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**African Countries discuss likely
Development Outcomes of the WTO
Doha Agenda**

By Helene Bank

The Commonwealth and Tralac hosted a roundtable for African Trade negotiators in Cape Town, -from August 31st to Sept 2nd. High level trade negotiators from Geneva, Brussels as well as from Capitals participated in the roundtable discussions. Guided by the Geneva country representatives, the discussions focussed on the likely or potential developmental outcomes of the ongoing negotiations in the WTO Doha Agenda.

South African Minister of Trade and Industry, Mandisi Mpahlwa, opened the roundtable stating that the WTO trade negotiations towards the Hong Kong ministerial meeting - and the processes that lead to its results were critical and have now reached fever pitch. He was encouraged by the promised focus on development of crucial importance to LDCs and to Africa. He stated that progress on the Doha agenda would bring about a fairer global economic order. – “The world has changed dramatically since the creation of the international institutions, creating very few powerful countries. The multilateral system must be

able monitor and balance this at a global level”; he said. The system must ensure that it contributes to poverty reduction, as the resources are there.

He also emphasised the need for coherence in the global economic governance, as developing countries cannot sustain these institutions as they function to day. There is a need to change how global economic governance functions. Development has to be at forefront. The WTO offers – at least in theory - a 1 country 1 vote system, not voting based on economic power. Therefore there is an opportunity in the WTO whose basis is equality. – How do we use that opportunity and eventually transfer this to other international institutions?

The WTO offers a predictable, rules based system for market access, though this is only a part of the picture Minister Mpahlwa said, as existing rules are imbalanced and the deficiencies benefit the industrialized countries. Development is not an addition to global economic rules, but the basis, the key and the potential to global economic growth. WTO rules are extensive and increasingly intrusive of domestic policymaking. Developing countries must pursue

industrial and other policies that can create development.

The minister observed that within the Doha round of negotiations and since the conclusion of the July package there had been very little progress. Though the framework now is more focussed but still not meeting the deadlines set up, it will meet the ambitions of the Doha Development Round. The commitments made in Doha must not be watered down.

The minister then turned to the issues that are currently at the heart of the negotiations and the battle between the G20 and the major industrialized countries. He stated that an early decision in agriculture negotiations by the major players will make the negotiations able to move on NAMA and the other issues, but the developed countries need to know that they will have to make concessions in Agriculture. With reference to the Dalian mini-Ministerial meeting Minister Mpahlwa appreciated what seemed like the developed countries were willing to use the G20 proposal as the negotiation basis. The minister urged the African countries to prepare for negotiations that are likely to be technical and political.

The meeting seemed to be pleased with the proposal made by Ms Moreni, SACU Executive Secretary that “we need to develop a Doha Development Outcome, NOT a Doha Development compromise”

The Kenya Ambassador to the WTO, Ms. Amina Mohammad, who is also the chairperson of the WTO General Council, encouraged the negotiators in the opening session and reminded them that The Doha Agenda is meant to be a development agenda and therefore they must make better use of it. – We do not know when or if a new development round will come about again in the WTO system, she said. It is now that the imbalances and implementation issues related to development for Africa must be addressed.

Development

Ambassador Nathan Irumba, former Uganda ambassador to the WTO and now Senior Strategic Advisor to SEATINI, highlighted in his introduction to the development agenda that the LDCs have tabled many proposals on Special and Differential Treatment and other issues to ensure a Development Dimension is taken into account. But the response from Developed partners has not been encouraging. It is imperative that they remain vigilant such that in the overall balance of the Hong-Kong outcome these are properly reflected.

He further said that the LDCs’ priorities in the negotiations are premised on the state of their social economic position. They have always advocated for effective Special and Differential provisions which must be accompanied by serious efforts to enhance their supply capacity and competitiveness. He recalled that as far back as the Dhaka Declaration made prior to Cancun they had advanced proposals to give practical meaning to the concept of development dimension from the LDC perspective to include inter alia;

- Bound duty-free and quota free market access for products originating from LDC’s with favourable rules of origin
- Removal of Agricultural subsidies with cotton being a special priority.
- Both in NAMA and Agriculture negotiations exemptions of LDC’s from any reduction commitments
- Compensatory mechanism to address the erosion of preferences that will result from new tariff reductions.
- Granting of flexibilities to LDC’s to only undertake commitments consistent with their level of development and leaving them with the required policy space.
- As regards services, LDC’s pressed for developed countries to make serious concessions on mode 4, which was of special interest to them.
- Capacity building to ensure that the LDC’s benefit from MTS.

Mr. Shishir Priyadarshi outlined the development dimension of the Doha Development Agenda. There had been a

feeling that the Global trading system had failed to provide the anticipated benefits as the specific concerns of the developing countries remained undressed. In this context the Doha meeting set out an ambitious Agenda of negotiations whose Development dimension included implementation issues, S and D work programme and capacity building. It is now acknowledged as a much more cross cutting issue that must be reflected in the results of all areas of negotiations.

The focus is on improved market access with a degree of flexibility to pursue appropriate policies. He briefed on the development dimension in the July Package and emphasized following key objectives;

- Ensure inclusiveness and participation of all dc's in the negotiations;
- There must be an universal ownership of the end result;
- A result that seeks to address the concerns of developing countries, especially the least developed amongst them, including
- Provision of real market access; and
- Appropriate and meaningful flexibilities
- And accordingly lead to not only an increase in their share of world trade, but more importantly in an increase in per-capita incomes.
- That would be a true fulfilment of the development dimension of the Doha Development Agenda.

