Africa and International Trade:
A Primer for Cancun and Beyond

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NOTE: this DRAFT version will be fully updated after the Cancun Ministerial Meeting, to incorporate the outcomes of the meeting.

It will be produced as a SAIIA Research Booklet and widely distributed.

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Introduction

Africa wants a fairer global trading environment to enhance its development. The continent is currently engaged in vital trade talks within World Trade Organisation (WTO), launched in November 2001 in Doha, Qatar. These tough, ongoing negotiations hold some hope for Africa's aspirations, but like previous trade rounds the 'Doha Development Agenda' is complex, controversial, convoluted and likely to drag on beyond its targeted end point of 1 January 2005. But despite improving its negotiating capacity, forging common positions and getting to grips with the agenda, Africa remains under-prepared for these negotiations.

This primer outlines the key issues for African countries to consider as the world's trade ministers gather in Cancun, Mexico from 10-14 September 2003. It is an effort to broaden the debate, and raise awareness in Africa, especially around strategies and tactics for these talks.

This round has barely progressed, with the WTO's 146 member countries missing deadlines and failing to concur on even preliminary frameworks for discussions, let alone final agreements. Doomsayers are predicting failure and collapse in Cancun, which was originally envisaged as a half-way checkpoint. Africa should use the round's slow progress as a chance to catch up and continue the hard work needed to win a better a trade.

Big Issues on the Doha Development Agenda

After framing the key issues in this round and highlighting their importance and significance for Africa, Steven Gruzd critically examines the common African approach to these talks hammered out by African trade ministers in Mauritius in June 2003.

The pivotal issue of the Doha Round is agriculture Gruzd examines the effects of trade-distorting agricultural subsidies on African countries and explores whether the joint position arrived at by the US and European Union three weeks before Cancun can invigorate these negotiations.

But Cancun will not only be about farming, and Olu Fasan looks beyond agriculture at some of the other key areas for Africa at Cancun. These include the structure of the package of negotiations as a single undertaking, special and differential treatment for developing countries, market access for industrial goods, and the so-called 'Singapore Issues' — investment, competition, transparency in government procurement and transparency in government procurement. Ayesha Kajee examines the meaning of the eleventh hour deal reached on the controversial issue of access to cheaper generic medicines in late August 2003. Will this agreement be a catalyst for Cancun?

Gruzd in 'More than just market access' looks beyond Cancun at how Botswana, one of Africa's economic success stories, has never been able to fill its quota of beef exports to the EU. As barriers to trade such as tariffs are progressively reduced, other constraints such as health and safety regulations and limitations on the supply side prevent Africa from taking full advantage of the market opportunities that it already enjoys.

Strategy and tactics

Australian Trade Minister Mark Vaile, representing the Cairns Group of agricultural exporting countries, makes a pitch to African countries to throw in their lot with the Cairns Group in the agricultural negotiations, by highlighting shared aspirations. Olu Fasan lays out one potential method for African countries to hit back at the developed countries, by challenging agricultural subsidies in the WTO should the 'peace clause' (which prohibits litigation over agriculture) expire as planned in 2004. Ross Herbert's 'Fighting Back on the Field of Public Opinion' posits that African leaders and diplomats have a duty to raise awareness of how their countries are affected by unfair trade in the media, especially in developed countries. Kajee uses the example of four West African states challenging the US over cotton subsidies to illustrate how African countries can utilise WTO rules.

Africa's prospects

Steven Gruzd interviewed Xavier Carim, the Chief Director: of Multilateral Trade Negotiations in the South African Department of Trade and Industry (dti) on his outlook for Cancun and what African countries stand to win or lose at the talks. Peter Draper examines the challenges posed both to the WTO and to African countries in these complex multilateral negotiations. Razeen Sally looks at the marked improvement in the way that developing countries have prepared for the Doha Round, and their greater participation and effectiveness in multilateral trade negotiations. But he points out that there remain vast disparities between developing countries, in terms of levels of development, ambitions, and capacity to engage in negotiations. Olu Fasan takes a hard look at perceived unfairness within the global training system, and evaluates the prospects of meaningful reform of the WTO's rules and architecture for African countries.

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An introduction to the WTO talks: Make or break for Africa

Steven Gruzd[1]

THE seaside playground of Cancun, Mexico, will host the Fifth Ministerial Conference of the World Trade Organisation (WTO) from 10-14 September 2003, where world trade ministers will try to rescue what many fear are slowly sinking trade negotiations. For Africa, this crucial gathering could either open the way for tangible trade gains, such as improved access for Africa's agricultural and manufactured products to Northern markets and cheaper medicines, or derail the teetering round of talks. What will make the difference between success and failure, and what are the crucial issues on the table?

Cancun was meant to be a halfway checkpoint for the Doha Development Agenda of multilateral trade negotiations (or Doha Round), named after the city in Qatar where talks were launched in November 2001. These complex, inter-related and wide-ranging talks on aspects of international trade from agriculture and services to WTO rules and the environment were slated for completion by 1 January 2005 (see sidebar). However, few believe that this optimistic timetable will be adhered to, considering almost all interim deadlines have been missed.

THE COMPLEX DOHA DEVELOPMENT AGENDA

Within the current Doha trade round (officially dubbed the Doha Development Agenda), there are eight areas of WTO negotiations, that form part of the 'single undertaking' of the round, where 'nothing is agreed until everything is agreed': agriculture; services; market access for non-agricultural products; trade-related aspects of intellectual property rights (TRIPS); WTO rules (on anti-dumping, subsidies and regional trade agreements); the dispute settlement understanding; trade and environment; and implementation-related issues.

Preparatory work for negotiations has been occurring on the four so-called 'Singapore Issues' (first discussed at the WTO's 1996 Singapore Ministerial Conference) with a presumption of launching full-blown negotiations at Cancun: investment (dealing with regulating foreign direct investment); competition policy (to regulate anti-trust rules and cartels); transparency in government procurement (for fair awarding of contracts); and trade facilitation (to smooth customs procedures).

To secure agreement to launch the new round at Doha in 2001, these contentious issues were deliberately deferred to Cancun. But at Doha, India, with major African backing, secured a written pledge that 'explicit consensus' of all WTO members was required, and India maintains that any member can veto talks on the Singapore Issues at Cancun. The EU is pushing hardest to launch negotiations, but the African position is that further research and analysis is required first. They feel overburdened with previous commitments, and see these issues as further eroding sovereignty and limiting policy options. In mid-August 2003, African countries reaffirmed their unwillingness to launch negotiations on the Singapore Issues, especially in the absence of progress on agricultural talks. This stance is also supported by large and influential developing countries such as Bangladesh, India, Malaysia, Cuba, Venezuela and Indonesia.

The WTO bureaucracy in Geneva is also working on others issues that are not part of the negotiations proper, but were committed to in Doha. These are: trade, debt and finance; trade and technology transfer; electronic commerce; small economies' issues; least-developed countries; technical co-operation and capacity building; and special and differential treatment for developing countries.

The success of this trade round pivots on agriculture, and from the viewpoint of developing countries, the critical issue is how to reduce immense market distortions caused by agricultural subsidies in the developed world. Developed

[1] Steven Gruzd is the Research Manager of the Nepad and Governance Project at the South African Institute of International Affairs. An earlier version of this article was published in *eAfrica: The Electronic Journal of Governance and Innovation*, August 2003, available online at *http://www.wits.ac.za/saiia/online.htm*

countries together spend about $318 billion on farm subsidies each year – more than Sub-Saharan Africa's entire annual production of goods and services, and six times more than developed countries' total foreign aid budget, according to the Organisation for Economic Co-operation and Development (OECD). These subsidies produce massive food surpluses that are then dumped into developing country markets. Global commodity prices are driven down, and many jobs in Africa are destroyed.

Research by the international advocacy group Oxfam suggests that in the absence of agricultural subsidies (government payments to farmers), farm output in the US would be 25% lower, 40% lower in the European Union (EU), and reduced by as much as 60% in Japan. Average agricultural tariffs (taxes charged on imported goods) approach 10% in Canada and the US, and are over 20% in Japan and the EU. Overall, Oxfam rates the agricultural policies of the EU, followed by the US, Canada and Japan, as being the most detrimental to the developing world. They accuse all these countries (known as 'the majors') of double standards — expounding the free market in principle while being highly protectionist in practice. [2]

The negotiations on agriculture began in 2000, pre-dating the Doha Round itself which commenced after November 2001. These talks have progressed very slowly. Despite many proposals, WTO members failed to agree even on 'modalities' (a broad framework for moving forward), by 31 March 2003. Consensus on the three critical areas in the negotiations— market access, domestic support and export subsidies — remains elusive.

The relationship between the US and EU is crucial to keeping the round on track. Each side accuses the other of doing more to distort agricultural trade. The US has proposed slashing trade-distorting domestic subsidies by $100 billion to 5% of agricultural production, reducing average agricultural tariffs from 62% to 15% and getting rid of all export subsidies by 2010. This idea has the Cairns Group's support. Europe's initial proposals were much more conservative. The EU advocated a formula that would reduce all duties by the same percentage.

The EU position represents one end of a continuum on agriculture, along with countries like Korea, Norway and Switzerland. These states want to retain as much protectionism in agriculture as they can. At the other end is the pro-liberalisation Cairns Group of agriculture exporting countries (which includes Argentina, Australia, Brazil, Canada, New Zealand and South Africa). (See the article by Mark Vaile, Australian Minister of Trade and head of this group in this primer). The American position is closer to the Cairns Group, and it would seem that Africa's interests logically seem to lie in this area as well.

Many countries hoped that the recent reforms to the EU's Common Agricultural Policy (CAP) would kick-start the stalled farm talks (see next article), but were disappointed. There has been only minimal movement following a mid-August joint paper presented by the US and EU. Developing countries and the Cairns Group were quick to condemn this proposal as vague, unclear, ignoring their concerns and not being ambitious enough, and several groups of countries have presented alternative versions. However, the US–EU paper has at least moved the negotiations forward, if only a little at this stage.

Anticipating that the pressure to liberalise agriculture would be intense at Doha, the EU and US sought concessions from all other trading partners in exchange, in areas such as trade in services

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[2] Chapter 4: Market access and agricultural trade: the double standards of rich countries, *Rigged Rules and Double Standards: Trade, globalisation and the fight against poverty*, Oxfam, London, 2002, pp 95-121. www.maketradefair.com

and trade in industrial goods. Like the Uruguay Round that finally concluded after eight years in 1994, the Doha Round requires a 'single undertaking', where 'nothing is agreed until everything is agreed'. All WTO members must, through consensus, accept the entire interlinked package. This approach creates more opportunities for trade-offs and compromises, but it also risks stalemate.

Agriculture remains the key. The Cairns Group has threatened a walkout at Cancun, if trade in agricultural products is not fundamentally reformed. 'If we can't achieve our ambitions — an acceptable level of improvement in the global trade of agricultural commodities, compared to what we've been asked to pay in other areas, we will not agree … and we will walk away,' Vaile said at a meeting of trade ministers in Montreal, Canada in July 2003. Africa's Minister of Trade and Industry, Alec Erwin echoed these tough sentiments in August 2003, 'Agriculture is a major stumbling block; unless there is progress on market access for agricultural products, there will be no progress on anything in Cancun'. [3]

Painfully slow progress on other critical issues

While agriculture is stealing most of the headlines, it is not the only trade area that matters to Africa. Others include access to cheap generic medicines, market access for manufactured products, trade in services, unresolved implementation issues from previous rounds and special and differential treatment for developing countries. Critical negotiating deadlines have been passed without agreement in virtually all of these negotiating areas. There will be precious little progress to review in Cancun.

At Doha, on **trade-related intellectual property rights (TRIPS) and public health,** developing countries secured the right to override drug patents and manufacture generic versions of critical medicines to combat 'public health emergencies' such as HIV/Aids, malaria and tuberculosis. But poorer countries without manufacturing capability were barred from importing these cheaper generic medicines, which are often manufactured by other developing countries. Under pressure from big pharmaceutical companies, the US blocked a possible compromise deal in December 2002. At the end of August 2003, just before Cancun, South Africa, Kenya, India and Brazil seemed to have hammered out an acceptable compromise with the US, which was concerned that generics would make their way into developed country markets. If all 146 WTO members accept this deal, many hope this will provide a much-needed boost to disillusioned developing countries, who feel their development concerns have thus far been sidelined in what is billed as a development round.

Other key issues within TRIPS:

- To protect its wines and spirits industry, the EU is demanding **mandatory 'geographical indications'** (place names that identify products like champagne, port and sherry), so that only Europe is seen to produce the genuine article, and the same products produced elsewhere cannot use these names. The EU wants to extend these indications to products such as cheese and meat. The US advocates a voluntary rather than mandatory list.
- The African Group, which represents all African members of the WTO in Geneva, is fiercely resisting **Article 27 (3)(b) of TRIPS which permits life forms to be patented**, as a threat to Africa's natural resources and traditional knowledge.

[3] Alec Erwin, Speech at the National Consultative Conference on South Africa's WTO negotiations, Midrand, 19 August 2003.

In talks dealing with industrial goods, known as **non-agricultural market access** negotiations, a key African objective is to reduce tariff peaks (higher than average duties applied to Africa's most competitive goods, especially textiles and clothing) and tariff escalation (higher import duties on processed goods than on raw materials) that discourage African countries from producing higher value-added products (see sidebar). Developed countries have promised to phase in tariff cuts in their textile and clothing markets, but are way behind schedule in this regard. OECD countries are pressurising developing countries to further open up their markets to products from Northern countries by reducing tariffs. WTO members have been unable to agree on acceptable formulae for reducing tariffs, and missed the 31 May 2003 deadline for agreeing on modalities.

How do tariffs hurt thee? Let me count the ways …

While developed countries have low average tariffs, Oxfam (using UNCTAD figures) notes that the EU slaps a tariff of over 250% on imported meat products, while Canada's rate is over 120%. The US applies a tariff of over 120% on groundnuts. Leather shoes exported to Japan face standard tariffs of up to 160%.

In the EU and Japan, fully processed, manufactured food products attract tariffs double those on raw materials and primary products. In Canada, tariffs on processed food can be up to 13 times higher than on unprocessed products. Of all the peak tariffs applied by the EU, 30% protect their food industry. These tariffs range from 12% to 100%, and affect sugar-based products, cereals and canned fruit most dramatically. In the US, one-sixth of all peak tariffs are in the food industry, with 30% on orange juice and a whopping 132% on peanut butter. High-value processed-food products account for just 5% of least-developed country agricultural exports, only 17% of all developing country exports, but 32.5% of developed country exports.

Get the Trade Ammo File

SAIIA is compiling compelling examples of how African countries are hurt by unfair trade practices. If you know of a good example that clearly illustrates unfair trade, or would just like to receive this compilation electronically, email gruzds@saiia.wits.ac.za with 'Trade Ammo for Africa' in the subject line.

In **services** negotiations under the General Agreement on Trade in Services (GATS), countries make offers to provide services in other countries, in over 160 categories from banking and financial services to water and education. Developed countries are targeting virtually every sector in developing countries, and there is great concern among civil society groups that sensitive service areas such as education, healthcare and water delivery will be severely compromised in developing countries by being subjected to WTO rules. But ministers are unlikely to call a moratorium on these negotiations, as requested by activists. South Africa, as an important provider of services such as banking, engineering, electricity and telephony, especially in Africa, has more to gain from these negotiations than perhaps some lesser developed African countries. With regard to services, developing countries would like greater mobility for their people to work abroad (under Mode 4 of GATS), but this is politically difficult given rising sentiment against immigration in developed countries. Developed countries are more interested in Mode 3 — establishing a commercial presence for services abroad (i.e. investment).

Developing countries are still struggling with a host of commitments from the Uruguay Round known as '**implementation issues**'. These relate to TRIPS, technical barriers to trade (TBT), the sanitary and phytosanitary agreement (SPS) (that sets human, animal and plant health standards for trade), customs valuation and import licensing. There has been some progress on minor issues, but many remain unresolved.

African and other developing countries are seeking '**special and differential treatment**' (SDT). SDT provisions call for longer times to implement agreements, lower tariff cuts, and increased technical assistance and capacity building for developing countries. However, SDT is not subject to the WTO's dispute resolution procedures, and remains a vague and woolly concept. A real challenge for African countries is how to compel other countries to make good on unfulfilled commitments, especially for SDT. Many of these areas are explored further in the contribution by Olu Fasan in this primer on non-agricultural trade issues.

Faizel Ismail points out that the string of missed deadlines in the Doha round has upset its 'balance'.[4] The timetable was deliberately structured so that the issues would be dealt with in sequence – implementation issues, TRIPS and public health, agriculture, non-agricultural market access, and then only the Singapore Issues (see Sidebar 1) Thus, African countries are refusing to open the negotiations on the Singapore Issues until their developmental concerns are addressed.

Strategies and tactics

So how should African countries play their cards at Cancun? What strategies and tactics are most likely to win concessions?

The consensus system of the single undertaking in theory gives every country veto rights. But in the past, the majors have agreed between themselves and everyone else has followed. African states have been bought off with promises of bilateral trade and aid concessions from developed countries. However, things are changing – developing countries effectively blocked a new round in Seattle in 1999.

For Africa, blocking the Doha Round is not the same as winning needed reforms. To do that, Africa must seek alliances with like-minded blocs around common issues. Powerful developing countries with large economies and populations, such as China, India, Brazil and Malaysia are increasingly co-operating in the WTO, as evidenced by their common response to the EU–US joint text on agriculture. China in particular is assuming a more active role in the WTO. As 40 of the WTO's 146 members are African countries, and the WTO is dominated by developing countries, sticking together and keeping their nerve under pressure are key strategies for Africa.

But cracks are appearing – net food importing countries fear the consequences of Northern countries slashing subsidies on their own food security; a rift is growing between less-developed countries that have more concessions than their slightly more developed neighbours. Notably, South Africa's trade interests do not always intersect neatly with other African countries, as it has a more industrialised economy.

The EU seems to be pursuing a divide and rule strategy to exploit these fissures. Outside of the WTO, in the negotiations to extend preferential market access given to its former colonies in the Cotonou Agreement beyond 2007, it will only negotiate with small blocs of countries rather than the entire group of African, Caribbean and Pacific countries as a whole. To entrench farm subsidies, the French have proposed greater concessions for least developed countries to try to drive a wedge between their interests and those of other developing countries.

Ross Herbert's article in this primer calls for a more aggressive posture by Africa in contrast to its soft stance in the past, and Olu Fasan examines how Africa might use the imminent expiry of the 'peace clause' (where countries agreed not to submit agricultural matters to the WTO's dispute settlement mechanism) to its advantage.

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[4] Faizel Ismail, presentation at the National Consultative Conference on South Africa's WTO negotiations, Midrand, 19 August 2003

A crucial issue for Africa is the technical manpower required to participate effectively in such a broad set of negotiations. In the past, Africa has largely sat on the sidelines and accepted what the developed countries agreed upon. This time Africa has significantly improved its preparation, participation and engagement. There have been numerous national, regional and continental meetings to find common ground, culminating in an African Union (AU) level ministerial meeting in Mauritius in June 2003. But developed countries will bring armies of experienced experts to Cancun, while small African countries will have a handful of people. Many vital deals and concessions are brokered in the corridors and ante-rooms, and most countries simply do not have enough high-calibre people to go around. A Canadian trade negotiator recently commented that he never goes into major negotiations without at least 50 top businessmen in the room with him.

While the rich get richer...

Through a combination of accessible research and hard-hitting advocacy, the 'Make Trade Fair' campaign by international non-governmental organisation Oxfam raises awareness and urges action to fight for a fairer global trading system. Here are '10 facts about international trade, globalisation and the wealth divide' taken from their website, www.maketradefair.com

- Between 1988 and 1993 the world's poorest 5% lost almost a quarter of their real income. During the same period the top 5% gained 12%.
- For every $100 generated by world exports, $97 goes to the high- and middle-income countries, and only $3 goes to low-income countries.
- For every dollar given to poor countries in aid, two dollars are lost because of unfair trade. Unfair trade is costing the poor world $100 billion a year.
- If Africa, East Asia, South Asia and Latin America increase their share of world exports by just 1%, it could lift 128 million people out of poverty.
- A 1% increase in Africa's share of world trade would generate $70 billion – five times more than the continent receives in aid and debt relief.
- More than 40% of the world's population lives in low-income countries – yet they currently account for just 3% of world trade.
- The rich world taxes imports from poor countries at an average of four times the rate that it taxes imports from industrialised countries.
- Africa has lost the equivalent of 50 cents for every dollar it receives in aid, because of the falling prices paid for its commodities.
- Prices paid to coffee farmers have fallen by 70% since 1997, costing exporters in poor countries $8 billion.
- Rich countries spend $1 billion a day on agricultural subsidies. The surpluses are exported to world markets. This suppresses prices, drives down the income of farmers in poor countries, and puts them out of business.

Getting the AU up and running has perhaps distracted Africa, and too little attention has been paid to trade. There are too few personnel in Geneva, and Africa has taken too long to frame its positions. The continent remains largely reactive to the proposals of others. Has Africa missed an opportunity to put forward a well-thought-out, far-reaching proposal early enough that other countries would have time to digest?

Cancun is in real danger of collapse; delays and posturing have meant that the hard bargaining and horse-trading stage has only recently been reached. There is a great deal expected of trade ministers at Cancun, to try to put these talks back on track. Because Africa does not benefit from the current WTO rules, it must be informed about the complex and inter-connected issues, seek coalitions wherever possible and fight hard to change these rules. The key question is whether Africa can get movement on agriculture without paying too great a price in other areas.

The African position for Cancun

Steven Gruzd[5]

In June 2003 in Grand Baie, Mauritius, African trade ministers forged what they characterised as a common position going into the crucial, complex and controversial global trade talks in Cancun, Mexico from 10-14 September 2003. In a nutshell, this stance seeks a fairer international trading regime, urges greater emphasis on the special needs and circumstances of developing countries and wants to keep additional controversial issues off the already full negotiating agenda.

But the 'Mauritius Ministerial Declaration on the Fifth Ministerial Conference of the World Trade Organisation (WTO)' hammered out in Mauritius on 19 and 20 June 2003 (see Appendix for the full text)[6] obscures cleavages between different African governments and reflects a divergence in approach between African governments and civil society groups. It ignores the practicalities of tough negotiations, and fails to encourage Africa to seek out pragmatic and tactical alliances. As a collection of shared ideas and ideals, it falls short of being a strong enough policy framework to secure a better deal for Africa's people in the global trading system.

'With the exception of war and peace, few negotiations are as important to world prosperity as global trade talks … [they] are always contentious, full of high-minded rhetoric and sharp-elbowed politics,' wrote Christopher Farrell, the economics editor of *BusinessWeek online*.[7] It seems African countries have concentrated too much on words, and too little on the dirty deals that will unfold at Cancun.

The ministerial declaration is peppered throughout with expressions of 'serious concern' about the lack of progress in the current round of multilateral trade talks. The declaration exhorts WTO members to breathe new life into the stalled negotiations (dubbed the 'Doha Development Agenda' or 'Doha Round' after the Qatari city where they were launched in November 2001) and ensure that Africa's concerns are not marginalised and ignored. The African trade ministers list a string of missed negotiating deadlines on the issues most important to the continent: agriculture, trade-related aspects of intellectual property (TRIPS) and public health (over-riding patents to provide cheaper medicines), special and differential treatment (SDT) (greater flexibility for developing countries in adhering to WTO rules) and implementation-related issues (complying with commitments made in previous rounds).

Among other concerns, in the declaration the African trade ministers

[5] Steven Gruzd is the Research Manager on the Nepad and Governance Project at the South African Institute of International Affairs.

6 'Mauritius Ministerial Declaration on the Fifth Ministerial Conference of the WTO,' AU/TD/MIN/Decl.2(I), Grand Baie, Mauritius, 20 June 2003. See Appendix

[7] C Farrell, 'Free Trade's Perilous Position', Business Week online, 20 June 2003, www.businessweek.com

- emphasise that '**agriculture** is of critical importance to Africa's development and holds the potential to lift millions of our people out of poverty'.[8] They stress that progress in agricultural negotiations is vital for progress in the Doha Round as a whole.
- show 'grave concern' that aspects of importance to Africa (such as erosion of trade preferences and the revenue implications of lower customs duties) have not been adequately considered in the framework for discussions on **market access for non-agricultural goods**.
- note that on **trade in services**, a promised impact assessment has not been carried out, and that developing countries want greater attention to the mobility of their people to work abroad. The ministers highlight the need to retain regulatory powers and policy choices over the pace and scope of liberalisation of services.
- call for **special and differential treatment** (S&D) provisions in WTO agreements to be more 'precise, effective, binding and operational'.[9] They call upon the WTO to conclude work on both S&D and **implementation issues** (unfulfilled commitments from previous WTO rounds) 'as a matter of priority', before Cancun.[10]
- 'recognise the complexity and importance of the **Singapore issues**[11] and note that WTO members do not have a common understanding on how these issues should be dealt with procedurally and substantively. Taking into account the potential serious implications of these issues on our economies, we call for the process of clarification to be continued'.[12]

The Mauritius Declaration shows how hard it can be for so many different countries to agree on a common stance.[13] There are vast differences in the economic interests and type of economy between say Benin, South Africa, Mauritius and Ethiopia. For example, the paragraph on agriculture in the declaration mentions none of the so-called three pillars – market access, domestic support and export subsidies. This is because African countries are deeply divided on these issues. Some African agricultural exporters want more liberalised Northern agricultural markets and the elimination of trade-distorting domestic and export subsidies (e.g. South Africa), while others anticipate that their crops would fetch much lower prices in the European Union (EU) should subsidies be eliminated or drastically reduced, and food-importing countries likewise fear higher food costs. The text is weak because it has to be acceptable to all. In fact, the word 'subsidies' only appears in an expression of 'full solidarity' and strong support for the WTO challenge by West African states against cotton subsidies employed by developed countries (see page 40).

Another example of papering over cracks is on whether or not to launch negotiations on the Singapore Issues (trade facilitation, transparency in government procurement, trade and competition policy and trade and investment) at Cancun. At Doha, these issues were fiercely opposed by developing countries that felt understandably overstretched by current rules and commitments. But African opposition to launching negotiations on the Singapore Issues at Cancun differs subtly from South Africa's stance, for example. South Africa contends that these

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8 Mauritius Ministerial Declaration, p 1.

9 Ibid, p 3.

10 Ibid.

11 The 'Singapore issues' were first introduced in the WTO's 1996 Ministerial Conference in Singapore

12 Ibid, pp 3-4.

13 Currently, 40 of Africa's 53 countries are WTO members.

negotiations should not be launched *at this time* because the balance in the Doha Round has been upset. It argues that 'developmental issues' — implementation issues, agriculture, SDT and so forth — were meant to have been agreed upon first in the Doha timetable, and that until developed countries move sufficiently in these areas, the Singapore Issues (which are important to those developing countries) will have to wait. This stance (which offers certain room for manoeuvre in exchange for other concessions rather than outright rejection) was too much for other African countries to stomach, and so it is not reflected in the Ministerial Declaration.

Civil society groups and non-governmental organisations from Africa that also met in June 2003 in Mauritius took a harder line than African governments.[14] In the civil society statement the contention that 'African countries have suffered from the imbalanced, undemocratic and untransparent decision making processes' in the WTO is in the second paragraph, but that concern only appears in paragraph 19 out of 23 in the Ministerial Declaration. Civil society is more strident than the ministers in rejecting the Singapore Issues, saying their 'core principles … will undermine the development goals of African countries, the livelihoods and rights of their peoples as well as the policy sovereignty of African Governments'.[15] They vociferously call for elimination of agricultural subsidies, side-stepped by the Ministerial Declaration. Their biggest disagreement with the ministers is where civil society calls for a moratorium on negotiations on the General Agreement on Trade in Services (GATS), until impact assessments are carried out – this position is flatly rejected by the ministers. Civil society activists urged theirs government to utilise NGOs tactically in Cancun, especially to speak out on sensitive issues in the media that would be politically tricky for governments to raise.[16] Indeed, in Malaysia in September 2003, South African President Thabo Mbeki suggested that poorer nations link up with anti-globalisation protesters in Cancun to get the message of unfair trade across.[17]

For African countries to realise the potential clout that their numbers suggest (they are the largest geographical bloc in the WTO, with 40 out of the 146 current WTO members) they do have to form common positions. The work done within African think-tanks, regional and continental structures to understand and analyse the issues is crucial, and of high quality. The preparation undertaken by African countries has undoubtedly improved dramatically compared to previous trade rounds. In the Uruguay Round (1986-1994), African countries were under-prepared, under-represented, disunited and ultimately out-manoeuvred into signing up to a deal they have rued for a decade. African countries have recognised that strength lies in understanding the issues, as well as standing together and sticking to their principles. To achieve this, a process of intensive, high-level inter-African consultations on WTO issues and positions has continued across the continent between Doha and Cancun (see table at the end of this article).[18] The African Group in Geneva, where the WTO has its headquarters, brings together all the African representatives and meets weekly to discuss developments.

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[14] See 'Statement of civil society at the African Union Trade Ministers Meeting', Mauritius, 18 June 2003.

[15] Ibid, p 1.

[16] Stated in the plenary session of the National Consultative Conference on the WTO held by the South African Department of Trade and Industry, Midrand, 19-20 August 2003.

[17] *http://www.brunei-online.com/bb/thu/sep4w5.htm*

[18] See C Voges, 'The Fourth WTO Ministerial Conference: A Briefing to SAIIA Members Prior to the Conference', South African Institute of International Affairs, November 2001, p 8. She lists 10 additional meetings, at national, regional and continental level between June and November 2001.

However, consolidating common ideals into a stated position on paper is only one consideration when preparing for hard bargaining in pressure cooker situations like Cancun. Workshops and conferences tend to spend the bulk of their time refining the text so that everyone is accommodated, and very little time at all on asking the tough questions required to be effective negotiators in such complex and interconnected negotiations. For both adversaries and potential allies, Africa should answer the following fundamental questions: [19]

- Who are the key countries and blocs, and what are their strategic assumptions?
- Have we understood and assessed the major proposals and weighed the costs and benefits?
- Have we studied the implications at a practical level of formulae and permutations? For example, what will a 5% or 50% tariff cut mean to us?
- What are all the parties' sources of negotiating power, and how can they be counteracted through preparation, tactics or public relations?
- What is our strategy with the media, and how will we activate our constituency, or pacify them?
- What are the various philosophies and approaches of all sides? Do we know how they think? Do we know what they really want, and how hard they will push to get it?
- What are the reputations of the negotiators, on all sides?
- Does our team have enough resources and experienced members to offer advice and leadership?
- Have we thought hard about the composition of our negotiating team and truly assessed their strengths and weaknesses? For example, are industry groups adequately represented? A Canadian negotiator recently asserted that he never goes into an important trade negotiation session without 50 top industry leaders on his team.
- Have we considered hiring professional trade lawyers and experts, or are we just leaving it to ministers and political appointees?
- How are we going to balance and manage the internal dynamic of genuine different interests within Africa?

It is not clear from the Mauritius Declaration whether African negotiating teams have theorised about the cut and thrust of the negotiations to this extent. Granted, it may not be the appropriate document for this sort of information, but African countries will be up against formidable, experienced and powerful teams from developed countries, and this sort of preparation could pay enormous dividends.

Alliances and blocs are another crucial aspect to be considered in multilateral negotiations. African countries have interacted with other developing countries, for example least developed countries met in May-June 2003 in Bangladesh and the African-Caribbean-Pacific (ACP) Group of developing countries met in Brussels in July-August 2003. A group of 11 African countries (Benin, Botswana, Kenya, Mauritius, Nigeria, Senegal, Sierra Leone, Tanzania, Uganda, Zambia

[19] Based on correspondence with Professor Geoff Heald at the Wits Business School, Johannesburg in June 2003.

and Zimbabwe) has been active in making proposals to the WTO on matters such as the Singapore Issues and transparency in decision making.[20]

But the Mauritius Declaration does nothing to encourage Africa to look beyond the continent for support and alliances Africa must pay attention to new groups, and seek tactical alliances. For example, India, China, Brazil, Malaysia and South Africa have been increasingly taking common positions. These countries represent billions of people and the most advanced developing economies. There are also overlaps in interest between African countries and the Cairns Group of agricultural exporting countries (see article by Mark Vaile in this primer on page 33). And a new hybrid group, comprised of Cairns countries (excluding Australia, Canada and New Zealand), plus China and India has been one of the strongest to propose alternatives to the August 2003 EU–US joint proposal on agriculture. Africa must not miss these opportunities to ally on matters of principle or pragmatism, and allies may come from the most unlikely places. The developed countries are not a monolithic bloc; there are tensions between Japan and the US over anti-dumping; and between the US and EU over many things from genetically modified food to the environment. Is it not possible for Africa to play these giants off against each other?

Are African countries prepared to play hardball at Cancun? Are they prepared to fight hard for what they believe in? This may entail making threats of walkouts or, should the Peace Clause –— which prohibits litigation on agriculture issues — expire as planned in 2004, challenging developed countries use of agricultural subsidies with WTO legal actions (see page 37). Have they considered the possibility of allowing negotiations on one or two Singapore Issues in exchange for real advances in agriculture?

Crucially, has Africa really brought anything to the table in terms of offers? Or are they just trying to force concessions but not make concessions, concluding that they have made too many for centuries? The Mauritius declaration acknowledges that this trade round has become bogged down, but calls for others, in particular the developed countries, to save the round. Surely African countries have a responsibility too?

