Launch of the Handbook and Database of Deep Trade Agreements

DEEP TRADE AGREEMENTS IN A POST-COVID-19 WORLD: INSIGHTS FROM A NEW DATABASE

Aaditya Mattoo, Nadia Rocha, Michele Ruta

July 28, 2020
I. Introducing a new Handbook of Deep Trade Agreements (DTAs)
Why a new handbook on deep trade agreements

- **Why should we care about DTAs?**
  - PTAs have grown in number and deepened in content
  - They influence how economies integrate, function and grow
    - Vital that rules and commitments are informed by evidence and analysis
  - Despite progress, still a data gap

- **Our contribution**
  - Provide NEW data and analysis as public goods
  - Help countries:
    - Design, negotiate and benefit from development-friendly DTAs
    - Find common ground to reform multilateral rules
Which policy areas did we focus on and why?

Provisions supporting economic integration:
- Trade Facilitation and Customs
- Rules of origin

Provisions promoting social welfare:
- Environmental Laws
- Competition Policy
- Provisions promoting social welfare
- State-Owned Enterprises
- Subsidies

Fundamental economic integration provisions:
- Export Taxes
- Investment
- Intellectual Property Rights
- Visa and asylum
- Movement of capital
- Services
- Anti-dumping and Countervailing Duties
- Technical Barriers to Trade
- Sanitary and Phytosanitary Measures
- Public Procurement
Methodology

- Used a common template for all policy areas (except tariffs) encompassing: objectives, substantive commitments, enforcement, etc.

- Questions on specific provisions were formulated to provide a Yes/No answer

- Covered the legal text and available annexes of all PTAs in force and notified to the WTO up to 2018 (295 PTAs)

- Main caveats:
  - No coverage of secondary law (important to evaluate depth of the EU)
  - No assessment of implementation of DTA provisions
II. From PTAs to DTAs
The number of provisions covered in PTAs has increased over time, particularly since the 2000s.

Note: Coverage ratio refers to the share of provisions contained in a given agreement relative to the maximum number of provisions. European Union and enlargements excluded.
The increase in substantive commitments has been accompanied by an increase in supporting requirements.

Substantive provisions and a breakdown of non-substantive provisions in DTAs, over time

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency</td>
<td>10</td>
<td>6</td>
<td>6</td>
<td>13</td>
<td>27</td>
</tr>
<tr>
<td>Procedural requirements</td>
<td>6</td>
<td>4</td>
<td>10</td>
<td>13</td>
<td>35</td>
</tr>
<tr>
<td>Enforcement mechanism</td>
<td>8</td>
<td>12</td>
<td>27</td>
<td>16</td>
<td>20</td>
</tr>
<tr>
<td>Substantive</td>
<td>8</td>
<td>8</td>
<td>13</td>
<td>19</td>
<td>27</td>
</tr>
</tbody>
</table>

Note: Coverage ratio refers to the share of provisions for a policy area contained in a given agreement relative to the maximum number of provisions in that policy area. Yea refers to entry-into-force date. European Union agreement and enlargements excluded.
Developing countries tend to have relatively fewer substantive commitments in DTAs

Average number of substantive provisions in DTAs by country

- >40
- 25-40
- 15-25
- 1-15
- No data
III. DTAs and Post-COVID-19 Trade
Deep trade agreements could shape trade in the COVID-19 and post-COVID-19 period

Old and new measures can result from:

▪ As non-synchronized recovery creates competition for scarce demand, *tariffs* to redirect demand towards domestic production

▪ In situations of scarcity, *export restrictions* to meet domestic demand

▪ As states subsidize firms, recourse to *countervailing duties* (CVDs)

▪ To address rising aversion to various risks, e.g. health, security, privacy, increasing *regulatory protectionism* (“precautionism”)

▪ To deal with limited access to diagnostic tests, vaccines and treatments, attempts to overcome constraints posed by *intellectual property rights*. 
As DTA commitments have increased the gap between applied tariffs and WTO commitments (average tariff water=5.6%), import tariffs may hit primarily non-members.