In the discussions, the need for Africa to remain vigilant on developmental issues was underscored. As the Least Developed region in the world, it needed S and D measures more than others. The problem posed by pressures for a graduation criteria as a pre-condition for finding a solution to the Agreement. Specific proposals were subject to exchange of views. It was suggested Sand D should be tailored to the country's level of development and there may be need for differentiation between the more developed of developing countries and others. It was however pointed out that even the proposals from the LDC's where discrimination was permissible within the WTO Rules responses had not elicited a positive

response. Concern was also expressed on the erosion of preferences

An Agenda for Africa

Mr. Carim Xavier, DTI - SA, introduced an African perspective, underscoring that "An African perspective" was not necessarily the same as "African Perspectives" on the Doha Development agenda.

Mr. Xavier observed that even though the African countries had a common agreed position in a range of issues, and had reached an agreement on common positions in the last years; there still can be quite sharp differences in the details. Therefore he raised some key issues where he believed Africa could develop a common approach.

He based this approach on three introductory comments;

1) There are already clear existing flexibilities for Africa in the WTO agreements, in the Doha and the July package. E.g. The LDC's are exempt from making any commitments in Agriculture and NAMA in this round of negotiations. In Agriculture the African countries are in general exempt. In NAMA the LDC's and countries with 35% tariff line bindings exempted. Finally he stated that under Special and Differentiated Treatment, S&DT further flexibilities were to be negotiated.

2) Negotiation based on the likely calculated effects various scenarios would have was difficult because of the data available, the methodologies and the approaches chosen in the various scenarios. Some scenarios may show overall losses of further liberalization in Africa, other might show vague gains. Still this was dangerous to base negotiations on such approaches alone. African countries would have to develop likely scenarios at a national level

3) An overall approach to these problems, Mr. Xavier suggested, would to address the issues of Preference erosions, the vulnerabilities of Net Food Importing Developing Countries (NFIDC's), African countries vulnerabilities to external

chocks, and addressing problems of those dependent on single or a few commodities.

Mr. Xavier further suggested a positive approach to African challenges in the Doha negotiations. He suggested that an early conclusion of modalities would be consistent with the Doha provisions and give best overall perspectives for Africa and global economic growth and for both geographical and value added diversification. However, he also observed that many African countries would face adjustment costs. He suggested that International Financial institutions and donors should be asked to support the cushion of the short-term costs of the reform processes.

On specific actions and proposals he foresaw

- A fast track of tariff peaks and escalations
- Reduction of export subsidies and domestic support to products with an implementation period but immediate and early harvest in areas of interest to countries in Africa
- That developed countries should cease on Sensitive products
- That developed countries should give substantial concessions on mode 4
- That developed countries should ensure an “effective” duty and quota free market access
- Careful assessment of the implementation of preference schemes
- Redesign to less restrictive on Rules of Origin
- African countries could develop a common approach to Non Trade barriers, especially product standards, technical product registration, SPS, to negotiate with major trading partners for a fast track mechanism.
- Ensure that African countries were able to meet standards

Finally Mr. Xavier addressed the issue of capacity building, where he felt there was a need to develop increased capacity on how to deal with costs and adjustments of preference erosion and support to cushion the effects of the reform. Further, he

suggested need for flexibilities from the MFN and long term aid for trade where concrete needs of countries should have more focus. Mr. Xavier felt that the G8 meeting and Chapter 8 of the African Commission report, (2005) dealt with these challenges.

In response to Mr. Xaviers introduction, an issue came up regarding South Africa dual role and input to the negotiations as a part of Africa versus a part of the G20. It was recognized that on the Agriculture negotiations especially, African countries happen to be part of different negotiation coalitions. On the other hand, it was recognized and acknowledged that even though it had not been easy, Africa had found common positions before, in Abuja, in Kigali etc.

It was also noted that although Market Access was important, many African countries had not been able to benefit from already provided market access because of supply side constraints also linked to SPS and other NTB's. Therefore the round should address these needs linked to value addition and provide insights on S&DT progress.

Regarding the lack of progress in the negotiations including the development aspects, it was stated that part of the reason for the negotiations stalemate, was due to the fact that African and developing countries now understood their interests and made their voices heard. In that case the stalemate aimed at ensuring that their vital interests are covered could be viewed as a progress as long as African and other countries remain united. Optimism was expressed in that regard.

The discussion went further to regard the effects of preference erosion as an important area for research recognizing that preferences have a potential of being divisive. Therefore such research should be carried out along with an appropriate strategy to keep united so that some countries were kept hostage. In that respect it was noted that having a division could be beneficial to the EU that has its own agenda. It was brought up that EU's

own list of products relevant for preferential market access had shown that preferential market access only catered for 1% of world trade. Given the importance to many smaller economies, preferences should therefore not be regarded as distorting to overall trade.

On areas that needed to be sorted out because of potential contradictions, some contradictions regarding preference erosion versus the elimination of tariff peaks and escalations as well as objectives of effective market access were specifically mentioned. Further, it was stated that a demand for elimination of export support on sectors of interests to African countries which may delay a faster total elimination could carry contradictory objectives. It was also recognized that what the LDC's had called for was "bound" duty and quota free market access. Another concern raised was whether South Africa was prepared to offer bound duty and quota free market access to LDC's. Mr. Xavier answered this question by stating that he believed that the GSTP (Global System of Trade Preferences) would be the appropriate framework for such market access.

It was observed that meeting the timetable of the negotiations would be an uphill experience. Also issues which are not formally on the Doha Agenda had been taken on board resulting to the deviation of the negotiations on what was formally on the agenda.

The discussion went on during the break, and several participants recognized that when the South African Minister Mpahlwa had called for a change of the global economic governance with development at focus, and a critique of existing rules that are still imbalanced where the deficiencies benefit the industrialized countries, Mr. Xavier had called for African countries to request for aid to cover short term adjustment costs of a trade reform from donors and international lending institutions. These messages could be regarded as contradictory.

Agriculture

Tim Ruffer, from Oxford Policy Management (OPML) went through "the outstanding issues for developing countries in the Agriculture negotiations". He urged African countries to be focussed, as he believed that "African states will have limited impact on the negotiations", their priorities should therefore be clear, and a sense of urgency should be recognized as the US Trade promotion Act that mandates the USTRs negotiations would expire at the end of 2006. The key issue is market access he said.

Howard Sigwele (South Africa) added some information regarding effects of increased liberalization. For example, all African countries except for two would be importers of concentrated milk; all would be importers of cereals and wheat. He further stated that imports are not necessarily a sign of failure. However, there is a need to find alternatives to government revenue linked to the tariff reductions, for example VAT. What would be important was to have a thorough assessment of which producers were going to be affected; effects on small commercial traders, and a gender perspective should be integral to the assessment. Prices would go up as almost all consumers are net buyers of food.

He warned that the tariff reduction formula should cater for African countries sensitive products such as sugar, beef, dairy, maize and wheat.

Some of the issues raised during the discussion were recognition that the presenters did not address the cotton issue. Also the issue of box-shifting was a concern raised by the participants. The fact that the EU had come with a new proposal after Dalian mini-Ministerial meeting somewhat contradictory to the G20 also seemed to pose some questions regarding the reality of using the G20 proposal as a basis for the negotiations. One participant wanted a clarification by Mr Sigwele if he proposed the use of *sensitive products* instead of *Special products*. It seemed as there may be some confusion, as the negotiations on sensitive products would be linked to the TRQ. In answer to this

request for clarification Mr. Sigwele felt that there was not a significant difference, but a matter of choice of phrase or definition.

Non-Agricultural Market Access, NAMA

Ms. Anne Kamau from the Kenya Mission in Geneva had a detailed presentation of the NAMA work in the WTO: background, negotiations and fundamentals of the 7 proposals on formulas. She recalled the resistance developing countries had to the NAMA negotiations in the Doha Ministerial, but that this resistance was softened by the declaration on TRIPS and Health. The so-called Derbez text was also rejected in Cancun ministerial conference, and only accepted in the 2004 July framework because of the inclusion of Para 1 in Annex B. Now there seem to be different interpretations to that paragraph. Developed countries take the paragraph as a confirmation to continue negotiations, while developing countries argue that clarification regarding their concerns is a prerequisite for further negotiations on NAMA. "The debate on the issue seems to be dying a slow death and we are still carrying these concerns with us today. This is a key reason that we are not having any July approximation 2005 with us to day", Ms. Kamau argued.

Since the non-linear formula is now being used in the negotiations, it will affect most African that was not protected by S&DT because higher tariffs would require deeper cuts. What is agreed is that there will be coefficients with sufficient distance developing and developed members. That it will be a Swiss formula is the assessment of the chairman of the negotiations. He aims at identifying coefficients. A Swiss formula aims a harmonizing globally all tariffs, a Swiss type harmonizes tariffs at the national level. The Uruguay Round Formula was based on cuts but where flexibilities could be exercised between sectors domestically.

At the moment there are 7 different proposals on the table, all non-linear but with somewhat different flexibilities.

1. The US proposal: simple Swiss, harmonizing at a global level, 2 coefficients for developed and developing countries. Different for developing countries against other flexibilities.
2. The EU proposal: simple Swiss, harmonizing at a global level. Variations in coefficient due to flexibility obtained under para 8, Annex B in the July Framework.
3. The Norwegian proposal: simple Swiss, harmonizing globally, 2 coefficients, a credit system for developing countries that are prepared to abstain their flexibility under para 8 and bind more tariff lines.
4. The Colombia, Chile, Mexico proposal: a flexible Swiss type, harmonizing at national level, suggested list of flexibilities.
5. The Argentine, Brazil, India (ABI) proposal: a flexible Swiss type, coefficients for each member based on its average bound tariff, multiplied with a B-coefficient to be negotiated. The formula harmonizing at national level allows for country adjusted tariff levels; maintain national flexibilities within an average tariff.
6. The Caribbean proposal: Basically as the ABI, a flexible Swiss type based on bound tariffs for each member. A B coefficient for each member to be negotiated and a C coefficient dependent on a list of flexibilities.
7. The Pakistan proposal: Swiss type, coefficient 6 for developed and 30 for developing countries.

The LDCs are exempted for any cuts in this round of negotiations; however the framework negotiated will apply for them at a later stage. 8 African countries (Kenya, Mauritius, Nigeria, Cameroon, Congo, Cote d'Ivoire, Ghana, Zimbabwe), are within the so-called paragraph 6 group of countries with tariffs <35%. They will be exempted from reduction, but will requested to bind their tariffs at a world average which would be 27.5% un-

weighted and 12.5% weighted. It is not decided what average to use.

Ms. Kamau highlighted various elements linked to flexibilities for developing countries in formula and on binding of tariffs. On the sectoral component she underlined that there was a call for engagement by all members, that were not obligatory. The coverage of sectors is still not agreed on, and a new concept to find common ground was to define a so-called “critical mass” approach. The definition of “critical mass” is, however, not in place. Currently negotiations move on despite the critique forwarded by developing countries, Ms. Kamau said. She underscored that the sectoral approach was not mandatory, and that the MFN basis would apply for the sectors agreed to. Therefore she encouraged the African countries to be very, very careful on the sectoral approach.

Other issues that she highlighted were that newly acceded members would face the same conditions as LDCs in this round, but that there most likely would be supplementary modalities for them. Regarding NTBs (with reference to para 16 Annex B) few African countries had notified their NTBs, and the Para 15 mandated studies and capacity building, there had been no specific requests by African countries. She urged the Africans to make use of this facility. The ACP concern regarding non-reciprocal preferences and the concerns expressed by tariff revenue dependent countries was also not addressed. The Caribbean proposal addressed this issue.

Some of the concerns expressed by developing countries, and that needed to be addressed from a developmental point of view are

- The drastic cuts in tariffs that developed countries had more than 50 years to develop and adjust to
- Infant industry protection, which developed countries now resist to accept
- Reduced ability for government intervention

- The need to raise tariffs which are now low because of lack of industries, but which may be needed as a safeguard mechanism for new industries
- That S&DT and non-reciprocity/less than full reciprocity are not the same thing

Sam laird from UNCTAD appreciated the comprehensive coverage by Ms. Kamau, and highlighted just some of the challenges in the negotiations:

- Already to day preferences are underutilized because of capacity, but also Rules of Origin (RoO), NTBs etc.
- Simple formulas can produce same cuts as the complicated ones, but simpler formulas are easier to understand
- The 6 and 30% coefficients would mean that this was max rates in developed and developing countries respectively.
- The agreement to “bound” duty and quota free market access, as the EBA initiative has not given anything yet.
- That the developed countries already have so low tariffs that there was almost no reduction demanded from them, actually creating less than full reciprocity to them
- Regarding the product coverage, the phrase “without *a priory* exclusion” could pose pitfalls for African countries, as developed countries may have thought of specific exclusions that could be brought on the table at a very late stage. A consequence could be a rigging of the balance of the agreement that African countries should be alert on and aware.
- All funding of adjustments costs and supply side capacity must be outside the WTO negotiations, and they will eventually come from outside. Such support will have to comply with WTO rules.

In the discussion it came up that on the development concerns and issues it seems as all are based on a “best endeavour clause”. Even the Doha declaration was quite “best endeavour” such as supply side constraints etc. but core development

issues are now not being dealt with. African countries find themselves negotiating on formulas while development aspects are thrown in the bush. Head quarters in capital will have to cope with language. Language is the most important one, as even a comma can change the content of a text. However, in any case African countries seem to be only reactive. But Head quarters should instruct Geneva people to closely evaluate the documents presented by the developed partners and understand what is required.

A concern was expressed that Para 1 not dealt with, and that is could continuously be raised in the negotiations. Also there was a concern that para 6 countries with tariffs <35% should bind 100% of their tariff lines, and that is was not clear if the weighted average that they had to meet was a simple average (27.5%) or a weighted average(12.5%). It was felt that it was difficult to negotiate under such lack of predictability. Mr. Laird explained that previously a weighted average had been used. An exemption was in the Uruguay Round Agreements for the limited trade in Agriculture. Since the 27.5% average tariff was not mentioned in the July framework, one cannot know what will be the final result.

The consequence of the NAMA formula in a regional context was also not clear. For example, Lesotho may have to apply the formula in their regional SACU context, only having exemption of the other SACU member's mercy, if the Para 8 should apply to Lesotho. LDC countries expressed that they needed to engage in the formula negotiations; though they were not prepared to do that based on the Derbez text.

A special concern was also raised regarding the lack of knowledge of what framework the market access was negotiated under by developing countries since the S&DT and the issue of "less than full reciprocity" had not been defined. It was underscored that there was a tendency to confuse the two. To obtain less than full reciprocity does not mean that the S&DT

requirements for developing countries were fulfilled.

The new concept of "critical mass" linked to the sectoral approach was also questioned. Mr. Laird said that this may be linked to status quo for individual products, as for example the OPEC countries for oil products.

Services –GATS Negotiations

Ms. Sabrina Varma from the South Centre, Geneva, had a comprehensive presentation of what was at stake for developing countries in the GATS negotiations. She underlined the many commonalities between the GATS and the NAMA negotiations where developed countries were the main demandeurs.

The GATS is usually referred to as development friendly. Ms Varma questioned that since there was a lack of clarity and less ability for developing countries to benefit because of the power imbalances and developing countries lack of experience with liberalizing services, especially because the GATS liberalization intervenes the domestic policy framework.