The declaration offers no formula for brokering a deal, no innovative, radical or practical compromise positions that point to a way forward from the current impasse. Although the broad brushstrokes on the major issues are in place, there is little evidence of scenario planning, of anticipating the likely course of the give and take of the negotiations. While African states will not want to give away their tactical secrets, it is of concern that there is no evidence of searching widely for viable alliances. Is the need to express African solidarity and fraternity with the developing world blocking out the possibility of more tactical and practical partnerships that transcend geographical proximity and colonial history?

[20] See WT/GC/W/510, 'Proposals for inclusion in the draft text for Cancun, 14 August 2003.

Some African pre-Cancun Preparatory Meetings			
Date	**Venue**	**Meeting**	**Organised by**
25-26 March 2002	Lusaka, Zambia	Regional Seminar: on New WTO Trade Round	Consumer Unity & Trust Society – Africa Resource Centre
25-27 November 2002	Benoni, South Africa	Nepad Market Access, Industrialisation, intra-African Trade, Production and Export Diversification Workshop	Nepad
7-8 April 2003	Addis Ababa, Ethiopia	Expert Group Meeting on Africa and the WTO Agreement on Agriculture	UN Economic Commission for Africa
9-11 April 2003	Addis Ababa, Ethiopia	High-Level Brainstorming Meeting of the African Trade Negotiators Preparatory to the Fifth WTO Ministerial Conference	UN Economic Commission for Africa
30 March-1 April 2003	Cairo, Egypt	Nepad Expert's Meeting on Market Access	Nepad
28 May 2003	Nairobi, Kenya	Preparations for EPA Negotiations and the 5th WTO Ministerial Conference for Eastern and Southern African Trade Ministers	SADC
5 June 2003	Dhaka, Bangladesh	Least-Developed Countries Meeting	LDCs
7 June 2003	Lusaka, Zambia	SADC Trade Ministers	SADC
19-20 June 2003	Grand Baie, Mauritius	First Ordinary Session of the Ministerial Sub-Committee on Trade, Specialised Technical Committee on Trade, Customs and Immigration	AU
4-8 July 2003	Maputo, Mozambique	Report back to on Mauritius Meeting to AU Heads of State Summit	AU
19-20 August 2003	Midrand, South Africa	National Consultative Conference on WTO Negotiations	South African Department of Trade and Industry

Agriculture – the key WTO issue: Can the EU– US deal break the logjam?

Steven Gruzd[21]

More than anything else, by the end of the current Doha Development Agenda trade round of World Trade Organisation (WTO) negotiations, slated to end by 1 January 2005, African countries want a better deal on agriculture. But negotiations on the WTO Agreement on Agriculture, so vital to the round as a whole, are among the most difficult and intractable. Since they were initiated in 2000, these farm talks have been gridlocked by polarised positions, precious little progress has been made and important deadlines have passed unfulfilled.

One of the key obstacles to progress in the Doha Round of multilateral trade talks is the reluctance among rich countries in the Organisation for Economic Co-operation and Development (OECD) to eliminate domestic and export support given to their farmers and to improve access of agricultural products originating in developing countries to their domestic markets. Both the United States (US) and European Union (EU) point fingers at the other as the major culprit, and have refused to liberalise their own highly protected agricultural markets until the other one does. The anxiously anticipated June 2003 reforms announced by the EU to their Common Agricultural Policy (CAP), that agreed to partially decouple subsidies from production but maintained a high degree of government support for European agriculture, failed to break the deadlock. Does the EU-US joint paper on agriculture delivered to WTO members on 13 August 2003 at the WTO headquarters in Geneva, Switzerland, have the right formula to do so? And what do African countries need to consider as they prepare for Cancun?

The damage done by agricultural subsidies

Farming is integral to the developing world. An estimated 96% of the world's farmers live in developing countries, with the vast majority of them subsistence farmers. .Some 2.5 billion people depend on agriculture for a living.[22] In Africa, those people constitute about 70% of the continent's population. In contrast, farmers make up less than 4% of Europe's population.

Subsidies — grants of public money to either inflate or depress commodity prices —make Northern farmers dominant in crops such as sugar and cotton where they would otherwise struggle, including against developing country competitors. Africa, for example, has ideal climactic conditions and cheap labour. EU agricultural subsidies are significant — market price support, the single biggest component of Europe's Common Agricultural Policy (CAP), was an estimated $57 billion in 2002. In contrast to stated pledges by President Bush to reduce support to American farmers, the US Farm Security and Rural Investment Act of 2002 (known as the US Farm Bill) is set to hike federal spending on farm programmes by 80% to an estimated $82.6

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[22] Gumisai Mutume, *Africa Recovery*, May 2003

billion over 10 years, in addition to $100 billion already earmarked.[23] Fellow OECD states Japan, Korea, Norway and Switzerland also heavily subsidise agriculture.

Governments in developing countries cannot afford to support their own farmers to the enormous extent that is possible by OECD countries. And even if they could, WTO rules now restrict the options that were open to developed countries in years gone by. Developing countries are also being pressurised by developed countries in the current negotiations to further reduce their own tariffs on agricultural goods.

The OECD estimates its members together spend about $318 billion on farm subsidies each year — more than sub-Saharan Africa's entire annual production of goods and services, and six times more than developed countries' total foreign aid budget. The Bread for the World Institute's *Hunger 2003* report estimates that developing countries could treble their net agricultural trade and earn an extra $40 billion annually if OECD countries abandoned farm subsidies and liberalised their domestic agricultural markets.

According to international relief and advocacy group Oxfam, the EU spends $3.3 billion annually to prop up sugar exports, for example. It paid its sugar processors a guaranteed price at triple the market rate in 2002. Despite a production cost expenditure of more than double those in other major producers such as Brazil and Mozambique, the EU is now the world's second largest sugar exporter. Thirty years ago it was a net sugar importer. Amongst other factors such as new producers like Thailand and Australia entering the sugar market, subsidies have contributed to world sugar market prices falling by 17%.

Tariffs further skew the imbalance. In areas where Africa is most competitive — agriculture, textiles and clothing — tariff levels in OECD countries are 10 times higher than on other merchandise, and import tariffs on developing country goods are four times higher than those on fellow OECD country imports. Along with major supply-side constraints within many African countries, such as poor access to and use of advanced agricultural technology to produce at scale, high tariffs have contributed to Africa's declining share of world agricultural exports (from 8% in the 1970s to 3.4% in the 1990s) and its overall poor global trading performance.

Loosening the CAP? The meaning of EU farm reforms

The Common Agricultural Policy was initiated in 1962, and its principal aim was to make post-war Europe self-sufficient in food production at affordable prices for European consumers. Food shortages were rife in the 1950s By the 1980s, subsidies to farmers had produced enormous surpluses, notorious butter mountains and wine lakes, which Europe dumped on world markets, thereby driving world market prices down. Today, the CAP still underpins EU farming policy and practice, and the government funding it provides serves to sustain uncompetitive farmers.

Ten new East European states are poised to join the EU in 2004, and the complexities of EU expansion are partly behind the imperative to reform the increasingly outdated CAP. With almost five million farmers in Poland alone, Brussels had to change the subsidisation rules or risk bankruptcy. Another major spur to adapt the CAP was increasing pressure, especially from the Cairns Group of agricultural exporting countries (including Australia, Brazil and Canada) as well as most developing countries for Europe to reduce trade-distorting subsidies in WTO

[23] *Bridges*, 3 July 2003

negotiations. The EU had to change how its subsidies were delivered to ensure conformity with WTO rules, which does permit subsidisation under certain conditions.

In Luxembourg in June 2003, a 16-hour debate ended a year of bitter wrangling over the CAP. Compromises watered down the far-reaching reforms initially proposed. EU ministers decided that from 2005, the EU would decouple subsidies from production, so that payments go to farmers without being based on their volume of production. This theoretically removes incentives to over-produce and dump excess food on world markets. Total EU agricultural spending has been capped at 43 billion euros ($50 billion) until 2006, with a 1% annual increase until 2013, despite the impending EU expansion from 15 to 25 member states. EU expansion will mean declining per capita subsidies, but the total amount available to farmers stays virtually static. However, farmers in new member countries will have to meet strict environmental, animal welfare and food safety criteria (known as 'cross compliance') to be eligible for this single farm payment.

The perennially intransigent French, with their powerful agricultural lobbies and farmers' groups, watered down the CAP reform proposals and won agreement that up to 25% of cereal and 40% of beef production would remain linked to subsidies. They also maintained most subsidies at current levels until 2007, while pro-reform states such as Sweden, the UK and the Netherlands will sever the production-subsidisation link by 2004. French farmers will continue to receive about nine billion euros annually in agricultural support under the CAP. Decisions on olive oil, cotton and tobacco were deferred until later in 2003. Change in the European dairy sector is only scheduled for 2008, and existing dairy quotas remain until 2014/15. Sugar is excluded from these reforms.

The effect of decoupling payments from production is significant. While the Doha Round negotiations slate trade-distorting subsidies for elimination, decoupled payments are exempt from reduction commitments. The CAP reform moves EU subsidies from the first category (known as the Amber Box in WTO jargon) into the second (the Green Box). The Cairns Group and other developing countries however contend that even current Green Box spending of $78 billion annually, by its sheer size, distorts trade.

So, the reforms are not immediate, not all sectors are involved, and the total amount available to farmers does not change. What do these changes mean for Africa? Xavier Carim, chief director for multilateral trade negotiations in the South African Department of Trade and Industry said: 'My suspicions were raised over how "radical" the CAP reform was when I read that the French government was happy with it. Uncompetitive farmers can still stay on their farms and produce, so is there really any difference between production and non-production subsidies? The conditionalities for farmers to receive subsidies have been made more stringent. To me, this suggests new barriers that developing countries will have to overcome to stay in these markets.'

Faizel Ismail, Head of South Africa's WTO Delegation in Geneva said that many WTO members remain 'cautious and sceptical' Given that concessions in other WTO negotiating areas are contingent on EU farm reforms, he says 'the success of the Cancun ministerial meeting will hinge on the capacity of the EU to convince its trading partners that it is capable of honouring the commitments made in Doha to effect substantial liberalisation of its protectionist agriculture regime'.

The joint EU-US proposal

Many WTO members hoped that the CAP reforms would provide the impetus to kick-start the stalled agricultural negotiations. But the EU did not put a new proposal to the WTO on agriculture, and the deadlock persisted. At the last informal 'mini ministerial' meeting before Cancun, in Montreal, Canada on 31 July 2003, trade ministers urged the EU and US to seek common ground, and come up with a joint position. There is some irony to this request. In the Uruguay Round of trade negotiations (1986-1994), it was a bilateral deal between these two economic powerhouses which ultimately determined the outcome of the round, much to the dissatisfaction of many other countries. But there is also the realisation that no deal is possible in Cancun without EU-US co-operation.

On 13 August 2003, the US and EU (called the 'European Commission' in the document) circulated a joint text to other WTO members. The proposal deals with each of the three major pillars of the negotiations on agriculture: domestic support, market access and export subsidies.

Stratfor, a US-based global intelligence company, said the plan was 'late, vague, [un]specific and lacking any buy-in from other countries' and 'will do little to break the trade deadlock'.[24] Major trading partners reacted to the proposals with criticism. The African Group in Geneva, representing all African member countries of the WTO, said in a statement on 19 August 2003 that it was 'grateful for all efforts' by the major highly-industrialised countries at revitalising the negotiations on agriculture, but said that it was difficult to ascertain just how ambitious that EU-US proposal was, as few values and figures were included.[25] They felt that special and differential treatment (SDT) for developing countries was only tangentially mentioned, and was limited to lower tariff reductions and longer implementation timeframes than those required of developed countries. Innovations to protect developing countries such as 'special products' and safety measures are ignored in the proposal. Least developed countries and a cap on Green Box support are not mentioned.

However, for all its faults and notwithstanding the dangers of an EU-US deal that freezes out everyone else, the joint text has at least moved some countries away from their initial proposals. The real horse-trading is finally underway – several groups, among them a group of 11 African countries, have used the joint text as a starting point, and proposed several counter-proposals and modifications of their own.

In the ideal world of an economics textbook, Africa should have comparative advantage in agricultural trade relative to many Northern states. Selling what we produce best at a fair price should be a sure route out of poverty. But agricultural subsidies mean we live in a very different world. What would be the impact in the North if the subsidies were eliminated? For one thing, food prices to the consumers who finance subsidies with their taxes would be lower. Farmers would be forced to develop smarter production methods to become more competitive and less reliant on government handouts. The truth is that politically, few leaders have had the courage to confront the powerful agricultural lobbies in their own countries about policies that they know damage much of the rest of the planet.

To really get favourable outcomes for Africa in Cancun, sustained diplomatic and moral pressure must be maintained on Northern countries that distort trade through subsidies. Civil

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[24] 'The Underwhelming EU-US Trade Agreement', Stratfor, 15 August 2003, *www.stratfor.biz/Story.neo?stpryId=221250*

[25] International remarks by the African Group to the Joint EC-US Paper on Agriculture, TN/AG/GEN/8, 19 August 2003.

society and politicians alike, in the North and the South, must be made aware of how subsidies suffocate development. Negotiators and activists must understand the issues and use facts and figures in strong arguments. It is encouraging that African countries are not dazzled by fancy wrapping paper protecting Europe's old CAP subsidies in a new box, and that they are fully interrogating the joint EU-US text and not just accepting it at face value.

Non-agricultural concerns of Africa in the WTO

Olu Fasan[26]

Agriculture is proving a stumbling block to any breakthrough in the coming WTO Ministerial Conference in Cancun in September 2003. African negotiators are hardening their position, insisting that no progress should be expected unless the developed countries, represented notably by the European Union and the United States, make significant concessions on the issue of agriculture. Yet, it will be wrong to assume that resolving this thorny issue will banish all the concerns that African countries have about the imbalances in the world trading system. This is because there are several non-agricultural issues on which Africa has strong positions, but which are currently being underplayed in the frenzied debate about agricultural subsidies. The purpose of this article is to highlight some of these issues and where Africa stands on them.

The Single Undertaking principle

A good starting point for any analysis of the systemic problem at the heart of current tensions between developing countries and the WTO is to understand the single undertaking principle, which is one of the most profound institutional changes to emerge from the Uruguay Round of trade negotiations (1986-1994). As a negotiating strategy, it was surreptitiously introduced by the major powers to ensure that all the participants in the trade talks accepted the entire multilateral agreements; thus, according to the rule, nothing was agreed until everything was agreed. This concept is, however, as controversial today as it was then, given that one of its effects is to bind developing countries into agreements that they otherwise find unacceptable. African countries are already insisting that some of the 'Singapore issues' (those first raised at the WTO Singapore Ministerial Conference in 1996: trade and investment, trade and competition policy, transparency in government procurement and trade facilitation) be unbundled and taken out of the WTO 'single undertaking' package.

Special and Differential treatment (SDT)

The term SDT evolves from debates in the 1960s as to how to deal with developing country concerns resulting from the asymmetrical nature of the world economy. The SDT consisted basically of three elements, namely, (i) favourable access, through trade preferences, to markets of the developed countries (ii) substantial policy discretion in developing countries, and (iii) exemptions from certain General Agreement on Tariffs and Trade (GATT) disciplines. However, following the Uruguay Round, the term SDT has taken on a different meaning, and is now largely limited to longer time frames for implementation, best effort indications by the developed countries and technical assistance based on 'mutually agreed terms and conditions'. The fact is that best-endeavour commitments have not worked, and the Doha Ministerial declaration recognises this. African countries clearly want SDT to be central to the Doha trade

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talks, but more importantly they want binding commitments rather than the unbound promises that characterise current SDT provisions.

Non-Agricultural market access

This deals largely with tariff reductions with respect to industrial products (including textiles and clothing). Market access in these sectors has been undermined by protectionist trade policy measures such as tariff peaks and tariff escalation, which are detrimental to the industrial development of developing countries. For instance, the effect of tariff escalation is to condemn developing countries to exporters of raw materials, since the developed countries impose punitive tariffs on processed and manufactured goods from developing countries. The Doha Declaration mandates negotiations in this area, aimed at the reduction or elimination of tariff peaks, high tariffs, tariff escalation and non-tariff barriers. Yet, industrial tariff liberalisation is one issue that divides African countries. African countries with relatively diversified economies, such as South Africa, favour negotiations to liberalise industrial tariffs, reflecting the needs of their industrial exporters. Other African countries, however, fear that tariff liberalisation would expose their domestic industries to foreign competition, and possibly result in de-industrialisation and unemployment.

Trade-Related Intellectual Property Rights (TRIPS)

The public health and access to medicine issue is perhaps the most controversial aspect of the TRIPS agreement, but there are other aspects that are also of concern to African countries. One is the protection of geographical indications. The purpose is to protect products with a certain origin from any unauthorised and potentially misleading use. This protection currently only extends to wine and spirits, but African countries want it to cover other products, so that their products can benefit from such protection. The patenting of life forms is another issue. Although this is not currently recognised by WTO law, there are concerns that if patents are allowed on life forms this could lead to their exploitation by multinational companies, and could potentially undermine the preservation of the biodiversity of Africa. Also in this category are traditional knowledge and indigenous rights and folklore. Africa's stance is that patent protection, which grants exclusive rights to patent-holders, should not be allowed in these areas without adequate protection for the rights of indigenous people.