*Note:* Water defined as the difference between bound and MFN rates for country pairs without agreement and it is equal to max (zero, pref-MFN) for products that are under an agreement.
Disciplines in DTAs insulate on average 31 percent of imports of parties from export restrictions – but leave other countries (including LDCs) vulnerable to shortages of essential imports.

Note: Share of imports covered by key export restrictions provisions, by country. Key Export Restrictions provisions refer to: (i) Prohibits all export quotas / QRs between the Parties, without reference to exceptions within the provision, (ii) Prohibits all export quotas / QRs between the Parties, but with reference to certain exceptions mentioned in the provision that are WTO-plus; (iii) Prohibits all export taxes between the Parties, without reference to exceptions within the provision, and (iv) Prohibits all export taxes between the Parties, but with reference to certain exceptions mentioned in the provision that are WTO-plus.
If disciplines on export restrictions were multilateralized, then on average 79 percent of global imports would be covered.

**Share of imports from countries part of a DTA with key export restrictions provisions**

*Note*: Share of imports from countries part of agreements including all key Export Restriction legally enforceable provisions over total imports, by country. **Key Export Restrictions provisions refer to**: (i) Prohibits all export quotas / QRs between the Parties, without reference to exceptions within the provision, (ii) Prohibits all export quotas / QRs between the Parties, but with reference to certain exceptions mentioned in the provision that are WTO-plus; (iii) Prohibits all export taxes between the Parties, without reference to exceptions within the provision, and (iv) Prohibits all export taxes between the Parties, but with reference to certain exceptions mentioned in the provision that are WTO-plus.
DTA disciplines on subsidies are a “public good” and ensure undistorted conditions of competition primarily in the EU; firms from fiscally constrained LDCs may be disadvantaged.

**Share of exports covered by key subsidy provisions**

Note: Share of exports covered by all key Subsidies provisions legally enforceable over total exports, by country. **Key Subsidies provisions refer to:** (i) Does the agreement prohibit or regulate export subsidies?, (ii) Does the agreement prohibit or regulate local-content subsidies?, and (iii) Does the agreement prohibit or regulate subsidies distorting trade or competition (within domestic, export or third markets)?
DTA disciplines on CVDs insulate on average 36 percent of exports of parties – leaving exports of non-parties exposed to CVDs

**Share of exports covered by a key CVD provision**

*Note: Share of imports covered by a key CVD provision over total imports, by country. Key CVD provisions refer to: (i) Countervailing duties disallowed provisions, and (ii) Countervailing duties allowed and with specific provisions, and (iii) Mutually acceptable solution (1=yes, 0=no)*
Free flows of data are covered primarily by DTAs between industrial countries – regulatory precautionism could hurt digitally-driven trade with other countries.

**Share of exports to countries with Dataflows provisions**

*Note: (i) Are there other provisions that cover new issues (i.e. cross-border data flows)?*
DTAs involving the US and the EU deepen IPR protection, e.g. undisclosed test data for new pharmaceutical products, which may limit competition in medical products.

Note: Key IPR data protection refer to: (i) Provides minimum term of protection for undisclosed test or other data for a new pharmaceutical product, (ii) Provides minimum term of protection for new clinical info for a new indication/formulation/administration method of a previously-approved pharmaceutical product, (iii) Provides minimum term of protection for undisclosed test or other data for a pharmaceutical product containing a chemical entity not previously approved by either party, and (iv) Provides minimum term of protection for undisclosed test or other data for a new pharmaceutical product that is or contains a biologic.
V. Conclusions
Looking Ahead

• Likely to be a period of increasing insecurity, deepening divisions and proliferating protection

• Three rationally pessimistic points:
  • The DTAs that bind can also divide,
  • Insecurity also risks deepening divisions,
  • Not all DTA provisions enhance welfare.

• Three irrationally optimistic points:
  • Potential “public good” provisions,
  • Open regionalism via liberal rules of origin,
  • Counter-intuitive opportunity: recent US-China trade agreement.
THANK YOU!

For more information, visit:
