

# REPORT ON DOHA NEGOTIATIONS

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*Delivered by Egypt , the African Group Coordinator on WTO Issues*

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It is an honour for me to take the floor as the coordinator of the African Group on WTO issues in Geneva to report on developments in the Doha Development Round.

My report will be divided into two main parts:

1. Progress on the DDA process since January 2009.
2. State of play on the DDA key negotiating tracks.

## **1. REPORT ON THE PROCESS OF THE DDA SINCE JANUARY 2009 :**

As you may all know that negotiating texts in Agriculture and NAMA were issued on December 2008 based on several rounds of consultations among members. These texts were not subject to any discussion on a multilateral context as yet due to the fact that there was no real engagement in the process by the major players especially the US.

Since the beginning of 2009, efforts have been devoted trying to recreate the needed political will in order to resume the negotiations, Nevertheless, signals coming from the new US administration at that time were not positive. In his visit to Geneva early May , USTR Amb. Ron Kirk met with the major key players as well as the Ambassadors of different country groupings including the African Group.

The message extracted from the visit was basically that the US is not satisfied with the content of the December 2008 modalities ( especially with regard to the level of market access in the major developing countries ) and that the US believes that there should be more clarity and transparency with regard to the utilization of the flexibilities available for those countries , thus it wants to change the approach of the negotiations by focusing on how those flexibilities be reflected in the schedules rather than focusing on the discussion on the draft modalities.

In his report on the DDA negotiations to the General council in early June this year, the DG Pascal Lamy suggested following two simultaneous tracks: one would be technical engagement in the negotiating groups to cover a number of technical issues. Simultaneously, Members would start some sort of 'outcome testing', through bilateral or plurilateral discussions, where they would provide each other with greater clarity on the use of flexibilities and through it the value of the deal.

During the month of July there were a series of consultations held by the chairs of the negotiating groups of AG and NAMA at which there was an agreement to hold a workshop on how to prepare the schedules of commitments and what will be the data needed to do that.

it was also agreed as well that members will engage during the month of July to clarify how the process will move forward after the summer break.

The G-8 + on July 9th, agreed to bring the Doha round to conclusion in 2010. They said that they are committed to seek an ambitious and balanced conclusion to the Doha Development Round in 2010, consistent with its mandate, building on the progress already made, including with regard to modalities. They also said that enhancing the transparency and understanding of the negotiating results to date as a necessary means to facilitate the conclusion of an agreement. It is obvious that the inclusion of the words “transparency” and “understanding” indicates that the U.S. is looking for more clarification of what emerging developing countries are proposing in terms of market access in certain “gray” areas i.e. such as special products and the sectoral initiatives in the NAMA discussion.

They instructed their Ministers in charge of trade to explore immediately all possible avenues for direct engagement within the WTO and to meet prior to the Pittsburgh Summit. With that statement, the G-8+ leaders have essentially given the green light to ministers to intensify their discussion in order to produce a roadmap for a future Doha deal to be presented to leaders at the September 24-25 G-20 summit in Pittsburgh.

It is expected that some bilateral or small group meetings between key countries to take place during the WTO summer break, leading up to a mini-ministerial meeting of G-20+ trade ministers being hosted by India in early September where the Indian Commerce Minister, Anand Sharma, is expected to invite about 35 trade ministers to the New Delhi mini-ministerial meeting that will deal with the Doha negotiation ahead of the G-20 Summit in Pittsburgh. This gathering of ministers is expected to fuel the statement on trade that is anticipated to arise from the G-20 declaration in Pittsburgh.

It is at that now “pivotal” gathering that ministers will map possible avenues toward finalizing the Doha Development Agenda (DDA) i.e. by identifying the potential date for agreement on modalities as well as the beginning of the scheduling phase.

## **2. THE STATE OF PLAY IN THE DIFFERENT NEGOTIATING TRACKS**

### **Agriculture:**

The Chair of the Negotiating Group issued the 4<sup>th</sup> revised text of the draft modalities on Agriculture on December 6, 2008. It was a result of intensive consultations by the Chair with different Members and Groupings, depending on the topic discussed, in what he called “Walk in the Woods” consultations. Although WTO members, including African members, welcomed the text as a basis for future negotiations, it has not yet been discussed multilaterally. This means that the final level of ambition and balance in Agriculture still needs to be determined. However, the group considers the need to preserve the progress achieved so far in the Agriculture Negotiations

The African Group positions will be constantly revised and updated according to developments in the negotiations. There is also a need to continue to work closely with the other groups of developing countries (ACP, LDC's...etc) to advocate issues of common interest, namely treatment of bananas, tropical products, and preference erosion.

**Domestic Support:**

The Group is concerned with the increased flexibilities granted to some developed members, as this will negatively affect the level of Ambition in this Pillar. On the other hand, the Group welcomes incorporating some of its requests in the text, namely:

- a) The exemption of NFIDCs and other African countries who are not going to use their entitlements to the Blue Box, from scheduling their Base, Annual and Final Bound Overall Trade Distorting Support (OTDS).
- b) Allowing NFIDCs and LDCs, with no historical use of the Blue Box Support, to introduce new Blue Box Support with the limits (75% of the overall blue box limit and 25% per product).

**Market Access:**

The group is concerned with the impact of the flexibilities granted to some developed members with regard to designation and treatment of Sensitive Products. Moreover, the treatment of Sensitive Products for developing countries still does not reflect the interest of the African Group, who would like to allow NFIDC's and LDC's with no TRQs commitments, to deviate from the formula for all their sensitive products.

The designation and treatment of the Special Products must provide the maximum flexibility to African countries to accommodate its developmental needs.

Modalities for Special Safeguard Mechanism (SSM) should be operationally effective in a way that addresses the specific needs of the African countries. In addition, it should include the appropriate elements that would allow African countries to effectively address import surges and price declines. It is also important to preserve current trade between developing countries.

The Group continues to support the ACP countries with respect to Preference Erosion, and considers the importance of addressing this problem through trade based solutions, as well as the commitment of appropriate technical assistance to preference receiving countries.

**Export Competition:**

The Group continues to stress the importance of eliminating all forms of Export Subsidies by the year 2013.

Most of Africa's interests regarding Food Aid were reflected in the Text, but the Group needs to further clarify the language on Monetization of Food Aid. Convergences that emerged during the discussions should also be taken into account.

On Export Credits, LDCs and NFIDCs would be allowed a 540 days as a repayment period. This period is extendable in some exceptional circumstances. It is expected that the African Group will reassess modalities in this area in the light of the unfolding Economic and Financial Crisis, and its impact on the availability and conditions of the international credit.

With regard to Export Restrictions and Prohibitions, it is essential to exempt NFIDCs and LDCs from any new disciplines. The Text should be further clarified to reflect this demand.

### **Commodities**

The African Group calls for an amendment to the current Agreement on Agriculture to include provisions on commodities, particularly in the light of the unfolding global economic and financial crisis. It is becoming evident, that commodity dependent African LDCs are more vulnerable to changes and shocks in international commodity markets, and will be negatively impacted by massive subsidies and protectionist non-tariff barriers (NTBs) applied by some countries.

### **Bananas**

It is the conviction of the African Group that the banana issue needs a fair and balanced stand-alone solution, which should include appropriate trade and non-trade related measures.

### **Cotton**

The negotiations on cotton have not yet addressed the concerns of cotton-producing African countries, despite intensive consultations to find compromise solutions. The Chair of the Agriculture negotiations organised over 7 quadrilateral consultations (C4-Brazil-EC-US) between February and July 2008, during which the position of the C4 as reflected in its June 2006 proposal has not changed, while the United States did not submit a counter proposal. The Africa Group should impress on the United States and the European Union to accept the proposal of the C4 as outlined in the text of December 6, 2008.

The African Group supports the approach advocated by the Chair for the reduction of domestic support to cotton in the text of December 6, 2008. The group suggests that a range of amounts for trade-distorting subsidies be adopted as a basis for further negotiations. The group also supports the DG efforts to mobilize development aid, as part of the Consultative Framework Mechanism, in order to find an expeditious solution to help African cotton producers.

The President of Burkina Faso took advantage of a visit to the ITU in early November 2008 to meet the WTO Director-General, to support the efforts of the C4 and to urge Mr Lamy to make every effort to ensure that cotton was addressed ambitiously, urgently and as a matter of priority.

It is worth noting that the WTO figures on cumulative domestic support granted for cotton shows that the United States' level of support amounts to approximately \$700 million. It also shows that the EC's support level amounts to approximately 280 million Euros.

The UNCTAD Secretary-General convened a meeting on December 2nd 2008, to discuss the impact of the global economic and financial crisis on the cotton industries of developing countries, and the need to eliminate trade-distorting subsidies. The Trade Minister of Mali participated in the discussion, in which he underlined the commitment of the C4 to make cotton a priority issue in the Doha negotiations.

### **Non Agricultural Market Access (NAMA)**

The last revised text on NAMA was issued on 6th December 2008. It still reflects divergent positions on some elements, particularly with respect to the participation in the Sectoral liberalisation Initiatives of Industrial goods. Preference Erosion and exemptions from general tariff cut disciplines for Country Specific Flexibilities remain largely unresolved.

The following elements will require additional work by the African group:

- Sectorals: participation should remain voluntary, and should not be linked to other elements of the proposed modalities (Formula and Flexibilities) in accordance with the mandate.
- Preference Erosion: Pakistan and Sri Lanka argue that they are 'disproportionately affected' from preferences granted by the US and the EC, and managed to secure an understanding with those countries to phase in tariff cuts on exports of interest to them. Asian LDC's like Bangladesh, Cambodia and Nepal, that do not receive preferences in the US market, demanded similar treatment. The December text presented a compromise by identifying 5 tariff lines for each of the three Asian LDC's for which the US would phase in tariff cuts over five years instead of ten. African LDC's underlined that this compromise will disadvantage them and rejected that compromise.
- Country Specific solutions: South Africa, on behalf of SACU, continues to seek further flexibilities in applying the Swiss Formula, given its treatment in the previous round as a developed member, and is currently a member of a customs union that includes LDCs and SVEs. It is requesting that the Formula cuts take full account of the principle of less of full reciprocity in reduction commitments.

During the week of 13 of July 2009 , The NAMA negotiating group devoted most of its meetings to a workshop provided by the WTO secretariat on how to incorporate the results of the negotiation into their schedules once the modalities are finalized. It was a very complicated and technical exercise which, at this stage, can only be done as a simulation. In addition, NAMA Chair, also held consultations with a group of countries concerning a possible roadmap for the fall.

Generally speaking, Members felt that it was important to send a positive signal from Geneva and start the intensive negotiations as soon as possible in September. The chair plans to start his fall process with consultations on Non-Tariff Barriers and will move to sectorals later.

### **Services:**

The Services negotiations have not seen substantial movement since the Signaling Conference that took place on the sidelines of the July 2008 Mini-Ministerial. Following the DG's call to reinvigorate work on all negotiating tracks of the DDA in December 2008, a resumed Special Session of the Council for Trade in Services was held on February 5<sup>th</sup> 2009, and subsidiary services cluster meetings have been scheduled to resume work as of the beginning of April 2009.

Several developed members considered that the Signaling Conference gave significant Market Access indications, and requested to qualify and visualize signaling commitments. However, developing members, including African, argued that Services negotiations should not proceed in vacuum, and that there should be sequencing & comparability with NAMA & Agriculture negotiations.

It is clear that resumption of Market Access Negotiations in Services at this point is not a priority for Africa, especially in light of the global economic and financial crisis. Hence, the African Group should continue to reserve scrutiny over any further Market Access negotiations in Services. It is also important to note that signals given in July 2008 were part of a package to conclude the round.

Consensus has been sought on resuming negotiations based on the Chair's draft text of July 17<sup>th</sup>, 2008. Developed members considered the text a "Road Map" for the completion of the Services Negotiations. However, developing members viewed it as more ambitious and demanding than the original mandate. Consequently, some members spelled out clearly that there was no consensus on its contents.

With regard to Domestic Regulations , further work is needed in order to reach a multilateral text on Domestic Regulations.

The Working Party on GATS Rules held two meetings on June 3<sup>rd</sup> & December 2<sup>nd</sup> 2008. Discussions revolved around ASEAN's proposal on Emergency Safeguard Mechanism and the European Communities proposal on Government Procurement.

The issue of subsidies will become more important to the African Group in light of the massive bailout packages introduced in developed countries to offset the global economic downturn. It is also important to note that H.E. Ambassador Agah of Nigeria was elected as Chair of the Council of Trade in Services in the WTO.