The Dispute Settlement Mechanism

The Uruguay Round did not only increase the number of legal commitments that member countries were required to make, the rigour with which these commitments are to be enforced was also increased, with the creation of a dispute settlement mechanism that is more far-reaching than any known multilateral arrangements for resolution of disputes among states. Yet, this system is better suited for governments that have adequate resources not only to investigate complaints prior to the WTO process but also to pursue a case through the dispute settlement procedure. To date, no African country has instituted a WTO legal action, not for lack of cases to pursue but because of resource constraints and institutional weaknesses. African countries are insisting that the dispute settlement system should be reformed to make it accessible to weaker countries.

Implementation Issues

There are two aspects to the implementation related issues and concerns. One relates to the ability of African countries to comply with their onerous WTO obligations, and the other concerns the willingness of the developed countries to honour their WTO commitments. Arguably, it is the case of one having the will but not the ability or capacity, and the other having the capacity and resources but lacking the will. During the Uruguay Round, the developed countries induced the acceptance of developing countries of the new issues, namely, services, intellectual property and investment measures with promises to liberalise trade in agricultural and textile goods. Promises were also made with respect to special and differential treatment (SDT), technical assistance and support for capacity building. The scepticism that Africa harbours about the WTO is rooted in the feeling that the main benefits of the trade regimes are cornered by the major powers who have failed to heed the free trade sermons that they so often preach. Africa simply wants the developed countries to honour their commitments.

Another aspect of the implementation issues is the ability of developing countries to implement their own WTO commitments due to resource constraints and capacity problems. Unlike the developed countries, the developing countries took on commitments that are technically complex and that entail real financial cost and manpower resources. For instance, to implement the TRIPS or customs valuation agreement requires substantial institutional changes in some African countries. The technical assistance and support for capacity building, which the developed countries undertook to provide have been inadequate and, in some cases, inappropriate.

The 'Singapore Issues'

These represent another manifestation of the expansionist agenda of the WTO. At the Ministerial Conference in Singapore in 1996, it was agreed that discussions should commence to explore the appropriateness of WTO rules on the so-called Singapore issues, namely, investment, competition policy, trade facilitation and transparency in government procurement. Trade facilitation is about simplifying customs procedures, while transparency in government procurement, as the term implies aims to ensure that government procurement procedures are transparent. Although the need for WTO agreements on these two issues is somewhat accepted, the nature of such agreements are hotly debated. African countries do not want legally binding agreements and insist that any obligations they accept in these areas must be linked to firm commitments on technical assistance and support for capacity building. Far more controversial and less acceptable to African countries are WTO agreements on investment and competition policy. These countries argue that they have problems with the implementation of existing GATT/WTO agreements and would not want to 'bite more than they can chew' by overloading their regulatory systems with international rules on investment and competition policy.

Rules Negotiations

The last of the non-agricultural issues to be discussed in this article is the nature of WTO rules. African countries have often complained about the abuse of WTO rules on dumping, safeguards and subsidies by the developed countries. But this is partly because the rules are ambiguous, which then creates the opportunity for abuse. The Doha Ministerial Declaration mandates negotiations to 'clarify and improve' these rules. Africa clearly has a strong stake in the negotiations (or even renegotiation) of these rules to ensure not only that they prevent abuse by the developed countries but also that they take into account the development needs of developing countries.

Eleventh hour deal on generic drugs gives impetus for Cancun

Ayesha Kajee[27]

On 31 August, members of the World Trade Organisation struck a long-sought deal on the manufacturing and importation of cheaper generic versions of vital drugs during 11th-hour negotiations that paved the way for significant progress at the upcoming Cancun round of trade talks in September 2003.

The deal, hammered out between key developing nations and the United States, the primary objector to the use of alternative versions of brand-name medicines, enables developing countries to license domestic production of generic drugs and to import these drugs if they lack the manufacturing capacity. But it also provides safeguards that allay pharmaceutical companies' worries that that the system would be abused for commercial gain, for example by Indian and Brazilian generics manufacturers producing copies of drugs such as Viagra.

The deadlock, which has persisted stubbornly since December 2002, when all WTO members besides the USA and Japan had agreed on it, was finally broken in intensive negotiations between parties representing three sides of the debate. India and Brazil are major producers of generic drugs (cheaper copies of patented medicines), while South Africa and Kenya represented those countries most affected by the AIDS pandemic and malaria. The United States voiced the concerns of the developed world's pharmaceutics lobby.

Delegates on all sides of the issue welcomed the breakthrough. Sergio Marchi, Canada's ambassador to the WTO, praised African countries' passion and patience, saying 'they helped the WTO to find its soul'; while Kenya's ambassador, Amina Chawahir Mohamed told reporters, 'it's good news for …the people of Africa who so desperately need access to affordable medicine.' South African trade envoy Faizel Ismail said that the plan is reasonably well-balanced.

But critics such as international advocacy group Oxfam have declared that the text of the agreement contains myriad obstacles, which will cause delays and increase costs.

The lack of consensus on this issue has been frustrating critical trade negotiations on several fronts ever since the Doha talks in November 2001, when an amendment to the WTO's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) in principle allowed poor countries to access cheap life-saving drugs.

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TRIPs was always likely to be a political hot potato at Cancun, since it is difficult to strike a balance between allowing people to use existing inventions and creations (particularly where, as in the case of anti-AIDS drugs, there is a huge social value) and providing companies with incentives to undertake long-term research and development for future inventions. While protecting intellectual property rights encourages research and innovation because inventors can expect to earn future benefits from their creativity; challengers argue that where such protection prevents the alleviation of suffering and costs lives, the social benefits outweigh the individual, company or national rights asserted by the patent holder. (See sidebar on patent rights and exceptions.)

The 31 August decision waives the TRIPs proviso that compulsory licensing must be predominantly for the domestic market, and allows developing countries who lack the capacity for producing medicines domestically to import generics from elsewhere.

However, the deal calls on WTO members to safeguard the diversion of drugs produced under this system to other markets (especially into developed countries where the original versions are sold at high prices), as this would defeat the purpose of the agreement.

PATENT RIGHTS AND EXCEPTIONS

A basic patent right prevents others from using or replicating an innovation, provided that it is new or demonstrates some inventive step, and that it has usefulness or applicability.

In the pharmaceuticals industry, governments can make specific and limited exceptions to patent rights under WTO rules, which must not unfairly distort the patent-holder's normal use of the patent. For example, in April 2000 a WTO dispute settlement body ruled that Canada could allow generics companies to use patented drug formulae before expiry of the patent, for the purposes of obtaining marketing approval to sell the generic version once the patent had expired.

Under the TRIPS agreement, 'voluntary' and 'compulsory' licensing are two exceptions with regard to drugs patents. Voluntary licensing occurs when the generics manufacturer obtains the consent of the rights-holder to manufacture the product on payment of agreed royalties.

Compulsory licensing occurs when a government allows production of a patented drug without the patent owner's consent under the following conditions – the applicant for the compulsory license should first have attempted to get a voluntary license from the rights-holder on reasonable commercial terms; adequate remuneration must still be paid to the holder; the government cannot grant the compulsory license exclusively to one licensee; and it must be granted mainly to supply the domestic industry. The August 2003 deal allows a waiver of the latter proviso so that countries can import generics if they are unable to produce them. Furthermore, Article 31b of the TRIPS agreement makes provision for national emergencies and circumstances of extreme urgency, when a compulsory license may be issued without the need to try for a voluntary license.

Developing countries were not subject to TRIPS until January 2000, and may delay pharmaceutical patent protection until January 2005 if they did not have pharmaceutical patents when TRIPS came into being in 1995, provided that they allow the filing of patents in the interim period. Brazil, India, Egypt and Tunisia are using the latter "mailbox" provision, indicating that they did not grant patent protection to pharmaceutical products. In addition, least developed countries (LDCs) do not have to comply until January 2006 – and even this may be extended to 2016 if justified.

Once countries like India pass the 2005 deadline, their generics suppliers will experience difficulty in producing medicines at low cost. Some analysts believe this will reduce the value of compulsory licensing as a bargaining tool for governments negotiating with medicine suppliers and will ultimately push prices higher

While the decision has been welcomed by the World Health Organisation (WHO) and the European Union, they have stressed the need for speedy implementation. 'It is a good, positive development. There are many conditions attached to it, but we can solve them one by one', said WHO director-general Dr Lee Jong-Wook.

The deal's conditions for preventing misuse of the system have been criticized by health activists, who say they are too tough for poor countries that lack administrative and legal infrastructure.

'Today, countries can use compulsory licenses for import, because a supply of generic versions of many drugs is available somewhere on the world market,' said Oxfam's Céline Charveriat.

'What members do not seem to take into account is that the burdensome system being put in place does nothing to ensure that generic production will happen in the future. Rather, developing countries will have little alternative to the high prices and long-term monopolies of brand-name pharmaceutical companies.'

Under the deal 'eligible importers' includes all least developed countries, as well as any WTO member that notifies the Council for TRIPS that it intends to use the system as an importer because it has a demonstrable lack of manufacturing capacity. Members from 23 developed countries have voluntarily declared they will not use the system as importers, while others have agreed that they would only do so in situations of national emergency. Some analysts believe the multinational pharmaceutics lobby demanded this abstention as a pre-condition for their agreement to the deal.

'Eligible exporters' should issue compulsory licenses that compel the manufacturer to distinguish products supplied under the system through special packaging or colouring or shaping, a proviso that detractors allege will increase production costs. Only the amounts necessary to meet the needs of an eligible importer may be manufactured and the licensee must post the quantities and the distinguishing features of the product on a website.

Critically, while the deal requires the payment of 'adequate remuneration' to the rights-holder, the fixing of royalty rates is unresolved. Health activists and generics manufacturers want these to be fixed on the importing country's ability to pay rather than on the generic manufacturer's financial capability. The EU's interpretation is that remuneration will be 'calculated on the basis of its economic value in the importing country.' The devil is obviously in the fine print, and it remains to be seen whether or not the conditions imposed will defeat the spirit and principle of the agreement.

The August 2003 decision represents a victory for the developing world and demonstrates the value of collaborative action for collective benefit, exemplified by Kenya and South Africa who effectively represented the African position. While cynics may argue that developed countries will use this 'concession' to pressurise less developed ones on issues such as agriculture; another view is that a 'co-operative developing world bloc' could (and should) exploit the momentum of this victory to drive their other agendas in Cancun.

Africa needs more than market access to boost exports

Steven Gruzd[28]

Africa is asking for more market access, particularly in agriculture, for which developed countries will likely seek greater access to African markets. However, before making such a deal, Africa must consider carefully why it has so far failed to utilise the duty-free access that it already has under the Lomé/Cotonou agreement with the European Union (EU).

Consider Botswana, which is widely acclaimed as Africa's most well-run government with $6 billion in reserves and far greater resources for trade and agricultural support than other African countries, thanks to its diamond mines. Although Botswana has a long tradition of raising cattle, it has never filled its quota of 18,916 tonnes of beef exports to the EU.

In this, Botswana is not alone in Africa. The continent already enjoys a wide range of trade agreements granting duty-free access to Europe and other markets. Although some of these limit the volume of trade that qualifies, Africa has often failed to take advantage of these concessions.

Understanding why is one of the most important challenges for African governments today.

One basic problem is that what is grown or manufactured in Africa is often not acceptable to consumers abroad. Not only must Africa meet standards to prevent the spread of diseases like foot and mouth or insects that grow on agricultural products, it also must produce bruise-free fruit, deliver products in the right packaging, and quality competitive with that from other low-cost producers in the world.

A recent World Bank publication, Standards and Global Trade: A Voice from Africa, puts it well: 'To expand trade, Africa[n countries] will have to meet the significant challenges in their capacity to meet international production and quality standards … without addressing standards compliance issues, Africa will be unable to take advantage of market access opportunities.'

As tariffs tumble because of the World Trade Organisation (WTO) and bilateral trade agreements, the limitations within African countries hold them back and prevent them from maximising their scant market openings.

This is not to imply that global trade is fair. Rich countries continue to distort trade by providing heavy subsidies and support to their farmers, firms and factories. While preaching free trade, they use WTO-approved weapons to protect their domestic markets from foreign competition.

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Their arsenal includes 'tariff peaks' (higher than average duties on competitive African imports like agricultural goods, textiles and clothing) and 'tariff escalation' (tariffs that rise progressively as more value is added through product processing). When producers in developed countries are threatened, their governments retaliate with anti-dumping actions and slap on extra taxes (called countervailing measures). They can employ standards and technical regulations unfairly to ban imports. Yet when most African countries are granted precious market access they trip over the hurdles of supply-side constraints and standards to get their products onto shelves and tables.

Botswana provides a pertinent case. From extreme underdevelopment at the time of its independence in 1966, its economy is now one of Africa's strongest. Per capita GDP doubled between 1982-83 and 1997-98, and the World Economic Forum rates Botswana the best-governed country on the continent. Its cattle industry accounts for about 70% of agricultural exports and 4% of total exports. Under the Beef Protocol of the previous Lomé Convention (1975-2000) and its successor the Cotonou Agreement (2000-07), Botswana, Kenya, Madagascar, Namibia, Swaziland and Zimbabwe are offered greatly reduced tariffs, known as tariff quotas (TQs), on fixed quantities of boneless beef exports to the EU. But as the table (opposite) illustrates, from 1992-2001 these countries collectively failed to fill their 52,100-tonne quota. Only Zimbabwe exceeded its individual quota from 1993-95.

AFRICAN COUNTRIES DON'T USE THEIR BEEF QUOTAS

	IMPORTS TO EU UNDER LOMÉ/COTONOU BEEF PROTOCOL (METRIC TONS)										
Supplier	Quota	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Botswana	18,916	15,274	13,806	12,145	11,966	10,373	11,851	13,012	11,518	11,140	15,251
Madagascar	7,579	n/a	n/a	n/a	3,533	1,759	696	13	0	0	0
Namibia	13,000	8,667	9,379	11,729	10,177	8,546	7,143	8,898	10,365	8,641	9,618
Swaziland	3,363	128	372	650	379	520	326	303	417	728	59
Zimbabwe	9,100	6,331	9,333	16,844	10,766	6,266	7,120	6,787	6,762	7,047	6,167
TOTAL	51,958	30,401	32,891	41,369	36,822	27,465	27,137	29,014	29,063	27,557	31,095
Filled		58%	63%	79%	71%	53%	52%	56%	56%	53%	60%

Source: Eurostat n/a = not available

*Table excludes Kenya, which never filled its 142-tonne quota.

The EU has rigorous sanitary and phytosanitary (SPS) standards – WTO jargon for rules pertaining to human, animal and plant health – for bovine imports. This is understandable considering the devastation caused by 'mad cow disease' (bovine spongiform encephalopathy or BSE) and foot and mouth disease (FMD). There are strict regulations as to the traceability of animals, disclosure of exact feed content, minimal drug residues in meat, hygienic slaughter and transport procedures.

These obviously impose costs on suppliers. In many cases, African countries cannot ensure that a sufficient quantity of their domestic beef production is of export quality. Madagascar, Kenya and Zimbabwe cannot certify their beef as FMD-free, and have, consequently, lost access to this market. In Zimbabwe government mismanagement has undermined economic performance. Panic-driven stock selling in the wake of the government's controversial land reform policies has decimated breeding herds. There is no foreign exchange available for vaccines or tagging equipment and FMD is rampant as cattle intermingle with buffalo (natural FMD carriers). The disease is also spreading to neighbouring states. The EU banned Zimbabwe's beef imports in August 2001 and this market is probably lost for decades.

Why has Botswana averaged just 65% of its 18,916-tonne quota over the past decade? Botswana has efficiently fought FMD, but it has other problems arising from traditional farming methods, which equally limit the export capacity of many African countries.

The large commercial cattle farmers in Botswana do exploit export opportunities. They use a paddock system, grazing cows in one area while letting grass grow in another. They carefully track available forage, provide veterinary services and fatten up their cattle before slaughter. By contrast, the traditional subsistence farmers, who rear most of Botswana's cattle, over-graze communal grassland. They do not regard cattle as a commercial commodity, but consider them a reservoir of wealth, and a way of saving rather than a potential export.

Cattle are often only sold to cover family emergencies or to meet financial need. In this semi-arid, drought-prone region, by the time these tough old cows are sold to abattoirs, they are well past their prime (over three years old), and yield low-grade 'industrial' beef that is fit only for soup meat, canned meat or sausages. While these practices may be important culturally, economically they are imprudent because they hamper competitiveness.

The Beef Protocol permits only high-grade cuts of chilled, deboned beef, so only some of the meat from each carcass is eligible. Also, there are simply not enough high-quality cattle available annually.

Infrastructure is another crucial supply-side constraint. 'It's hard for people living 200km or 500km away to get their animals to the abattoir. The government must come in and improve the roads. Some areas have no roads at all,' said Sonny Molapisi, the Marketing General Manager at the Botswana Meat Commission (BMC).

Landlocked Botswana relies on neighbours to ship its beef to market. Better-integrated regional documentation, transport and customs procedures would also enhance Botswana's competitiveness.

If its EU beef quota was doubled, or the market liberalised, could Botswana benefit? It is unlikely.

One chronic problem limiting Africa's ability to export is the lack of credit and high interest rates. Expanding production of many agricultural goods, particularly high-value fruit, vegetables, spices and flowers, requires significant upfront investment in seed, fertiliser, irrigation and wages for workers. When faced with a market opportunity, big Australasian or South American producers, who have access to cheaper, readily available bank loans, can quickly respond and snap up market share.

Has Africa thought through the consequences of negotiating so hard for market access that it might not utilise? Government and business should redouble their efforts to change both attitude and aptitude. They need to invest as much in roads, water supplies, cold storage and farmer education as they have done in abattoirs and equipment, and there must be greater prioritisation of trade and agriculture extension services. One attempt to fill the gap in Botswana is the BMC's 'feedlotters advance scheme', which gives the equivalent 600 pula ($123) per animal supplied by small farmers to the BMC.

East Africa's fish exporting industry has learned about standards the hard way. The combined exports of Nile perch from Lake Victoria for Kenya, Tanzania and Uganda earn about $200 million annually, and the industry provides about half a million jobs. Fish products comprise 17% of Uganda's exports, and 75% of its Nile perch catch goes to the EU. In 1997 and 1999, the EU barred imports on SPS grounds, alleging that fishermen were using poison to catch fish, and questioning the hygiene standards of fishermen, transporters and processors. Factories closed or scaled down, a third of those employed in the industry lost their jobs, and Tanzanian and Ugandan fish exports fell by half. A $4.6 million programme involving a partnership between UN agencies, national bureaux of standards, employer federations, bilateral donors and international organisations rescued the situation. The fish industry's organisational and regulatory framework was vastly improved, and the capacity for fish inspections significantly strengthened. Local standardisation institutions, testing houses, inspection and certification bodies were upgraded. The EU ban was lifted in 2000, and the new market opened up in the US. Now technical regulations are taken much more seriously throughout the industry.

The EU demands that Ugandan fish processing companies test for skin parasites in the Nile perch. The processors believe that this test – costing $4,400 per month – is unnecessary, as the thick hide of the perch is used to make leather, and parasite infestation is physiologically impossible. But they lack the estimated $31,000 needed to prove this scientifically. Considering the long-term savings scientific proof would make possible, surely the Ugandan government should provide this relatively paltry amount? Alternatively, the costs could be split between the three countries. The East African region should raise the money and have the courage to challenge this compulsory EU test aggressively in appropriate international standard-setting forums.

African countries too often are passive 'standard takers' rather than proactive 'standard makers'. They must increase their understanding and awareness of standards. By actively taking part in the rule-making and review process in the WTO, they too can wield the WTO weapons like SPS. That way they can make sure standards are not arbitrarily applied by trading partners who are losing their protective tariffs and subsidies, or frequently and drastically altered to become unfair barriers to trade.

Meeting market requirements hinges on capacity. Africa's national standards bodies are generally poorly staffed and underfunded. Testing laboratories lack modern computers and telephones, as well as measuring and calibrating equipment. Institutions conducting risk analyses and marketing and scientific research need to be supported and possibly consolidated. Neighbouring countries wastefully duplicate the same efforts, where regional institutions could service several states simultaneously and harmonise regional standards. In Africa, standards and quality requirements are frequently seen as burdens rather than carrying inherent health and safety benefits. If standards were given higher priority on national agendas, rich rewards would likely follow.

From beef and beans to fish and fresh flowers, every link in the African agricultural supply chain has considerable room for improvement. Adequate cold storage facilities in trucks, ports and airports are vital, as are appropriate support services, reliable electricity, informative and functional packaging, cheap, reliable communications, well-maintained roads, and efficient, non-corrupt customs procedures. Post-harvest losses (up to 30% in Ghana) account for enormous costs and lost opportunities. The problem is not poor production, but poor management.

Would-be exporters should follow the three Cs: compete, conform, and connect. In other words: develop the capability to produce saleable products that meet client and market requirements, and get them to those markets through harmonised trade and customs rules. When these precepts work, the results can be spectacular. In 2002, Ghana exported about 60,000 tonnes of fresh pineapples to the EU at $133 per tonne, earning $8 million. Its Blue Skies Company exported 4,000 tonnes of sliced, packed pineapples straight to UK supermarkets and earned $12 million at $3,000 per tonne.

The Cairns Group on agricultural trade — Building an alliance for reform

Mark Vaile[29]

The WTO agriculture negotiations are of vital importance to African nations, the majority of whom see agricultural trade reform as a key to enhancing rural development and alleviating poverty. The agriculture negotiations are just as important to Australia and the other members of the Cairns Group of agricultural fair trading nations, whose farmers — like farmers in Africa — struggle to compete with those in developed countries because of large agricultural subsidies and restricted market access.[30] As a result, the Cairns Group and the African Group share many common objectives in the agriculture negotiations.

The Cairns Group — consisting of 17 countries, 14 of which are developing —was created during the Uruguay Round, as a third force to offset the dominance of the agriculture negotiations by the EU and US. Only then was some reform of agricultural trade achieved. Realising further and more meaningful reform in the Doha Round will require even greater co-operation between the Cairns Group and other reform-oriented countries, including members of the African Group. Without this co-operation, it will be all too easy for the major developed countries participating in the negotiations to reach a compromise between themselves on agriculture that will not meet our common reform objectives. There is a striking similarity between the positions of Cairns Group members and the African Group on many key issues, and we all stand to gain from comprehensive agricultural trade reform.

The agriculture negotiations are based on the so-called 'three pillars' of agriculture: domestic support, export competition and market access. There is scope for closer co-operation across all three pillars —particularly where African Group objectives expressed in general terms could be served by the specific Cairns Group proposals. All Cairns Group proposals have at their core greater flexibility in terms of special and differential treatment for developing countries in the WTO.

Domestic Support

Cairns Group members and those belonging to the African Group want to see a reduction in the high levels of domestic subsidisation provided by many developed countries to their farmers, which make it difficult for imports from unsubsidised countries to compete. The Cairns Group would welcome African Group backing for its proposal that the developed countries should substantially reduce trade-distorting domestic support measures (that is, Amber Box and Blue Box measures) over five years.

[29] Mark Vaile is the Australian Minister of Trade and Chair of the Cairns Group of agriculture exporting nations.

[30] Named after the Australian city in which it was founded in 1986, the Cairns Group comprises Argentina. Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa (joined in 1994), Thailand and Uruguay.

Both groups also advocate tightening the criteria for Green Box support (that is, subsidisation that does not distort trade) to minimise the effects on production and trade. The proposal by the Cairns Group sets out specific amendments intended to tighten Green Box criteria. This proposal would be strengthened by African Group endorsement.

The African Group also wishes to maintain flexibility, so that its member countries to implement support measures to promote rural development. The proposal by Cairns Group members would meet the following concerns of the African Group:

?? almost all support measures envisaged by African Group members would fall within the Green Box and thus could be utilised without restriction;

?? developing countries would have nine years (rather than five for developed countries) to eliminate Amber Box support measures and would still retain access to existing *de minimis* provisions which allow trade-distorting support totalling 10% of the value of agricultural production ;[31] and

?? least developed countries in the African Group would not have to undertake any reform commitments.

Export competition

Cairns Group members and the African Group should continue to collaborate in conjunction with the other developing countries in the WTO (who together form a majority) in seeking to eliminate developed country export subsidies, which have a highly damaging impact on global markets. Cairns Group members have proposed the elimination of export subsidies in developed countries over three years.

Market access

Both the African Group and the Cairns Group are concerned about the restricted access their exporters have to developed country markets. African Group proposals make consistent reference to the need to reduce the high level of tariff peaks and tariff escalation imposed by many developed countries. Cairns Group members consider that a harmonising formula with an appropriate coefficient (such as the Swiss formula with a coefficient of 25) is the best way to reduce the effects of tariff peaks and tariff escalation significantly.

Some African Group countries agree with Cairns Group members and support the use of the Swiss formula, while others prefer the 'average reduction over all products' methodology of the Uruguay Round (proposed for the Doha Round by the EU, Japan and others). Some developing countries are concerned that support for a harmonising formula in developed country markets would have a seriously negative impact on trade preferences.

The Uruguay Round formula would, however, allow countries to make large cuts to already low tariffs without making any significant reductions in higher tariffs. This would do little to overcome the problems of tariff peaks and tariff escalation. Indeed, a study by the Australian Bureau of Agricultural and Resource Economics (ABARE) indicates that using the Uruguay Round formula to reduce bound tariffs by 36% (as proposed by the EU, Japan and others) would result in an average cut in effective protection of only 8%. This would lead to minimal improvements in market access for agricultural exports; but an important opportunity to reform the highly distorted world agricultural market would be lost.

[31] African Group members currently utilise almost no trade distorting support measures

The ABARE study also demonstrates that using the Swiss formula with a coefficient of 25 in developed country markets would result in an average 29% cut in effective protection. This would reduce tariff peaks and tariff escalation, and allow trade to flow.

Cairns Group members have proposed a modified Swiss formula that would allow developing countries to retain tariffs of up to 125%.This could be good news for African countries.

Least developed countries would not be required to undertake any tariff reduction commitments.

Trade preferences

That some African countries have not supported a more ambitious tariff reduction formula is attributable to concerns that it might erode the preferential market access arrangements to the EU, US and other markets that many African countries enjoy. However, although individual producers and industries in some developing countries gain significantly from preferences, a broad range of studies propound the overall view that trade preferences provide relatively few net benefits to recipient countries overall. The evidence cited by these reports suggests that preferences represent something of a mixed blessing for African exporters, providing some advantages in the form of short-term market access, but locking countries into uncertain and narrow export patterns. These expose African economies to terms of trade declines and volatility, and reinforce the effects of tariff escalation. In addition, trade preferences are already being eroded by preferential trade agreements outside the WTO. For example, the EU's enlargement to include 10 more countries from Eastern Europe will dissipate the value of African preferences, as will free trade agreements negotiated by the EU, the US and others with countries elsewhere around the globe.

A WTO-negotiated harmonising formula that significantly reduces tariff peaks and tariff escalation in developed country markets is the best way for African countries to achieve sustainable, long-term, guaranteed access to the world's richest markets.

Australia's Advice to Africa

Lindsey Arkley[32]

'The potential for co-operation between the Cairns Group and the African Group is quite high,' says economics professor Kym Anderson, the director of the Centre for International Economic Studies at the University of Adelaide, who recently visited Africa to help prepare a report on the issue for the Australian government. 'Both groups want liberalisation of agricultural trade, and if we can stick together at Cancun, we can have quite an influence.'

'What we still want to see at Cancun is additional WTO measures to ensure that trade liberalisation doesn't undermine rural development in developing countries,' says James Ensor the spokesman for Oxfam Australia. 'In particular, we want WTO rules to allow developing countries to protect the livelihoods of low-income, resource-poor producers of certain key crops such as maize and rice by not liberalising imports of those products. We also want special

[32] Lindsey Arkley is an Australian freelance journalist

safeguard measures for developing countries when they're faced with huge surges of imports of key products—subsidised or unsubsidised—competing with products that underpin their own rural sectors.'

Some Australian observers see these agricultural negotiations as likely to have a negative affect on African countries. 'The WTO is just an agent of the large transnational corporations,' says David Dorward, director of the African Studies Institute at Melbourne's La Trobe University. 'They're the ones who get the benefits from opening up markets, not the producers of the commodities out in the field,' he says. 'It's companies like Unilever and Nestlé, which have annual turnovers larger than the budgets of two-thirds of the countries in the United Nations. You only have to look at the profit margins and the profit distribution with commodities like cocoa and coffee to see where power lies. [It's not] with the producer, and until the WTO is organised on some basis of equity, it will just keep perpetuating that. The rich will go on exploiting the poor.'

'Because this is called the Development Round, many countries—including members of the African Group—tend to believe that it should help development in an aid sense, not a trade sense,' says Alan Oxley, a former chief Australian trade ambassador. 'They want the rich countries to provide more market access, and that's getting all the focus, but the whole point of trade liberalisation is to actually improve your own economy, not just to get access to other people's markets.

'And the key economic problem in sub-Saharan Africa is actually getting economies properly reformed and geared for growth, from which you get the trade. For African and other developing countries, this will also mean agreeing to cut tariffs on industrial products. Cutting tariffs doesn't actually fix your economy, but it's a way of putting pressures on your economy, imposing an external discipline that reinforces market reforms.

The average tariff in the industrialised world is about 5 or 6% now. In the developing world, it's between 15 and 20%, and that's got to change.'

Can Africa take on Europe through the peace clause?

Olu Fasan[33]

At the end of 2003, the 'peace clause'– Article 13 of the World Trade Organisation (WTO) Agreement on Agriculture – is due to expire. While in force, the peace clause ensures that WTO members will not challenge countries using agricultural subsidies under other WTO agreements. However, if the world fails to eliminate subsidies or extend the peace clause, Africa and the developing world could launch a wave of disputes and retaliate using Article XVI of the General Agreement on Tariffs and Trade (GATT) and the Subsidies and Countervailing Measures Agreement.

Clearly, Africa has been badly damaged by subsidies and other forms of domestic support by developed countries. Will the European Union (EU), which is pushing hard for extension of the peace clause, let it go? And if the clause does expire, should African countries rush to challenge EU agricultural subsidies?

The Cairns Group of agricultural exporting countries has stridently objected to keeping the peace clause. 'We have paid a very high price for that clause, and developing countries will not approve its extension', said Gilman Rodrigues a Brazilian farmer, at pre-Cancun talks in Montreal, Canada in July.

The EU remains the main beneficiary of the peace clause, given that it has an annual share of no less than 85% of all notified agricultural subsidies among WTO members. Powerful farm lobbies and agro-businesses in developed countries had successfully ensured that their governments kept agriculture out of multilateral trade negotiations until the Uruguay Round (1986-1994), and the peace clause was one of the political costs of agriculture's inclusion. In current WTO agricultural negotiations, the EU, influenced by France, is dragging its feet and making only minimal movement. As Africa is the biggest loser from EU (and US) agricultural subsidies, one would expect the continent to present a united front and vigorously oppose any extension of the peace clause.

But cleavages between African agricultural exporters and African net food importers (who fear higher food prices) have weakened this position.

But what if the peace clause does expire? WTO law then allows any member whose rights have been nullified or impaired by another to seek redress through the dispute settlement mechanism. Yet it is questionable whether African countries would or even could initiate dispute settlement actions against the EU on its agricultural subsidies.

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Most African countries are beholden to the EU for aid and special trade concessions. To openly challenge agricultural subsidies, Africa must be willing to bear the risk that a legal battle will spark retaliatory cuts in aid or special bilateral trade access.

African countries that feel sufficiently harmed by the agricultural policies of the EU or US are not completely without any recourse. WTO law allows counter measures, by which a member can withdraw concessions (under certain conditions and after due process) in an agreement other than the one from which the complaint arose. This should enable a weak state to hit the powerful.

In the Bananas case, a WTO arbitration panel affirmed that Ecuador could retaliate against EU banana quotas by refusing to protect the exclusive copyrights of EU music producers and artists. Ecuador successfully argued that, given its relative economic weakness, this was the only way it could hurt the EU. Other developing countries could similarly threaten to end protection of intellectual property as a 'retaliatory weapon'. However, Africa must be prepared in the event that developed countries react disproportionately, using all sorts of economic pressure. Consequently such an aggressive strategy would be best supported by a broad coalition of developing countries, including heavyweights like Brazil and India.

However, retaliation may not always be necessary. The mere fact of an African country winning a WTO case against a developed country may suffice. The US acceptance of a WTO panel decision in favour of Costa Rica came about because the US did not want to be accused of trampling on a small and poor country. So the court of international public opinion may be more powerful than self-help in terms of retaliation. All that an African country may require is the confidence to take on any major trading nation or bloc.

Another obstacle to this strategy is the high cost of litigation. The formation of the Advisory Centre for WTO Law (ACWL) in Geneva in 2001 partly addresses concerns about enormous legal costs. The ACWL provides advice in WTO dispute settlement proceedings. It charges modest fees for legal services, varying with the size and standard of living of the user. NGOs like the UK Consumers Association take on cases on behalf of developing countries and, if successful, ensure that the developed country concerned changes its laws or policy accordingly. Developing countries have proposed that should a developed country lose a WTO dispute settlement case against a developing country, the former should pay the legal fees and costs of the latter, as one way of addressing inequities in the WTO legal system.

But the African Union (AU) could be more proactive. On agricultural subsidies, as on other WTO issues, the AU could pool legal, technical and financial resources, to challenge the developed countries on policies that stifle or undermine the continent's development. Clearly, a united front would accomplish more than any single African country. During the Uruguay Round, France could not make headway on a provision protecting its cultural industry against perceived 'American invasion' until the European Commission made the issue part of its negotiating position. If the AU is modelled on the EU, it is time to start speaking with one voice on major global trading and economic issues that affect the continent. None is more pressing than the agricultural subsidies.

Fighting back on the field of public opinion

Ross Herbert[34]

FOR too long, Africa has been a passive player on the world stage, fatefully assuming that economic systems and competition would not change. It accepted trade rules negotiated to the satisfaction of the major Northern powers.

While Africa sat back, content with economies driven by aid, sweetheart deals with colonial powers and commodity exports, two massive changes occurred. Every commodity upon which Africa depended in the 1960s has been aggressively pursued by other developing nations who have added capacity and consistently driven down prices in many primary goods. And, Africa has done little to diversify, move into higher value commodities or make itself more efficient.

Africa has now begun to try to forge a common position on trade and participate more effectively in negotiations. But it is too little, and too late. Many African nations have, at most, one person in Geneva to handle relations with all United Nations agencies and the trade negotiations based there. With eight areas of negotiations, hundreds of meetings and hundreds or thousands of trade negotiators to lobby, Africa's tiny delegations are hopelessly outgunned by the US, European Union, Chinese, Japanese and others who field hundreds of highly trained negotiators and trade lawyers.

To extract a better deal, Africa must carry the fight on to the field of public opinion and directly influence public thinking among the big protectionist powers. Instead of uttering banalities about cooperation when Africa meets the G8, African leaders should aggressively seek out the media and forcefully argue that agricultural subsidies and trade discrimination against competitive African products is immoral; it costs jobs for people with few survival options.

This should be backed up by a well thought out long-term plan to influence key constituencies – opinion makers in political society: the media, activist non-governmental organisations, progressive politicians, academics and think-tanks. Such a campaign should consist of a series of conferences – in Europe. Every African politician who travels ought to be tasked with visiting newspaper editors and trying to get on to issue-oriented television and radio talkshows. Embassy staff should attend fewer cocktail parties and rather develop a detailed database of editors, commentators and opinion makers. Diplomatic missions should then focus programmes on outlining precisely how trade discrimination is harmful to Africa.

Success in this campaign depends on understanding that all democracies think they are acting in morally correct ways. Change comes only when this moral insulation is peeled back and people see the consequences and hypocrisy of their government's policy.

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The only time Africa is discussed publicly in the developed world is when a war requires intervention or rich nations are shown donating food to fight famine. No one informs the public that there is a direct link between African poverty and agricultural subsidies that produce mountains of unwanted butter and lakes of milk and other goods. When dumped in Africa, such products make the creation of African agro-industries virtually impossible. To drive home such a point an activist could pile a mountain of powdered milk on a pavement in Paris as a backdrop to show how French dairy policy is killing Africans and driving thousands of desperate people to illegally enter the EU.

President of Mali Amadou Toure and President of Burkina Faso Blaise Compaore recently argued in The New York Times that cotton subsidies are 'strangling' West Africa, endangering their vital national interests. Globally cotton subsidies total $6 billion, with $3.9 billion by the US. Cotton accounts for 40% of export revenues in Mali, Burkina Faso, Benin and Chad; yet US subsidies to 25,000 farmers were greater than the entire economic output of Burkina Faso, where two million people depend on cotton. Such clear, forceful argument by leaders is a good first step. But much more must be done for Africa to win the trade fight.

Aggressively using WTO rules to get a fair deal on cotton

Ayesha Kajee[35]

In May 2003, four African cotton producers – Mali, Burkina Faso, Chad and Benin – joined forces with Brazil to launch a legal challenge to US and EU cotton subsidies via the World Trade Organisation (WTO). They seek an end to cotton subsidies, which are crippling their economies and putting millions of jobs at risk across Africa.

The Africans initially considered an independent complaint, but with Brazil's challenge already lodged and considering the prohibitive costs of such disputes, they decided to present a supporting submission as third parties in the dispute. Third parties have the right to be heard by the Dispute Settlement Board (DSB) and to submit written communications to it.

Brazil is contending that since US subsidies in 2001 exceeded the 1992 threshold defined in the 'peace clause' of the WTO's Agriculture Agreement, the peace clause can be presumed to have lapsed. Furthermore, if Brazil can prove allegations that cotton was omitted from the list of subsidies notified by the US to the WTO, US cotton subsidies effectively become prohibited. Brazil also aims to establish a causal link between US subsidies, the drop in world cotton prices and the concomitant loss of Brazil's market share.

The Africans' submission requests both general measures in favour of cotton and emergency transitional measures in favour of LDC (Least Developed Country) cotton producers. They claim a special product status for cotton, arguing that cotton exports are essential for food security and the survival of rural populations in LDCs, thus they must have equitable access to global markets.

Since cotton is crucial for combating poverty in LDCs and negotiations are time–consuming, they request two emergency transitional measures:

1. An immediately applicable ('early harvest') decision with a specific date set for the swift and substantial dismantling of cotton subsidies, and
2. Financial compensation paid to LDC cotton producers for the losses they sustain in the interim period, calculated pro rata on the basis of the subsidies being paid by developed countries to their cotton producers. This will be reduced as and when the subsidies are decreased or eliminated.

This request for financial compensation is valid since current compensation mechanisms are ineffectual. Under WTO rules, after taking an issue to the DSB, countries can respond to unfair trade practices by slapping import tariffs on the offending country's products or by getting concessions on other export products. Since they rarely produce other export products and most of these already have preferential access, cotton-producing LDCs derive no benefit from this. Given that the US economy is about 4,500

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times the size of Burkina Faso's, even a complete blockade of US imports would make little difference. Also, increasing duties on imported products would be counter-productive, since most imports are essential for poverty reduction and socio-economic development.

Oxfam claims that Africa loses $300 million every year due to US cotton subsidies. Mali has lost an estimated $43 million, Benin $33 million and Burkina Faso $28 million annually in cotton revenues as a direct result of cotton subsidies in the developed world, which create a global oversupply that impoverishes African farmers by driving down prices. In all about 10 million African families depend on cotton as a cash crop, which is why it is widely known as 'white gold'.

'At Cancun, we are not going to negotiate any other issue unless the case of cotton is solved. We want the cotton question to be as central as the question of oil for countries producing the black gold,' said Mali's trade minister Chogel Maiga.

The Swedish government has announced that it will give the four African countries $ 56 000 to help them defend their interests at the WTO summit in Cancun next month.

The WTO challenge has garnered widespread support. Ghana's Cotton Association urged their government to join the protest. Twenty African countries, with Pakistani and Indian backing, said that they would block any new global trade pact unless the US and EU ended cotton subsidies.

Apart from the WTO, the partnership between the EU and the African, Caribbean and Pacific states (ACP) provides another arena for presenting a common group position at the multilateral level. The ACP's declaration on the Cancun conference supports the African action and endorses financial compensation for ACP States affected by cotton subsidies. They also affirm the importance of other commodities such as beef, bananas and sugar to the economies of ACP states.

Popular support is also increasing, with the lobby for a fair cotton deal garnering 50,000 supporters in Zambia alone. Perhaps the bold stance taken by these countries heralds a new era to constrain countries whose actions threaten the lives of millions of Africans.

Q&A with Xavier Carim,
South Africa's chief director of multilateral trade negotiations [36]

Steven Gruzd[37]

What has really changed between Doha and Cancun?

Essentially, we are now in a negotiation round. There is a clear focus towards resolving the issues in the Doha mandate, but we are not there yet. And we have not yet hit the hard part — the cut and thrust, the give and take of the actual trade concessions.

There has been a clear and marked improvement in Africa's participation and maturity in multilateral trade negotiations, especially since the end of the Uruguay Round in 1994. African countries did not really engage or participate effectively in the Uruguay Round, and it shows. Much of what was decided there was not beneficial to Africa. It does not mean that as small economies with relatively small trading power, that African countries cannot be effective in the WTO. We have assembled good advisors and experts, and the ambassadors in Geneva are increasingly competent. There are better links between what happens in Geneva and the national capitals.

Just how 'developmental' is the Doha Development Agenda?

Developing countries form the vast majority within the WTO, and they have ensured that the Doha agenda reflects a far stronger developmental component than they did in the Uruguay Round. The Doha Development Agenda represents a road map for where we want to go. How 'developmental' it turns out to be will really depend on the outcomes of the negotiation process.

The collapse of the 1999 Seattle talks was a wake-up call for the developed countries. Developing countries blocked a new round until real concerns and worries connected to the hangover after the Uruguay Round were addressed. The US, the EU, Japan, the OECD realised that the developing countries were no longer simply going to be carried along in negotiations. So everyone was required to participate actively and craft the Doha agenda very carefully so as to accommodate seemingly diverse views and interests. No-one will walk away from the Doha Round with 100% of their wish list fulfilled. There will have to be a lot of give and take in these negotiations.

Why a broad round?

South Africa wanted a broad round to create space for trade-offs and to get our issues on the table. For example, if we'd blocked investment, implementation issues might have fallen off the agenda. Had we blocked trade-related aspects of intellectual property (TRIPS), other issues

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important to us could have suffered. A broad agenda gives opportunities to deal with all our issues.

Other African countries are understandably more hesitant. They are reluctant to take on new expensive and complex obligations under present circumstances and add to their myriad of problems.

What are the key issues for Africa?

Africa's clear task is to understand the issues and have a clear view of what we want. Our resources are limited, so we must focus precisely on what is in our best interests. We need to know exactly what we are asking for on implementation issues, on TRIPS and public health, agriculture and industrial tariffs.

No prizes for guessing that agriculture is the critical issue. One victory of the Uruguay Round was to bring agriculture into the multilateral regime in the first place. The rules are imperfect, however, and need serious revision. The basic split here pits the EU and a few allies: Switzerland, Norway, Japan, South Korea —all countries that heavily subsidise their farmers – against most developing countries. The US also subsidises its farmers, but has taken a much more ambitious approach to reducing support. The pro-liberalisation Cairns Group of agricultural exporters also seeks more ambitious outcomes, meaning much more open markets for agricultural trade.

The EU and its allies have, so far, resisted any serious attempts to change the Agreement on Agriculture, especially with regard to farmer support.

Most African countries want radical reform of the Agreement on Agriculture, but are wary. Multilateral liberalisation will erode their preferences under the Cotonou Agreement. But protection and support in the major OECD markets cause massive distortions in agricultural trade and suffocate the prospects of developing countries. The huge support in subsidies to European farmers means that African agricultural exporters cannot compete with products that are artificially propped up. The very area in which desperately poor African countries can compete, agriculture, is severely distorted. There is unevenness in the EU's whole approach, espousing free trade on the one hand, and erecting high tariffs and protection of agriculture on the other. Then, when developing world products do manage to penetrate EU markets, they have to meet stringent environmental, health and safety criteria, which are further barriers to trade. While these standards are important, they are continually ratcheted up and made more stringent, and Africa finds it extremely difficult to keep up with moving targets.

How should Africa tackle unfairness in agricultural trade?

We need to bring down agricultural support in OECD countries, by sustained pressure, lobbying and negotiating hard. We must seek the elimination of export subsidies. We must fight for better access for our products to foreign markets. And I think that both Africa and the Cairns group have kept their eyes on the ball on this one.

Our exports are also undermined in the markets of other countries, because there we have to compete with subsidised European exports. They dump their surplus production on world markets and drive down prices.

For example, subsidised EU beef has undermined Namibian production; EU- subsidised tomatoes wiped out Senegalese production. Our few chances to get Africa out of its poverty cycle are being destroyed.

What is Europe likely to seek in exchange for agricultural concessions?

The main area where the EU will seek a *quid pro quo* is in services —financial, commercial and environmental. Part of the deal at Doha was to get the environment on the agenda in exchange for further movement on agriculture. The so-called 'Singapore Issues' are vital to the balance of the Doha round. Africa is in a better position to have wins on the issues important to us — agriculture, SDT, implementation issues, health — within this broad round. The balance is delicate, and strained by many missed deadlines.

South Africa's position on the Singapore issues is simple —let's be informed about each one and consider them, as they may help us move forward. What are the terms and conditions of each one? Transparency in government procurement could be harmless, and it really is just about being transparent, essentially. I think we might see agreement on this at Cancun. The EU and US are disagreeing in many areas —agriculture, genetically modified food and others. The US seems less concerned about trade and investment, and trade and competition policy. One of its issues is not subjecting its competition policy and legislation to the WTO dispute settlement mechanisms.

What 'muscle' does Africa have, and how can it be used?

The WTO works on consensus: that is, all decisions must be agreed by all, allowing all countries veto power. Simply by more active involvement in the negotiating process, African countries can exercise their rights. They need to participate, be brought on board and thus shape outcomes. African countries have on occasion refused to join a consensus until their views are accommodated. Furthermore, there is widespread acceptance that African countries confront special difficulties and there is now a greater willingness in the major trading partners to address these than in the past.

What alliances can you predict within the negotiations?

Trade depends on interests, and so do alliances. They are issue-based, fluid, and can emerge at different levels of detail. For example, some perspectives that South Africa has managed to bring to the Cairns group are that liberalisation can seriously affect food security and rural development.

The Cairns Group countries are our natural allies. I see room to ally with the Japanese on issues like anti-dumping and countervailing duties. We could also work closely with the US on many issues in agriculture, but we need to avoid any bilateral US-EU deal that ignores the needs and views developing world.

Do you think that, once again, Africa will get out-manoeuvred at Cancun?

I'm not so pessimistic. There are many developing countries — Brazil, Argentina, Kenya, Egypt, South Africa included — with a clear and sophisticated understanding of the issues and dynamics in this round. African countries have been effective in negotiations with the developed countries before. The TRIPS and public health issue is a good example. But the weight and power of the US and EU come in when they are able to make offers to win other states to support their viewpoint. They can exert enormous leverage to extract concessions. We have to ensure that we participate in deal-making.

Are you optimistic about success at Cancun?

Well, the way things have gone so far, we are a long way from fulfilling the mandate. We've missed deadlines on almost all issues, including special and differential treatment (S&D), TRIPS and public health, and implementation issues. But I see some hope.

Essentially, there is a sense that the pharmaceutical companies will need to accept the compromise 'Chairman's text' of 16 December 2002. In essence, it allows countries without manufacturing capacity to import needed generic medicines from other countries under a compulsory licence, without the (current) threat of challenge in the WTO. The companies' fear that this would be abused is addressed in the mechanism that is being planned through a range of transparency provisions, notifications and safeguards. Of course, as set out in TRIPS, issuing a compulsory licence is always a last resort after negotiations with the companies to reduce the prices of needed medicines have failed.

On S&D, about 80 proposals to make changes to the Uruguay Round provisions have been submitted. To simplify the negotiations, the WTO secretariat developed three categories — those relatively easily resolvable, those needing more time, and those that require full renegotiation. A package of about 38 proposals should be resolved by Cancun. The implementation issues have also undergone categorisation to identify the easy wins. I'm more optimistic now than I was a few weeks ago. There has been some movement on TRIPS, S&D and implementation. There is a basis to move forward on industrial tariffs, and on services. Agriculture remains the key. I think a lot depends on what the EU puts on the table. There won't be a Big Bang breakthrough, but we may take incremental, positive steps forward. What trade-offs will that require? It is not impossible to consider that there will be enough agreement on all other issues to move forward on the Singapore issues.

We need to overcome the phenomenon of 'motion without movement' — lots of talking without really getting to decisions and acceptance. The round will be in jeopardy if we do not make significant progress quickly.

What if the Doha Round deadline of 1 January 2005 is missed?

Trade ministers can agree to extend the round. The Uruguay Round had two extensions and dragged on for nine years. But there is a lot riding on this round, and at this point we still want to meet the deadline. The longer the talks are delayed, the more momentum is lost, and the developing world is kept in a prejudicial position. We can only change the status quo through successful negotiations.

Challenges for the WTO and for Africa

Peter Draper[38]

From a South African perspective, contemporary international relations have eerie parallels with the turbulent 1930s. Seemingly endless conflict and chaos spread throughout Sub-Saharan Africa, with instability in the Middle East threatening to destabilize not only that region, but also relations within Europe and the broader international community. In the security sphere, the world's only super-power appears bent on a unilateral path. In its wake, multilateral organizations and treaties are unable to function effectively. The international rule of law seems threatened, and anarchy beckons. Economists warn of growing economic troubles and possible deflation in the United States and Europe. Stockmarkets remain depressed. Japan's economic stagnation continues, whilst financial turbulence engulfs Latin America and threatens to confine Argentina to the dark ages.

