

Summaries

If One Size Doesn't Fit All, What Does? Rethinking Special and Differential Treatment in the World Trade Organization

Christopher Stevens

Although the Doha declaration, launching the current multilateral trade negotiations, puts special and differential treatment (SDT) at its core, negotiations have made no progress. This *Bulletin* explains why SDT is central to the creation of development-friendly trade rules and has become more necessary since the World Trade Organization (WTO) was created. This is because dispute settlement is now binding. Differences could be accommodated under the General Agreement on Tariffs and Trade (GATT) through *ex post* fudging. The problems experienced with the Agreement on Trade-Related Intellectual Property Rights (TRIPs) demonstrates what can go wrong and why *ex ante* agreement is now required. There are many ways in which differentiation can be incorporated into the Doha Round. The key requirement is that it should provide actionable modulations that address the development issue involved. This has strong implications for research, which must be issue and country-specific. It also implies that, while there is a place for WTO- and Agreement-wide statements of principle and for modulations within each country's national schedules, to be effective some SDT will need to be limited to sub-groups of developing countries.

Doing "Development" at the World Trade Organization: The Doha Round and Special and Differential Treatment

Claire Melamed

The term "special and differential treatment" covers provisions scattered around the Uruguay Round Agreements; some of these are mandatory, but many others are not. Utilisation of SDT has been patchy, but this may be because of deficiencies in provision, rather than an absence of need. Doha promised an 'early harvest' of strengthening to existing SDT provisions, but there has been virtually no progress, as a series of deadlines have come and gone. Two key divisions are over the timing and location of negotiations and their coverage. Developing countries wanted early agreement to 'redress existing deficiencies' at a plenary level; industrialised countries have sought to delay significant change and shift it to the other Doha negotiating groups as a bargaining chip. Industrialised countries object to providing significant SDT to all developing countries (given that some are major trade actors), but the developing country group sees no purpose in discussing differentiation and graduation until there are proposals of substance on the table. These cleavages look set to continue. The danger is that developing countries will have to choose between bland statements or significant provisions, the "price" of which is substantial concessions elsewhere.

Special and Differential Treatment in Agriculture: Proposals for a Development Round

Constantine Michalopoulos

The Agreement on Agriculture aims to solve a problem that most developing countries do not have: excessive subsidies to agriculture that have distorted world trade. Its rules are therefore slanted against them. While there exist provisions for SDT in the Agreement, they are not wholly adequate. There are problems with market access, transition periods, non-enforceability of commitments to support agricultural development, implementation of sanitary and phytosanitary standards, and provisions for agricultural development subsidies. Another problem is the lack of differentiation

between, e.g. Argentina and Ghana; it is infeasible and undesirable to provide the same support to the former as is required by the latter. The concept of a “development box” has been advanced to provide the architecture for improvements. It should address existing SDT problems and go further to establish pro-development principles (particularly on domestic subsidies to agriculture and safeguards). The overall objective should be a more meaningful and real provision of SDT treatment through appropriate instruments to the countries that truly need it.

Putting Differentiation into Practice: The Case of Food Security

Christopher Stevens and Jane Kennan

Implementing the SDT goals advanced by Michalopoulos and others is likely to require greater differentiation between developing countries. But on what basis? Taking the example of food-insecure countries, the article reviews existing classifications, which are found to be inadequate. The concept of “national food insecurity” is developed by analogy with individual food insecurity. It helps identify different aspects of the Agreement on Agriculture that are problematic for different states. Using the classification, the article suggests more appropriate groups that are based upon a combination of objective criteria. These link calorie supply, agricultural dependence, export market share and vulnerability. Between them, these criteria can identify countries with the greatest potential need to support their domestic agricultural sector (and, hence, not to be restricted in the use of subsidies) and those most vulnerable to world market changes that would follow significant Organisation for Economic Cooperation and Development (OECD) liberalisation (and hence need adjustment support).

The World Trade Organization and Competition Policy: Implications for Developing Countries

Peter Holmes

There exists a strong development case for countries to have effective competition policies, but the justification for a multilateral agreement

depends upon answers to three questions. Why should countries not be left free to decide the sort of competition policy they want? Does a multilateral agreement to deal with these have advantages over bilateral accords? And what form should any WTO code take? There is plenty of evidence on the first question that companies exploit gaps in the coverage of competition policy (often with the connivance if not support of their host government). Bilateral agreements are spreading, and have a role to play, but it is probably unrealistic to expect them to provide a full solution. Hence, there is scope for a multilateral agreement, but uncertainty as to its political feasibility. The industrialised countries are mainly concerned to outlaw non-competitive behaviour that forms a non-tariff barrier to their exports. Developing countries are more interested in rules that would curb the anti-competitive activities of foreign firms (e.g., by outlawing export cartels). While there appears to be a stand-off, a close analysis of the stated positions of the EU and India suggests that there could be room for compromise.

Multilateral Talks on Transparency in Government Procurement: Concerns for Developing Countries

Giovanna Fenster

While a transparent and efficient system of government procurement is developmentally desirable, it does not necessarily follow that a multilateral agreement is required. At present, there are three WTO fora concerned with procurement and they have different agendas. Some deal with opening procurement markets to trade, others with transparency. A focus on “transparency” rather than “market opening” poses fewer problems for developing countries, but raises the question of whether compliance would be worth the (potentially substantial) cost. Moreover, the fear is that any architecture established under the banner of “transparency” will then provide the foundation for more ambitious subsequent negotiations on market opening. Market opening offers the potential gains of cheaper domestic procurement and improved access to other countries’ markets. But the first of these can be achieved through domestic reform, and the principal constraints on developing country

exports do not require a WTO agreement. Taking the example of the South African construction industry, the most direct way to improve export potential would be for donors to untie aid procurement.

An Analytical Framework for Further Research

Christopher Stevens

The dynamic of multilateral trade rounds makes it difficult to provide an effective research input. To be useful, SDT must address precisely the development problems created by new rules, and this cannot be done until the rules have been framed with some clarity. On the Uruguay Round precedent, much of this clarification may not occur

until the eleventh hour. Consequently, research needs to move on a parallel track to the negotiations but be framed in such a way as to facilitate interchange when it is possible and appropriate. Having identified a potential development problem, research should offer as many ways to resolve it as possible, since the WTO offers multiple routes to differentiation, none of which is necessarily superior to another. An analytical framework is proposed that would classify potential WTO rules according to their development effects, direct researchers to the analysis required and identify appropriate forms of SDT. Starting with broad positions the research and classification can then be updated during the course of negotiations as clarification of the proposals emerges.