As a background to the GATS negotiations Ms. Varma explained that GATS was a part of the built in agenda of the WTO with negotiations starting from 2000. The disciplines negotiated were Market access; Rules (incl. Emergency Safeguard Mechanism – ESM), and domestic regulations. Annex C in the July 2004 Framework dealt with the GATS negotiations. Mode 4 liberalization in the developed countries is one of the few areas where almost all developing countries had expressed interest. In the Doha declaration there was the provision stating that rules should be negotiated before market access. This has not been the case in the negotiations and there was a mounting pressure on developing countries to forward their initial offers under the unpredictability of lack of clarity regarding rules and domestic regulations framework.

Despite that several deadlines had passed, there were still 24 countries that had not submitted their initial offers. She highlighted, however, that LDCs and developing countries had no obligations to liberalize their service sectors.

Regarding the initial offers that were already submitted, they were regarded by all experts to be weak. The QUAD submissions were almost unchanged from previous commitments; the levels were in some cases even lower than existing liberalization. There were basically no new sectors where offers had been submitted; the limited Mode 4 offers by the QUAD countries were based on high skills and linked to commercial presence.

On the negotiations on rules, Ms. Varma explained that there seemed to be some hesitance by developing countries to table initial offers since rules under which the market access should be applied was not negotiated. Also the ESM and rules regarding government procurement was not in place neither were rules on subsidies and domestic regulations.

The deadline for the GATS negotiations is incredibly ambitious given the lack of progress on the framework under which the market Access would function.

Based on the context of her presentation Ms. Varma raised the following issues as being of concern to developing countries:

- There is a need for a thorough assessment in each and for each sector of benefits and losses by binding liberalization under the GATS
- Review of progress in the negotiations in the light of progress/lack of progress in Para 15, Art 4 and 16 on S&DT
- LDC's are exempted, but are still requested substantial liberalization by major trading partners
- Classification of several sectors are not settled
- Art IV and XIX – Africa has been very active, but limited progress in their favour
- Capacity constraints

- There is a need to review MFN exemptions
- LDC's have been active on Para 6-9 modalities. Results of this are still to be seen.

Currently it has been expressed by the TNC chairman at the July 2005 General Council meeting and at the Dalian Mini-Ministerial meeting that there is a sense of crisis in the GATS negotiations.. The Market Access crisis scenario had been used by the major actors to launch the so-called *Benchmarking*. Benchmarking is used to push the level of commitment to increase, especially in certain sectors. The Benchmarking is not yet a formal proposal by the EC but it may come in September. Member states of the EU still have to endorse the concept.

Ms. Varma expressed her concerns about Benchmarking for the following reasons: 1) it would change the bottom up approach architecture of the GATS; 2) There are already agreed benchmarks in Art 4, regarding developing countries participation and capacity etc; 3) the concept is linked to EC's wish for a more formal plurilateral approach. She made the participants aware, that even though there was not a formal proposal or any consensus on the concept expressed, the chairman of the Council of Services has included Benchmarking in his plans towards Hong Kong ministerial meeting.

She further outlined the following recommendations for the initial offers by African countries;

- Retain flexibilities for domestic regulation
- Given the rules is are yet to be developed, maintain flexibilities for that reason
- Offers can be conditional
- The Cairo AU and the Livingstone LDC Ministerial Meetings have already highlighted 9 considerations regarding market access in services and 4 regarding Domestic regulations
- On the rules negotiations there is the ASEAN proposal and S&DT proposals especially Mode 4

Ambassador Ntwaage from Botswana supplemented Ms. Varma's presentation with the following observations;

- Negotiations are lagging behind deadlines
- Developing countries are net importers of services
- Services are of growing importance to developing countries economies (still 20%)Technological innovations makes services increasingly tradable
- Developing countries face technical difficulties in scheduling GATS commitments
- Binding under GATS is irreversible
- A careful assessment is needed
- Danger of premature liberalization
- Still not incorporation of S&DT

Characteristics for the GATS area of negotiations in developing countries

- Lack of liable statistical data in developing countries
- Weak regulative framework
- Service industries are in an infancy stage
- Studies yet to be undertaken
- Public policy objectives and economic empowerment is a part of many African policies
- Governments are both providers and regulators and many service areas are mainly state monopolies.

UNCTAD's study of potential growth and benefit areas for developing countries may be followed up by thorough elaboration.

He further stated that it was important to;

- Ensure that negotiations take into account individual and common special needs of developing countries
- Assessment of costs and benefits taken into account S&DT, ESM and other mechanisms
- Liberalize few sectors and condition the initial offers
- Push for substantial offers in areas of commercial interests to developing countries
- Avoid comprehensive autonomous liberalization

- Avoid benchmarking
- Maintain policy space measures to build domestic capacity to ensure pro developmental policies
- That Africa should take full advantage of existing trade arrangements under mode 4 in particular
- There is nothing in the GATS or the Doha Agenda that compels or bind WTO members to make an offer.

He also highlighted the status regarding the request-offer process. He stated that beginning July 1st quite a number of countries had not yet made offers, 58 had made offers, counting the EU as 1 country. Last deadline was May 31st. Those that had not made offers were LDC's developing countries including some Common Wealth countries. "It is clear that there is a need for technical assistance, but also that nothing obliges developing countries to make requests and offers. As the rules framework is not completed, and we may need to get assistance to develop a strong regulatory framework. Can we have a stand still on requests and offers? How can we best move forward from here?" The Ambassador asked.

In the discussion it came up to what degree the business community needs signals of liberalization or eventual protection. Trade in services comprises of 20% of world trade, yet Africa constitutes only 0.5%. There is a need to understand what GATS is about. Countries with capacity to export are those that will benefit. The question is what offers would Africa give considering that the imbalances among foreign and domestic service providers still exist. It was noted the Mode 4 was had the least liberalization in terms of commitments. That the Doha agenda should trace the existing imbalances, despite GATS does not provide for balancing. Developing countries and African interests have not been taken into account. For example, the EC definition of contract workers does not apply to African workers. Rules are what needs to the priority for Hong Kong, and then we can discuss what to do after Hong Kong Ministerial meeting.

GATS should require a progressive liberalization even though Art.19 requires that developing countries can liberalise at their own pace. . If developing countries feel obliged to table any offers t should be done conditional on other outcomes of the negotiations. That the EU comes up with benchmarks is simply undermining developing countries flexibility under Art. 19, it was recognized. On the other hand it was also recognized that developed countries had not come up with any meaningful offers, so nothing compels developing countries to liberalize. A stand still was seen as a useful approach and a better bargaining stand.

One participant expressed that on the issue of deadlines for the GATS market access negotiations one could not care less, remembering that all deadlines on for example TRIPS and Health and Agriculture were met.

The relationship between the GATS and bilateral approaches was highlighted as a reason that prompted the developed countries not to address the imbalances and developing countries interests.. The developed countries tend to have their interests taken into account bilaterally. It was emphasised that Africa needed to take regional efforts into account.

A concern regarding whether earlier liberalization was likely to give access to credit in the current negotiations was answered in the negative y Mr. Laird.

Trade Facilitation

The next session dealt with the issue of trade facilitation. Amb. Nathan Irumba from Uganda and SEATINI was the presenter together with Ms. Varsha Singh, from the South African Revenue service.

Ambassador Irumba recalled that trade Facilitation was one of the Singapore issues introduced in the Doha Work Programme on which Africa and the Group of 90 objected to the Negotiations being initiated and which partly contributed to the failure in Cancun. As

part of a compromise in the July Package, they agreed to trade facilitation.

He said a novel idea in the mandate on trade facilitation which Africa should capitalize on is the requirement that commitments to be undertaken and implementation of the outcome be contingent on the capacity of the country to do so. Assurance was given that developing countries would not be required to undertake commitments which they could not implement including for financial reasons. There was also promise for capacity building.

While the mandate calls for clarification of Articles v, viii and x, in the proposals being pushed by developed countries, they have taken a liberal interpretation of the mandate and wish to introduce new binding obligations. A case in point is the proposal to oblige members to give advance written ruling on Tariffs classification when requested by an importer which would include the applicable rate of duty whether goods qualify as originating goods.

He noted there was a built in tension between landlocked and transit coasted states, which need to be ironed out preferably under regional arrangements, rather than the multilateral level. Landlocked countries can also be transit countries for exporters inland from coastal states.

He also posed the following questions to the participants:

- Is there a need for global harmonized rules?
- Is it necessary to develop rules in a WTO context?
- Should such rules be obligatory, backed by sanctions under the WTO Dispute settlement?

He said while developing new rules in this area it could be explored to make such rules non-mandatory, calling members to make their best endeavour with no sanctions attached. This would provide members a learning process and a feeling of ownership.

Ms Varsha Singh outlined the proposals that had been presented in the Negotiations on clarifications of the articles, capacity building and S&DT. She said on S and D there is a General Understanding that developing countries will to be given longer periods for implementation ,possibly being linked to provision of capacity building. She briefed on the proposal by India and USA calling for introduction of a framework for exchange of information between customs administrations as well as the work the World Customs Organisation in the area of trade facilitation.

She said discussion on trade facilitation has taken place in different fora and in these fora their approach has been as follows;

- To support the discussion around the framework to develop a WTO instrument to facilitate the exchange of information between customs administrations.
- The use of WCO instruments to avoid the need for reinventing the wheel by developing instruments that have already been developed. The process will mean that WCO instruments will have to be adopted or used as a base to develop final WTO instruments.
- Need for a coordinated approach in provision of capacity building
- Encouraging countries to start identifying their needs and priorities with the help of international organisations. This should also include cost estimates.
- Broadening of capacity building definition to provide where necessary for assistance in infrastructure.

She further said Africa needs to undertake a thorough exercise on the identification of it's trade facilitation needs and priorities. A mechanism for a continuous assessment of the cost implications of any proposals needs to be in place. The customs and transport experts from the REC's and the Member States could provide technical backstopping support to the negotiators. Saying that T.F. negotiations present

opportunities as well as challenges, she emphasized the need to ensure that the benefits are maximized while militating against associated costs.

In the discussions an issue was raised that the focus in the negotiations seemed to be on the concern of facilitating imports to developing countries rather than addressing the issue of impediments to our exports in developed market countries. There was a need to keep a focus on the export part, as well as the trade facilitation of developing countries import to developed countries.

The questions posed by Amb. Irumba was not addressed in the discussion directly, though indirectly the discussion went on highlighting mainly the difficulties that the participants felt in the region. Though customs routines could be improved and be much more efficient and officers much more accommodating and high skilled. This would demand capacity building and access to pay such officers well. On the other hand, qualities of roads, often deteriorating near the boarder, and other infrastructural constraints seemed to pose the biggest threat to the facilitation of cross border movement of goods. This part of the discussion was mainly addressing regional needs to make cross border transport smoother. In addition, the need to be cautious regarding regional integration efforts was highlighted, indicating that in a regional integration context it would be of highest importance to facilitate a smooth regional trade.

Linkages WTO and the EPA's

Ms. Paulina Elago from TradeHUB, Botswana, made a presentation highlighting some of the challenges African countries faced due to contemporary negotiations in the WTO and bilaterally with the EU – the Economic Partnership Agreements (EPAs).

She started her presentation with highlighting three main African interests that were discussed and negotiated and these were;

- Improved market access
- For LDCs Bound duty and quota free market access for the benefit of predictability for investors
- Policy space for development and industrialization purposes

She stated that some of the contradictions in the WTO-EPA's negotiations were that the EU had not bound its *Everything-but-arms* (EBA) initiative for LDC's in the WTO; at the same time the EPA negotiations proceed currently under the assumption of reciprocal market access and wondered how this could be made coherent? To this proposed that the wording and spirit of the Doha Agenda could be used to give leverage from other fora, institutions and agencies and that since the WTO negotiations are not dealing with the adjustment costs of liberalization, compensation for loss of preferences etc. may be addressed.

On concrete measures in the negotiations Ms. Elago highlighted among others that the issue of Rules of Origin in the EPA's, and the urgent clarification regarding RTA's are addressed. Also the revenue system is under threat, and she suggested a restructuring towards a VAT system.

She highlighted some of the major African challenges to include developing a strategy that reduces the adjustment costs; identifying products of export interests; with a view of deeper regional integration, taking action on supply side constraints through both addressing import competition and to introducing a regulatory environment that can attract investments and increase export. She also emphasised as essential the need to provide a secure policy space and seek alternative markets through South-South co-operation and trade.

She concluded by urging African countries to find solutions to the following;

- The EPA configurations that demands customs union in other configurations than what are already in place, e.g. in SACU. This will affect the regional integration efforts in Africa

- The issue of compatibility with the WTO requires clarification of the GATT Art 24
- African countries should ensure coherence in their policies and negotiations with the EU, so that successes from the WTO are not undermined by bilateral agreements under the EPA's.

The Roundtable discussion

Ambassador Ntwaage, Botswana led the concluding roundtable discussion. He raised the following questions: What are the priority issues; what preparatory actions are needed at national and Africa level respectively; and what are the follow up actions.

The Ambassador reminded the participants that current activities undertaken by the Common Wealth Secretariat are 1) Commodities, especially the challenges of single commodity dependent countries. This lead into the agriculture negotiations; 2) Trade in services and consequences of autonomous liberalization by African countries; 3) Trade in Services and the Emergency Safeguard Mechanism; 4) Trade remedies – protect developing countries and LDC's against unfair trade practices from developed countries. This leads into the Rules negotiations.

The discussants responsible to kick off the debate raised issues they believed were of priority for African countries. Among these issues were both process issues and issues linked to positions and negotiation strategies.

The need for the capitals to be informed on time in order to enable the Geneva negotiators to receive the necessary support and backing on time was emphasised. The role of stakeholders in such backing and need to create the political engagement was recognized. It was also regarded important that the process of negotiations was continuously raised. Also African countries should meet again after the text for Hong Kong has come. The link to the EPA's negotiations and its pitfalls regarding undermining

what African countries negotiate for in the WTO was highlighted. There was a call for clarity and political decision regarding the various configurations under the EPAs and regional arrangements.

In general as regards the negotiations, a concern that during the steadily more narrowing process of negotiations, the development dimensions were disappearing was raised. Developing countries should not allow themselves to be negatively affected by the 2004 July package in that respect. There was a call for a return to the Doha work programme on development, implementation and S&DT. This should not only be on basis of best endeavour, but binding commitments that would secure the development dimension in binding and enforceable clauses and waivers.

The majority of African countries will suffer from preference erosion, loss of revenue under tariff reduction formulas and reforms currently negotiated. Therefore there is a need to ensure that protection of industries and development needs through SP, SSM, eventually to support the Caribbean NAMA proposal, cautiousness regarding GATS liberalization and demand for rules negotiations to be finalized, careful priorities under the Trade facilitation, and thorough assessment of the links between e.g. NAMA and Agriculture and commodities in order to plan for protection of domestic industries.

Amb Amina Mohammad of Kenya and Chairperson of the WTO General council repeated in her final remarks what was seen as the preconditions for the negotiations to move forward. "When the big powers have made up their minds and agreed on Agriculture, also NAMA, and GATS in addition to development will move", she said. She warned the participants, that she did not want a text for the Hong Kong Ministerial meeting full of brackets.

Helene Bank is a Working Board Member of SEATINI

Editorial: Doha negotiations must deliver on development

By Ambassador Nathan Irumba

The African regional workshop on WTO negotiations organized by the Trade Law Centre for Southern Africa (TRALAC) and the Commonwealth Secretariat in Cape Town was a timely opportunity for Africa's negotiators in Geneva and their counterparts in capitals to take stock of developments following the inconclusive outcome of the July General Council. From the discussions it was apparent that there are still many hurdles to cross before a balanced Agreement can be reached that adequately takes on Board the interests of Africa.