Yet so far the World Trade Organization (WTO) has stood relatively untouched by these developments. It has its origins in the chaotic world of the 1930s, specifically the breakdown of international trade and economic order that gave rise to Nazism and a global retreat of democracy. The victorious Allies imposed the Bretton Woods institutions -- the International Monetary Fund, the World Bank, and the General Agreement on Tariffs and Trade (GATT) - on the Western world in order to ensure that international economic order would be maintained. The GATT was relatively successful in bringing order, predictability, market openness and economic growth to the (Western) global trading system. Notwithstanding its problems, this success was carried over into its successor, the WTO, to the extent that many members of the former communist bloc are either members or are in the process of joining.

None of this would have been possible had the United States not been willing to impose its power and authority on the Western world, acting as the guarantor of the peace, and opening its market in many spheres to the products of key allies. This promoted the reconstruction of Europe, and contributed to the spectacular industrialization of several northeast Asian states, including Japan. Peace and economic growth in the Western world, if not elsewhere, required a dominant power to impose order.

But in this millennium the WTO faces four major challenges.

First, the uncertainties over future multilateral security arrangements could spill over into other multilateral institutions, notably the WTO, with unpredictable consequences.

Second, WTO deal making has historically been driven by the US-EU axis, incorporating Canada and Japan into the grouping known as the 'quad'. Yet relations between the US and key EU member states seem to be seriously strained in the wake of the Iraq war. This tension may spill over into the WTO and manifest itself in key negotiations and alliances.

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Third, the character and implicit strength of the developing world has changed since the last (Uruguay) Round of negotiations. Several countries are emerging as major economic and regional powers in their own right, including Brazil, China, and India. SA is an important regional player in the African context. Yet these countries, and developing countries in general, are not homogenous, rendering agreement amongst them difficult to achieve. These developments challenge the traditional assumptions on which existing WTO agreements are based, and future agreements to be negotiated.

Fourth, the growth of regional trading arrangements since the conclusion of the Uruguay Round continues unabated. The stresses identified above may reinforce this trend, at the possible expense of the multilateral trading system.

Developing countries, and South Africa in particular, have a major stake in the rules-based multilateral trading system epitomized and underpinned by the WTO. The prospect of the US and Europe going alone, possibly engaging in protracted economic conflict in conditions of global economic decline is too scary to contemplate. In such a world, developing countries would be the biggest losers, dependent as they are on developed country markets and investment. The only guarantee against such an outcome is a successful conclusion to the Doha Round of multilateral trade negotiations currently underway. The rules-based multilateral trading system, imperfect as it is, offers the only protection for the weak against the strong.

But developing countries are justifiably not satisfied with existing WTO agreements. The rules and disciplines embedded in them were negotiated in different historical conditions to those prevailing today, favouring the small group of developed countries that designed them. Now WTO membership is dominated by a large heterogeneous group of developed and developing countries with the latter in the majority. Therefore, the interests at play in the negotiations are vast and varied, making overall agreement difficult to obtain. This is reflected in the current gridlock in Geneva in key areas of negotiation, particularly those of concern to developing countries: agriculture, the litmus test of the Doha Round; the agreement on Trade Related Intellectual Property Rights (TRIPS), notably the provisions on parallel importation of generic medicines; continued protection of 'sunset industries', notably steel and clothing and textiles, in developed countries; and special and differential treatment (SDT) for developing countries.

Consequently, it is unlikely (although not impossible) that the forthcoming WTO Cancun ministerial meeting in September will make any major breakthroughs. This outcome would be unfortunate in light of the current geo-political environment. However, the scope and scale of the negotiations is so vast that it would be unrealistic to expect progress to be rapid. After all, the Uruguay Round took eight years to complete.

So what is required for a successful outcome to be achieved? From a developing country perspective, four key commitments are identified here.

First, it is extremely important that the US continues to respect the legitimacy and authority of the WTO. Undoubtedly there is a complex balance of forces at play in US trade policy formulation, resulting in paradoxical outcomes: protectionist interests such as steel and agriculture are pandered to in order to secure broader trade liberalization authority for the President. Nonetheless, it seems that US commitment to a rules-based international trading order is holding. Evidence for this can be found in the WTO's dispute settlement mechanism (DSM). The DSM is the cornerstone of the rules-based international trading system, ensuring enforcement of the rules by all members. So far the US has effectively ceded sovereignty in a number of dispute settlement cases that have not gone its way. Particularly notable is the Foreign Sales Corporations case, in which the WTO DSM awarded the European Union the right to impose sanctions of $4 billion on US goods unless the US congress changes its domestic tax legislation to remove an illegal subsidy element. Whilst the process of amending this legislation is fraught with all kinds of domestic politics, the US congress is (grudgingly) in the process of doing so. This should give pause for reflection to those who fear the onset of anarchy in international relations.

Second, EU reform of its agricultural policies. This will undoubtedly be slow and tortuous. Yet there is reason to be hopeful. The most important long-term source of pressure is the EU's budget, approximately 50 percent of which funds the common agricultural policy. Eastward expansion (involving the inclusion of ten new members in 2004) and growing pension fund financing requirements in key member-states require EU budgetary reform at some point. These pressures will most likely lead to reductions in farm support. Developing countries, and the Cairns group of agricultural exporters, including Australia and SA, will have to ensure that pressure is maintained for meaningful reform.

Third, Japan must be pressured to reform its agricultural sector. Tokyo's slow dance with economic meltdown will inevitably force political reform at some point. To a limited extent this is already occurring, as Japan negotiates a number of bilateral free trade agreements in which agriculture is on the table. In these agreements, and in the WTO, Japan has much to gain through securing market access in other areas, for which it will increasingly have to give access to its agricultural markets.

Fourth, developing countries need to engage with the interests of the developed world, although not at any cost. Win-win situations will have to be identified in order to unlock key negotiations. For example, reciprocal liberalization of industrial tariffs will bring benefits in their own right, provided recourse to instruments of trade protection, notably anti-dumping, is effectively disciplined. Similarly, in the negotiations over SDT developing countries need to accept that they are not a homogeneous group, and as such cannot expect WTO agreements to accommodate them all on equal terms. In return, developed countries must ensure meaningful access to their markets in areas of interest to developing countries.

Despite the current mood of pessimism pervading large parts of global public opinion, there are reasons for optimism in the form of the WTO. However, serious political commitment to securing a broad-based deal from the Doha Round will have to be forthcoming. The consequences of this process falling flat could be severe. Leaders in developing countries should prioritise these negotiations and commit resources and effort to them in order to ensure that they succeed.

Trade policy making in developing countries and their participation in the WTO: Differences and divergence

Razeen Sally[39]

Although developing countries account for a four-fifths (and increasing) majority in the WTO, only a small minority are active in it; most of the rest – an absolute majority of WTO membership – seem incapable of effective participation.

Weak participation in the WTO is largely a reflection and extension of policy-making deficits at home. Most developing countries suffer from poor leadership, misguided policies (not least continuing protectionism) and basic institutional defects (such as corruption and the weak enforcement of property rights and contracts). Related to this, although insufficiently appreciated, is their lack of logistical wherewithal – the administrative capacity and expertise -- to deliver and sustain sound, credible trade policies.

Little thought is given to how developing countries make trade policy. Nevertheless, the national decision-making setting is the crucial delivery mechanism for good and bad trade policies, including the extraction of benefit from the WTO (or not, as the case may be). Why is it that some have made strides in the right direction while most others languish – at home and in the WTO?

Developing countries in the GATT/WTO

Until the launch of the Uruguay Round, nearly all developing countries excluded themselves from the GATT's core business: export market access was not considered especially important in the context of import-substitution policies; and Special and Differential Treatment (SDT) meant that developing countries were not obliged to open own markets. This changed in the 1980s when successive waves of developing countries liberalised trade (and foreign direct investment) as part of broader packages of policy reform. Trade became central to national growth strategies: governments realised that they needed the GATT to negotiate export market access (particularly in highly protected sectors like agriculture and textiles), and to defend themselves against (especially) non-tariff protection from developed countries.

Hence a small batch of developing countries – mostly from Latin America and East Asia, plus India -- became increasingly active during the Uruguay Round. For the first time a critical mass of them were at the GATT negotiating table, bargaining for market access and even involved in key rule-making deliberations. The vast majority of developing countries, however, remained passive and reactive.

Such divergence between an active minority and an inactive majority has become more marked since the founding of the WTO in 1995. There are just a score or so of really active developing

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countries. Most of them are in the middle-income bracket with not insignificant and rising shares of international trade and investment. Most have also undertaken radical and sustained unilateral liberalisation. They have well-staffed missions in Geneva with high-profile ambassadors, many of whom chair important WTO committees. They are active in the formal and informal coalitions where much of the deal making is done. It is in the compact, issue-based coalitions, often spanning the notional developed-developing country divide, where the active developing countries really come into their own (the Cairns Group in agriculture being perhaps the best example). Finally, some, but by no means all of them have reasonably well resourced trade policy operations back in national capitals.

Next comes a motley crew of poorer developing countries, some quite large (such as Pakistan and Bangladesh), whose vocal ambassadors tend to push ‘development’ issues. However, their influence in the WTO’s work programme is limited by their serious lack of administrative capacity, in Geneva and at home.

This leaves a very large group, amounting to about half or more of the WTO membership, with weak-to-minimal participation. Many of them are least developed countries and small island-states without a Geneva mission. Most of the others have perhaps one or two representatives in Geneva to cover all the international organisations in town.

The WTO sorely needs stronger developing country participation. Only then can developing countries be forceful demandeurs for their market access priorities, defend themselves against front and backdoor protection from developed (and other developing) countries, and make sure their rights are upheld in dispute settlement.

Participation in the WTO begins at home: developing country trade policy capacity

Unfortunately, the thinking on trade policy capacity-building in developing countries is conceived in Olympian, ‘top-down’ terms. ‘Global governance,’ involving a never-ending list of donors and international organisations, is the order of the day. This misses the point: the simple truth is that good trade policy, like charity, begins at home, not in the IMF and World Bank, nor indeed in the WTO. Trade policy capacity has to be rooted in the subsoil of nation-states and nurtured ‘bottom-up.’ Only on this terra firma can countries participate effectively in the WTO. The latter, in turn, can be a helpful auxiliary, an external constitutional prop, to good national governance, especially by buttressing the rule-framework for the protection of private property rights and the enforcement of contracts in international transactions, thereby providing a more stable and predictable business environment. In other words, the WTO is at best a complement, not a substitute, for what is in essence a national task.

Two basic propositions follow from this constitutional train of thought:

- Developing countries with reasonably well functioning trade policy management and credible trade policies at home participate actively in the WTO and benefit from its rules and obligations.
- The vast majority of developing countries lack these domestic foundations; rather, in the absence of leadership and capacity at home, trade policies are often driven externally by donors and international organisations. Consequently, these countries are weak in the WTO; they are reactive and muddle through. This enables powerful developed countries to bully them in negotiations, as happened especially in the latter stages of the Uruguay Round. These are precisely the countries that have not benefited from the WTO system to date.

Objectives and indicators of good trade policy making

Credible and sustainable trade policy outcomes require an efficient delivery mechanism, i.e. good trade policy decision making. The main objectives of good trade policy management are threefold:

- Clear, precise definition of national interests in policy formulation, with a strong sense of how trade policy fits into the overall national economic strategy.
- Effective negotiating capacity at bilateral, regional and multilateral levels, with a good appreciation of the dynamic interaction between these levels.
- Effective domestic implementation of unilateral measures and international agreements.
- How are these objectives to be achieved? What are the indicators of good (and bad) trade policy making? The following checklist breaks down trade policy making into its main components.
- General institutional and economic policy issues inasmuch as they impinge upon trade policy.
- The overall structure of government, especially the interactions between the executive, legislature, judiciary and political parties on trade policy issue.
- The role of the lead ministry on trade policy.
- Co-ordination within government between the lead ministry, other ministries and regulatory agencies on trade policy.
- The input of sub-national actors in trade policy, especially in federal systems.
- The role of the national mission to the WTO, and co-ordination between it and the trade policy machinery back at home.
- Non-governmental input in trade policy, e.g. from business, NGOs and think-tanks.
- The role of donors and international organisations.
- Transparency issues, e.g. the level of public knowledge and debate on national trade policy choices.

Most developing countries fare badly on all these counts. No trade policy works in a climate of macroeconomic instability, made worse by rampant corruption and weak enforcement of property rights and contracts. Most lead ministries on trade policy are not high up the pecking order within government and tend to be captured by politically well-connected protectionist forces. Inter-agency co-ordination is usually bad on traditional trade policy issues (tariffs and quotas on merchandise), and abysmal on newer issues like services, intellectual property and environmental standards, which involve regulatory agencies across the range of government. Most WTO missions are under-resourced and do not co-ordinate well with ministries back at home. Apart from habitual rent-seeking, business and other non-governmental input in trade policy is hardly evident. Finally, trade policy lacks transparency: almost everywhere it is dominated by well-organised 'insiders' within government and outside it; intelligent public discussion on crucial trade policy choices, informed by independent, economically literate analysis, is conspicuous by its absence (although this is a developed country problem as well). No wonder most developing countries are unable to formulate clear and precise national interests in trade policy, lack negotiating capacity in international forums, and fail to implement international agreements in timely and effective fashion.

All is not bad news. There are examples of good practice in trade policy management across the developing world, which translates into reasonably sound and stable trade policies at home as well as effective participation in the WTO. Let us turn to a few of these examples.

Lead ministries: Trade policy responsibility is usually housed in trade-and-industry (commerce) ministries. However, foreign ministries take the lead in some countries. Brazil, Chile and Mauritius, all noted for effective and high profile trade policy operations, are cases in point (as are Australia and New Zealand in the OECD, and Estonia in Eastern Europe).

Investing trade policy competence in foreign ministries may have certain advantages. Foreign ministries tend to have some of the brightest and the best officials within national administrations; they are often led by powerful ministers; they may be less liable to interest group capture than commerce ministries; and, compared with sometimes parochial commerce ministries, they are better able to put trade policy into the larger foreign policy picture. On the other hand, foreign ministries often lack depth in terms of economic analysis and may sacrifice economically informed trade policy priorities to other foreign policy goals.

Nevertheless, there are examples of successful trade policy leadership by capable trade-and industry ministries. Hong Kong and Singapore are among the best examples.

Inter-agency co-ordination: Co-ordination among diverse ministries and regulatory agencies is increasingly important as trade policy becomes more entwined with non-border regulatory issues. However, it rarely works well, in part because non-trade ministries and regulators do not have trade policy high up their lists of priorities. Large, populous countries have a particular problem with inter-agency co-ordination, all the more so when they have complex federal systems. Small countries with relatively slimline, compact administrations tend to do a better job with inter-agency co-ordination. The trade-and-industry ministries in Hong Kong and Singapore, for instance, co-ordinate closely with other parts of government, especially on services issues (services being at the heart of trade policy in both global cities).

The WTO mission: Several Latin American countries, Hong Kong, Singapore, Hungary and Mauritius (to name a few) have well-staffed missions with talented officials and capable, influential heads of mission. The key to a mission's success is effective two-way communication with the lead ministry (and other parts of government) at home.

Non-governmental input: Even with the active developing country participants in the WTO, business and other non-governmental input in trade policy has been lacking, although it is gradually improving. Policy makers and negotiators need qualitative and quantitative market intelligence from business, input from NGOs (e.g. on consumer issues such as food safety), and independent research and analysis from universities and think-tanks. Mauritius has a formal co-ordination mechanism with the private sector on trade policy issues; and some Latin American lead ministries on trade get increasing feedback from business on agriculture and some manufacturing issues. Private sector input on services remains a problem almost everywhere. Hong Kong is an exception: it has a very active Coalition of Services Industries which liaises closely with the Trade Department and the WTO mission.

Conclusion

Clearly, there is much trade policy capacity building to do in the developing world.

There are examples of better trade policy practice across developing countries. Given lower levels of development and more scarce political and administrative resources, developing countries probably have more to learn about good practice from each other, and from advanced emerging markets like Hong Kong and Singapore, than they can learn from long-established developed countries in North America and the EU.

Reforming the WTO: What can Africa get from the Doha Round?

Olu Fasan[40]

Since its establishment eight years ago, the World Trade Organisation (WTO) has been dogged by more controversies and tensions than its predecessor, the General Agreement on Tariffs and Trade (GATT), attracted in its entire 45 years of existence. At its heart is the deep-seated scepticism and even cynicism shared by most developing countries, especially African states, about the organisation and the major powers that dominate it. The gains from trade and liberalisation have been unevenly spread, while developing countries have become hostage to WTO rules and disciplines, which many consider inappropriate for their trade and development needs.

