The panellists agreed that the future export expansion of South Asian countries depends upon how meaningfully and comprehensively NTBs are addressed in the present Doha round of trade negotiations. So far no real progress has been made on NTBs under NAMA negotiations. It was felt that cooperation and concerted efforts among international and regional organisations are crucial to strengthen and improve the collection and dissemination of information on NTBs so that unfair usage of such barriers can be prevented till adequate disciplines are built in the Agreements. The principle of less than full reciprocity in reduction commitments must be adhered to and flexibilities must be appropriate and adequate to address the domestic sensitivities of developing and least developed countries. Two specific suggestions that came up are:

- SA must insist for longer tariff phase-out periods, which would allow the region to avoid acute adjustment shocks.
- If developed countries demands coefficient of their choice to be applied in the formula for tiered tariff reduction, then SACs may argue for linking it with complete removal of NTBs

The argument that SACs should take a strong position on ‘contingent protection’ that are increasingly practiced by DCs in the aftermath of Multi Fiber Agreement was supported. Special needs of LDCs and dealing with the issue of preference erosion also came up for discussion. Usage of Aid for Trade initiatives and Technical Assistance and Capacity Building (TACB) programmes to build supply side capacity in LDCs was the long term solution recommended during the discussions.

4. Session III: Services Negotiations: Is There a Common Agenda for South Asia?

Chair: Saman Kalegama, Director, Institute of Policy Studies

Presenter: Deshal De Mel, Research Economist, Institute of Policy Studies of Sri Lanka

Discussant (1): Arpita Mukherjee, Professor, Indian Council for Research on International Economic Relations (ICRIER)

Discussant (2): Pushpa Sharma, Programme Coordinator, South Asia Watch on Trade, Economics & Environment (SAWTEE)

Presentation

Deshal de Mel noted at the outset that as the SACs are undergoing structural transformation, wherein contribution of services sectors in Gross Domestic Product gradually surpasses that of agriculture and manufacturing, the relative share of services in their international trade profiles is growing at a fast pace. The sector presently accounts for 50 percent of regional GDP and the annual growth rate of services exports from the region was 23.5 percent during the last decade, higher than the world average. Consequently, the stakes for SACs in the WTO negotiation on services is now higher than ever before.

The presenter introduced the specific issues under services negotiations, the structure and content of the General Agreement on Trade in services (GATS) and categories of services being subjected to negotiations and the various modes under which services can be traded. Sharing the results from the data analysis the presenter showed that cross-border trade in IT-enabled services and financial services have been fast growing in SA region. This rapid growth can be attributed to the recent surge in investments in these sectors and overall economic growth within the region. Consequently there have been attempts to unilaterally liberalize these sectors in the SACs.

Technological advancement, labour force educated in English with skills in IT and other skills and wage differentials between developed and developing economies, has given the SACs an advantage in certain service sectors. In order to consolidate this advantage and grab the opportunities presented by global boom in demand for service products, the SACs can stand together for a number of demands at the WTO negotiations. The highlights of the observations and recommendations made were as follows:

- Among the modes of services trade that are of interest to South Asia, mode 4 (movement of service professionals) is of utmost importance as remittances play an important role in balance of payments and poverty mitigation in the region. As mode 4 is the most protected of all modes at a multilateral level, the argument for removal of barriers in mode 4 must be given utmost priority.

- SACs must demand for more liberalising commitments from trading partners for ensuring free movement of unskilled labour categories also by increasing transparency and simplification of qualification requirements.
- The Economic Needs Test (ENT) prescribed under Article 16 of the GATS has often been used as a market access barrier under Mode 4. The widespread use of ENT has become one of the artificial barriers preventing free movement of service providers. The discretionary nature of ENT reduces the predictability of trade through Mode 4 and actually nullifies the opportunity for market access. However, there are no clear-cut guidelines for the ENT. Therefore member nations must try and come together to establish definitive criteria under which the ENT will be applied and what will be the impact of applying this test on foreign service providers.
- Domestic policies must be attuned to enhance institutional arrangements for regulations, increase infrastructural capabilities to enable mode 1 trade and address other related supply side constraints to take advantage of outcomes of services negotiations.

Comments by Discussants

The discussants concurred with the presenter that mode 4 reserves the key to benefits from services trade for SACs. They recommended that common positions shall be adopted to remove a range of restrictions barring movement of personnel across borders which include, strict visa procedures, Economic Needs Tests (ENTs), wage-parity requirement, imposition of discriminatory standards or burdensome licensing requirements, payment of social security without corresponding benefits, non-recognition of professional qualifications, and requirements of registration with or membership of professional organizations

The other main concern raised by the discussants was with respect to import of services through mode 3 in the region. Regulatory capacities in the SACs are still at a nascent stage and the domestic industries may not be mature enough to withstand foreign competition at the same time opening up services imports through mode 3 has led to rapid increase in modernization of certain services sectors as the experiences of India has shown. The SACs therefore must have a measure approach towards making opening up commitments in such imports.

Floor Discussion

During the open floor discussions many questions were thrown up regarding the slow progress in scheduling of commitments and the reluctance to bind more than status quo by advanced developing and developed countries. Possibility of framing joint proposals by SACs in the services negotiations was deliberated in detail and found broad agreement amongst the participants with respect to the following suggestions:

- South Asian countries may demand for a standalone agreement on Mode 4 having features like short-term GATS visa, no requirement of ENTs, strict provisions for return migration etc. These provisions will address the concerns of both developed and developing countries.
- Demands to make administrative and procedural formalities for application of the ENT more transparent and ensure that complete information is available to the public at large.
- Identify emerging business opportunities – lock in sectors. Whilst this is not a short term interest of SACs due to supply constraints, it is a longer term interest. Locking in

- commitments becomes all the more important given the growing political opposition to outsourcing and temporary migration in developed nations given impacts of economic crisis on employment. For India in particular there is a need to lock in the current liberalised trade of services under Mode 1, especially business process outsourcing
- Whilst export interests are primarily in mode 1 and mode 4, South Asia also has import interests in mode 3. This could enhance services available for consumers (health and education), enhance other business services and investment climate (telecom, finance, logistical services) and provide scope for export of services (ITES, maritime services). Therefore whilst securing commitments in mode 1 and mode 4, South Asian countries could look to making commitments in mode 3 and mode 2.

The panelists also commended that making or securing commitments in GATS does not guarantee growth in trade in services. There are many challenges in the region will continue to inhibit potential for trade in the future. In terms of exporting services, the issue of brain drain poses a risk and limitations in HR skill capacity in the region which in turn poses a constraint to exports. There are still limitations in penetration of infrastructure to enable Mode 1 exports. In terms of importing services challenges include limitations in regulatory capacity, weaknesses in the investment climate (Mode 3 imports) and challenges in managing competition.