The July General council meeting had been expected to come up with a first approximation of an Agreement that would provide the broad outlines of an overall Doha Round settlement to be endorsed by ministers in Hong Kong. Because of the significant differences especially on Agriculture this was not possible. The then Director General of WTO Dr. Supachai described the situation as "disappointing" but not "disastrous" and warned that "the time for identifying options is gone and the time of choosing options is here".

The EU trade Commissioner Mr. Mandelson was reported to say, if talks are to succeed there was need for a paradigm shift. Instead of negotiating peace meal, attempting to negotiate one incremental step at a time, there was need to lift a series of difficult logs at the same time, putting a number of interlinked moves on the table together with equality of pain for all those in a position to pay. This would help to make trade offs.

From the African perspective, an important stumbling log that needs to be lifted is the one blocking progress on Development issues. Ensuring that any negotiated outcome and the rules are supportive of development, and are seen to do so, remains one of the fundamental challenges of the Doha Development

Agenda. It will be recalled in paragraph 2 of the Doha Declaration there was a commitment that;

“We shall continue to make positive efforts designed to ensure that developing countries and especially the Least among them, secure a share in growth of World trade commensurate with the needs of their economic Development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes have an important role to play.”

In paragraph 44 it was agreed that *all Special and Differential treatment provisions in the Agreements shall be reviewed with a view of strengthening them and making them more precise, effective and operational as a way of redressing the imbalances in the current Agreements.*

It is vital in the negotiations to rectify these asymmetries and imbalances in the rules.

They make more onerous demands of adjustment to Developing countries than developed countries. As has been observed by many, to a large extent the WTO rules and disciplines mirror the best practice that have evolved and are in place in Developed countries. They therefore are less demanding on these countries and accommodate their distortionary policies and practices. A case in point is the Agreement on Agriculture where subsidies by cotton stands out as a vivid example of these distortions and their deleterious effects of undercutting prices and markets of LDCs.

Unfortunately the danger is real that these imbalances may not be addressed satisfactorily and are likely to be carried over in new arrangements being negotiated. Special and Differential treatment is indispensable if African countries are to beneficially utilize the Multilateral system for their development. Indeed African countries have played a leading role in the discussions on the

review. They submitted comprehensive proposals which have been the basis of Negotiations.

These proposals seek to address shortcomings of the present provisions especially with regard to their non-mandatory nature, difficulty to make them operational and their Development value. Regrettably, not much progress has been made in resolving the problem. Contrary to the profession of sympathy for LDC's by developed countries, in July this was not reflected in the positions taken on LDC specific proposals. The special session of the committee on Trade and Development ended without an agreement even on a handful of the LDC specific proposals where it had been envisaged there would not be much controversy.

Development must be an integral part of all aspects of the negotiations and must include the question of supply side constraints, as well as the erosion of preference which are likely to take place as a result of MFN reductions and other reforms.

Agriculture is of Special interest to Africa. But there are still wide divergences between the major countries.

As pointed out by the chairman of the special session of the committee on Agriculture, it is critical to get a satisfactory result in the negotiations in Agriculture sector if the Doha work program is to have developmental return. Many developing countries have substantial economic interests relative to their economies, in world Agriculture markets. Once the distortions caused by massive subsidies are eliminated or substantially reduced, they can build on this to increase their share of and value from world markets. Furthermore many developing countries, and especially Africa and the LDC's, have many vulnerable people dependent on small holding agriculture for their livelihoods and incomes. Integrating their sector into the framework or regions being negotiated is sensitive and requires special measures to protect them from the caprice of market forces. Hence the need for special

instruments to be designed for this purpose such as the special safeguard mechanism, which would take into account the realities in Africa.

Following the July package negotiations focus has been put on the market access pillar especially with regard to the elements, and structures of tariff reduction, number of bands and the formula to be applied. The approach has been that priority should be put on structures that are primarily responsible for large distortion in world Agriculture markets. While this approach may understandable, there is a well founded fear that issues of importance to Africa such as special products, the establishment of the safeguard mechanism and the erosion of preferences might not get sufficient attention and may be left to be dealt with the pressure cooker atmosphere of the ministerial meeting in Hong Kong. This would not facilitate adequate and rational attention for a satisfactory solution.

It is noteworthy, especially in the area of Agriculture a large part of divergence were between the major developed countries and what trade offs they should make among themselves. This contrasts sharply with other areas of negotiations such as services and Non-Agriculture Markets Access (NAMA) where their interests coincide and are pressing for ambitious tariff reductions, substantial market access, or far reaching liberalization of service sectors where they

are clearly dominant. The major trading partners have reluctant to liberalize in sectors or modes of interest to developing countries. We are in danger, because of asymmetry of power, to having yet again lopsided liberalization with agreements full of imbalances.

As we head for Hong Kong, the question of transparency and inclusiveness in the negotiations is vital. The coordinator of the African Group in the TNC meeting on July 28 expressed the concern that the group representatives had not been invited to some of the consultations, and cautioned that could eventually lead to problems. It is crucial that the process is, and is seen, to be transparent. With Hong Kong on the horizon it is important to ensure that the document that will be submitted reflect consensus genuinely agreed by the membership and, where differences exist these should not masked by an apparently clean text under the responsibility of the chairperson. Africa must participate fully and effectively in the negotiations and prepare to resist withstand to settle for less than satisfactory results. We must be cognizant the agreement being negotiated will affect future generations and we owe them a duty of care.

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