The GATT, established in 1947, reflected the preferences, interests and values of the dominant powers that created it. However, at least three fundamental changes resulting from the Uruguay Round of multilateral trade negotiations (1986-1994) accentuated and further legitimised inequities and imbalances for developing countries in the global trading system. Firstly, there was the massive expansion of WTO's legal rules and disciplines to cover a significantly greater area of national regulatory activity, with strengthened rule enforcement mechanisms. Secondly, under the round's 'single undertaking' principle, each member country, developed and developing, had to accept all the multilateral agreements without exceptions. This departed from the GATT *a la carte* approach, whereby countries could selectively accept agreements or codes. The single package rule has significantly increased the multilateral obligations of African countries and strained their absorptive and compliance capacity. Finally, the Uruguay Round weakened the incentives, in the form of special and differential treatment (SDT), that were originally designed to deal with the asymmetrical nature of the global economy and mitigate against a one-size-fits-all blueprint inappropriate for countries at different stages of economic and socio-political development. SDT is now limited to delayed implementation and non-actionable 'best endeavour' commitments.

A constellation of factors produced the Uruguay Round outcome, which has been almost universally described as flawed and unbalanced. Developed countries rather unconscionably abused their power, by secretly negotiating many rules that were later presented to others in a 'take-it-or-leave-it' fashion. Enormous economic pressure was exerted on developing countries to accept rules on services, intellectual property rights and investment measures, among others. For instance, the US threatened to target developing countries with 'inadequate' intellectual property standards and enforcement procedures with all its economic might, especially increased use of special 301 actions, under the 1988 Trade and Competitiveness Act. Having for many years eschewed GATT negotiations in favour of non-reciprocal trade concessions, African

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states were inexperienced, ignorant of the issues and mechanics of international trade negotiations, and unprepared for the sophisticated bargaining process.

This all changed at the Seattle (1999) and Doha (2001) WTO Ministerial Conferences, where African countries appeared to have gained in both confidence and influence. Clearly, there has been greater awareness of trade policy issues in governments, civil society and the business community in Africa, putting pressure on African negotiators to deliver results. African countries have become more united, clearly demonstrated by the role of the Africa Group at the Doha Ministerial Conference. The recent meetings of African trade ministers in Egypt and Mauritius were to forge common positions for September's Cancun Ministerial. This is not easy, especially given the divisions on agriculture and industrial tariff liberalisation, but at least African ministers are talking far more than they did before the Uruguay Round.

Above all, Africa's strategic approach to the WTO has changed due to the bitter lessons learned from the Uruguay Round. African governments now recognise that the developed countries fobbed them off with multi-billion dollar promises of gains from Uruguay Round agreements that have failed to materialise eight years on. Signing on to the agreement on trade-related intellectual property rights (TRIPS) has not unleashed the predicted inflows of technology transfer and foreign direct investment to Africa, despite the costs and difficulties of implementing the agreement. None of the Uruguay Round promises to compensate African countries for erosion of preferences, provide compensatory measures for net food-importing countries or address issues relating to immigration and commodities have happened.

And promises to liberalise trade in agriculture, and textiles and clothing have still to be kept. According to the Agreement on Textiles and Clothing, developed countries should expected to eliminate quantitative restrictions imposed under the multifibre agreements, culminating in total elimination in stage IV, by 1 January 2005. But available figures suggest that only 8.12% of the 1,312 quotas that the major developed countries should have removed by stage II, (by 1 January 1998), have actually been eliminated. Liberalisation has been 'back-loaded', pushing reforms back to 2004, leading to doubts whether they will occur.

Not only have these promises been unfulfilled; developed countries have also continued to hamper Africa's development with ultra-protectionist trade policy measures, such as agricultural subsidies, trade-restricting standards and technical regulations, tariff escalation, tariff peaks, as well as abuse of anti-dumping, countervailing and safeguard measures.

Thus African countries are justifiably both hopeful and apprehensive about the Doha Development Agenda, and Cancun. The Doha Declaration explicitly states that developing country concerns should form an integral part of the negotiations, and African states in particular expect the Doha Round to redress current imbalances and inequities in WTO agreements. They clearly want a rebalancing of some prejudicial inherited rules. Yet, the Doha Declaration also effectively mandates negotiations on the so-called 'Singapore issues' (investment, competition policy, trade facilitation and transparency in government procurement) that threaten to expand the already-overloaded multilateral obligations of resource-strapped African countries (see box below).

South Africa advocated a broad-based agenda (including all the Singapore issues) to permit tradeoffs between issues, and holds that negotiations will result in flexible framework agreements. While reasonable, it would be naïve not to anticipate that some developed

Africa and the Singapore Issues

The Singapore issues reflect the WTO's tendency to expand into areas that some consider beyond its competence. These issues were adopted at the 1996 Singapore Ministerial Conference and became part of the WTO's built-in agenda. The Doha Declaration has moved things forward considerably since Singapore, which established working groups to examine the relationship between these, issues and trade. There is widespread disagreement on these controversial issues. For instance, what should WTO agreements on investment and competition policy look like? Should they be subject to the dispute settlement mechanism? African countries are clearly not in favour of subjecting these agreements to dispute settlement, and prefer a flexible regulatory framework.

Another Singapore issue is transparency in government procurement. Some countries see this as simply referring to the transparency aspects of government's tendering procedures. Others want the WTO agreement to restrict the scope for countries to give preferences to domestic supplies and suppliers. The latter interpretation will certainly not be acceptable to African countries. For example, South Africa opted out of the voluntary Government Procurement Agreement, which it believes could limit its objectives of promoting small enterprises, and black economic empowerment. Most states accept that trade facilitation (easing trade flows) is beneficial, but how should this be regulated and should it be subject to dispute settlement? And what about technical assistance, which is central to African countries' ability to implement such an agreement? These questions dominate current discussions on the Singapore issues.

The main challenges facing African countries in these negotiations relate to negotiating capacity and competence. There is no substitute for a full appreciation of the taxing Doha workload and its technically and legally complex issues. Most African countries, along with India largely oppose WTO rules in these areas, being suspicious of the economic advantage and motives of the developed countries championing them. Other developing countries, notably South Africa, believe the issues cannot be avoided and must be addressed.

countries would call for much tougher agreements. Only the more experienced and skilful negotiators will prevail within a broad-based agenda once the dynamics are set in motion.

So can Africa avoid a repeat of the Uruguay Round experience? First, African countries must realise that renegotiating already-signed international agreements is often extremely difficult if not impossible. So they must read between the lines and avoid accepting any new agreement without fully understanding its implications. Second, Africa countries cannot be mere passive onlookers in the negotiations; this approach has proven disastrous, as African countries accepted rules they did not actively participate in making. Resources should be devoted to formulating their negotiating positions and preparing their negotiators.

A united African front on the key issues is a crucial collective strategy. African negotiators must be decidedly assertive and proactive in approach, presenting the economic arguments powerfully. South Africa has led the way in arguing that developed countries have already lost comparative advantage in the agricultural and industrial sectors that they are hanging on to. They should restructure their economies, to end the continued global misallocation of resources and allow world production to occur in the more appropriate locations. Impact assessments on the Singapore issues must also be done, and African negotiators must insist on firm commitments for technical assistance and capacity building before accepting any form of WTO rules on the Singapore issues. All this presupposes that African negotiators are *au fait* with the round's technical, legal and economic issues.

Finally, African negotiators must hold their nerve and be prepared to let the negotiations drag on or deadlock, if necessary. They have previously buckled - some were telephoned from their capitals to change agreed negotiating positions after Western donors had exerted pressure. It is not enough for African leaders to grandstand at international conferences, condemning the unfairness of WTO rules, when under pressure they simply abandon their positions to sign up to rules that they find unacceptable.

Though endowed with rich human and natural resources, Africa controls less than 2% of world trade. Global production and distribution patterns have been skewed to their disadvantage, from colonial times, but this cannot be allowed to continue. The African Union must speak with one voice to insist on fair global trade for Africa.

The Doha Round holds out little hope of legal and institutional reform of the WTO, given the apparent unwillingness of the major powers to make significant concessions on issues, such as agriculture, TRIPS and public health and SDT. African trade ministers must insist that the Doha Development Agenda lives up to its name, to address all the trade-related developmental challenges facing Africa. Equitable global trade rules must deal with, rather than legitimise, the problems. African negotiators must work together and build alliances with other countries, where necessary. They must be prepared for tradeoffs, but must also be determined to achieve a favourable balance of concessions.

Appendix

The African Union's Common Trade Position: The Grand Baie Ministerial Declaration on the Fifth Ministerial Conference of the WTO

20 June 2003

We, the Ministers of Trade of the Member States of the African Union (AU) met in Grand Baie, Mauritius, from 19 to 20 June, 2003 to consider a number of issues of developmental importance to Africa, including coordinating our position towards the Fifth Session of the WTO Ministerial Conference to be held in Cancun, Mexico from 10 to 14 September, 2003:

1. Take note of the outcomes of recent Ministerial meetings of Eastern and Southern African countries in Nairobi, SADC in Lusaka and LDCs in Dhaka as well as the work under the NEPAD Initiative.

2. Recognise that trade can serve as a tool for development and make an important contribution to the realization of the Millennium Development Goals. We recall the collective commitment we undertook at the Fourth Session of the WTO Ministerial Conference, held in Doha, Qatar, in November 2001 to place the needs and interests of developing countries at the heart of the WTO work programme.

3. Express serious concerns at the general lack of progress in the current round of multilateral trade negotiations as evidenced by missed deadlines on key issues and negotiations of importance to African countries. The most critical of these have been the lack of progress on the negotiations in agriculture, TRIPS and public health, special and differential treatment and implementation-related issues and concerns. We call on WTO Members to inject momentum in these negotiations in order to ensure that the Cancun WTO Ministerial Conference yields positive results for African countries and makes the Doha Work Programme a truly "Development Agenda".

4. Are deeply concerned at the failure to meet the deadline for the establishment of the modalities for further commitments in agriculture, which is a major set-back for the reform programme. Agriculture is of critical importance to Africa's development and holds the potential to lift millions of our people out of poverty. Progress in the agricultural negotiations is essential for the successful conclusion of the Doha Work Programme. We strongly urge WTO Members to fulfil the commitments undertaken in Doha as contained in the mandate for the agricultural negotiations. Recognizing the vital importance of long standing preferences for African countries, we welcome the proposals on preferences as

contained in the Harbinson text and we also call upon WTO Members to address the issue of the erosion of preferences. We further call upon WTO Members to exempt LDCs from any reduction commitments.

5. Express our full solidarity with African countries that are affected by subsidies on Cotton provided by developed countries and strongly support actions initiated by some African countries in the WTO to urgently remedy the negative consequences of these subsidies that affect millions of African farmers.

6. Note that the Services Council has not satisfactorily met the requirement of carrying out the assessment of trade in services as stipulated in the GATS. We reiterate the need to respect the principle of progressive liberalization and promote and facilitate the participation of African countries in international trade in services, and liberalization by developed countries in sectors and modes of export interest to them. We further reiterate that due respect must be given for the Member's right to regulate trade in services and liberalize according to their national policy objectives. We call for the full implementation of the Guidelines and Procedures adopted in March 2001, particularly giving due consideration to the needs of small service suppliers of Africa. We call for the expeditious completion of the work on modalities for LDCs.

7. Are deeply concerned at the failure to find a multilateral solution that would enable Members with insufficient or no manufacturing capacities, make effective use of the compulsory licensing under the TRIPS Agreement as mandated by Paragraph 6 of the Doha Declaration on TRIPS and Public Health. We reiterate our support for the Chairman's text of 16 December 2002, which was done in a spirit of compromise and enjoys the overwhelming support of WTO Members. We call upon other Members who have not joined the consensus on this text to do so. We believe that Members acting in accordance with the terms of the Chairman's text, will be properly discharging their obligations to address public health problems in accordance with the Doha Declaration on TRIPS and Public Health.

8. Affirm that the objectives of the negotiations on non-agricultural market access are to facilitate the development and industrialization processes in our countries. The modalities and the actual negotiations must reflect these goals appropriately by addressing tariff peaks and tariff escalation, taking fully into account the special needs and interests of developing and least-developed countries, including through less than full reciprocity in reduction commitments and the principle of special and differential treatment. We are deeply concerned that the draft elements of the modalities proposed by the Chairman of the WTO Negotiating Group on Market Access for Non-Agricultural products do not take into account the specific vulnerabilities of African industries, especially in the textiles and clothing, leather and fisheries sectors. It is a matter of grave concern to us that the proposals made by some African countries in Geneva have not been considered, especially with regard to erosion of preferences, and revenue implications which are of critical importance to Africa. We urge that the modalities should take full account of all our concerns, in particular, the erosion of preferences. We welcome the Chairman's proposal to exempt LDCs from making any reduction commitments. While recognising the special needs of LDCs, the proposed studies on LDCs should be extended to other African countries and should include the effects of previous liberalization measures as well as the potential impact of any proposed modalities.

9. Emphasize the importance of completing the work programme on special and differential treatment (S&D) we endorsed at Doha. We reiterate that all S&D provisions in the WTO Agreements must be reviewed with a view to strengthening them and making them more precise, effective, binding and operational. We are deeply concerned that the mandate on S&D treatment has not been met. We call upon the WTO to conclude this work, as a matter of priority, before the Cancun Fifth WTO Ministerial Conference.

10. Express our concern about the lack of progress and missed deadlines regarding the implementation-related issues. We call upon the WTO to conclude this work, as a matter of priority, before the Cancun Fifth WTO Ministerial Conference. We further urge the full operationalisation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on LDC's and Net Food Importing Developing Countries.

11. Recognize the complexity and importance of the Singapore issues and note that WTO Members do not have a common understanding on how these issues should be dealt with procedurally and substantively. Taking into account the potential serious implications of these issues on our economies, we call for the process of clarification to be continued.

12. Reaffirm the need for a coherent and holistic approach at the multilateral level on issues of trade, debt and finance. We also stress the need to operationalise WTO provisions that relate to the transfer of technology. We consider these issues to be of significant developmental importance to our continent and call for the continuation of the work of these Working Groups beyond the Fifth Ministerial Conference.

13. Are convinced that our sub-regional and regional integration organizations are pillars of the African Economic Community, and are essential for the promotion of Africa's socio-economic development and serve as the dynamic building blocks for our effective integration into the Multilateral Trading System (MTS). We anticipate that such initiatives will be anchored to development-friendly WTO disciplines arising out of Doha work pertaining to the clarification and improvement of the WTO disciplines applying to regional trade agreements.

14. Welcome the adoption the work programme on small economies and request the General Council to use the proposals made by the group of small economies, pursuant to the framework and procedures of the work programme on Small Economies, as the basis for making the recommendations for action at the Fifth Session of the WTO Ministerial Conference, for the fuller integration of small, vulnerable economies into the MTS. We take note of the WTO Director-General's initiative of establishing "trade policy clinics".

15. Reiterate that technical cooperation and capacity building are core elements of the developmental dimensions of the MTS and the Doha work programme. We urge for the increased collaboration among all agencies in the delivery of requisite technical assistance.

16. Welcome the launching and commencement of the second phase of the Joint Integrated Technical Assistance Programme (JITAP II) for least-developed and selected African countries by the ITC, UNCTAD and the WTO and the extension of the programme to additional eight African countries. We are confident that the programme will build on its successful track record. We commend the three agencies for their work and request our

development partners to avail the requisite resources to enable them deliver the programme and expand it to all African countries in an expeditious manner.

17. Welcome the revamping of the Integrated Framework (IF) and expect that it will be fully and effectively implemented in order to contribute to trade-related capacity building needs and overall development objectives of LDCs. We underscore the need to ensure country-ownership both at the pre-Diagnostic Trade Integration Studies (DTIS) and the post-DTIS follow-up, particularly in respect of implementation of trade-related capacity building projects at country level and the mainstreaming of trade in national development plans and the PRSPs. In this context, we welcome the donor initiative for the use of IF Trust Fund Window II resources for this purpose. We therefore call upon bilateral and multilateral donors to enhance their contributions to the IF Trust Fund in order to enable the core agencies deliver on the projects and programmes identified by the recipient countries.

18. Take note of the adoption by the General Council in December, 2002 of new guidelines on WTO accession procedures for LDCs and call upon WTO Members to fully implement these guidelines. In view of the difficulties experienced by LDCs and other African countries in their accession process, WTO Members should refrain from making excessive or onerous demands on their applications.

19. Are concerned about the lack of transparency and inclusiveness in the WTO negotiations and decision-making processes. We call for measures to ensure the effective participation of our countries in the processes leading to the Fifth WTO Ministerial Conference, at Cancun and beyond.

20. Regret the deadlock over the issue of granting of Observer Status in the WTO bodies and in this regard, we pledge our support for the granting of Permanent Observer Status to the AU and other inter-governmental organizations in view of their trade policy mandate. We call upon other WTO Members to support us in this effort.

21. Express our appreciation for the contribution of the Commission of the AU, UN-ECA and the UNCTAD for the continued technical support.

22. Thank the Government and People of the Republic of Mauritius for hosting the meeting, for their warm hospitality and for the excellent facilities they put at our disposal.

Done in GRAND BAIE, MAURITIUS on this day of 20th JUNE 2003