### **Trade Facilitation**

The Negotiating Group on Trade Facilitation (NGTF) made progress last year in discussing members' proposals. It continued its text based negotiations through a bottom up approach, and was able to consolidate some proposals into one document. The Negotiating Group continues to base its work on a compilation of texts, which include members' comments, and is updated after each meeting. However, the new compilation still needs further work to arrive to consensus among members.

On the other hand, limited progress was achieved on the issues of Special and Differential Treatment (SDT) and Technical Assistance and Capacity Building (TACB) for developing countries. Discussions are still lagging behind, but are expected to advance in light of choosing a new "Friend of the Chair" in the February NGTF meeting, to help advance the negotiations on this issue.

The African Group does not agree with the EC's approach to transform the current compilation of textual proposals into a draft agreement by June 2009. The Group will consider the EC proposal after reaching an understanding on the S&D and TACB, in order to guarantee the necessary flexibilities to the African countries when implementing the commitments. Furthermore, it is noteworthy that some of the proposals go beyond the mandate of "clarifying and improving" the relevant aspects of Articles V, VIII and X of the GATT 1994. The group therefore should remain vigilant, and continue its firm approach in requesting maximum flexibilities in relation to the implementation of commitments.

The Director General referred (in the TNC meeting of December 17, 2008) to the suggestion of some members to "early harvest" Trade Facilitations in 2009. The African Group coordinator stressed, in response, that the Group prefers to keep Trade Facilitation as part of the Single Undertaking, and will only consider developmental issues, especially "Cotton", for any possible "early harvest". However, the Chair of the Negotiating Group scheduled meetings every two months in the first half of 2009, in contrast to monthly meetings last year.

### **Special and Differential Treatment:**

Recent discussions have been concentrating on proposals to clarify Special and Differential Treatment provisions (SDT) within the Sanitary and Phytosanitary Agreement (SPS). Some progress in terms of clarifying certain elements of the various proposals was achieved, but no agreement has been reached on any of them.

The African Group informed the Committee on Trade and Development at its formal meeting of September 2007, of the intention to revise its proposal regarding Article XVIII of GATT 1994 (on governmental assistance to economic development, balance of payment restrictions, and support to infant industries).

The African Group underlines the importance of the Monitoring Mechanism, as a tool to ensure adequate and proper implementation of SDT provisions in all areas of the negotiations. Moreover, the Group considers the vital use of SDT to enable developing members and LDCs to implement their commitments within the WTO.

## **Rules**

The negotiations on Rules - according to the mandate - are intended to “clarifying and improving” the disciplines under the Agreements on Anti-Dumping (AD), Subsidies and Countervailing Measures (SCM), existing WTO provisions applying to Regional Trade Agreements (RTAs), and to add an Annex to the SCM agreement on Fisheries Subsidies.

Key issues for Africa for achieving progress in the Rules Negotiations include:

- The need to avoid the introduction of more complex rules and disciplines.
- The provision of adequate technical assistance to allow developing and least-developed countries (LDCs) to effectively enforce their rights.
- Flexibilities for subsidies accorded by developing and LDCs to their fisheries infrastructure development.
- The need to sufficiently ensure the development dimension of these negotiations, in particular with respect to systemic issues, appropriate flexibilities, and Special and Differential Treatment provisions.

Those issues are not adequately reflected in the revised draft texts of the AD and SCM Agreements circulated by the Chair in December 2008. The proposal submitted by the African Group on Special and Differential Treatment for developing countries (co-sponsored by LDCs and ACP Groups) was also not reflected in the text. The proposal called for increased technical assistance for national anti-dumping authorities, and training not only for officials of national authorities, but also for customs officials in developing countries, in order to help them benefit from the new rules and conduct investigations.

The draft AD Agreement sets forth a number of additional procedural requirements that will increase the cost of conducting anti-dumping investigations for investigating authorities and of cooperation for interested parties. The African Group considers that it is essential to preserve the balance between the rights and obligations of investigating authorities, on the one hand, and interested parties, on the other hand.

With respect to horizontal issues within the SCM Agreement, the African Group is willing to discuss amendments on a provision-by-provision basis to ensure that the rules introduced are not more complex.

The African Group supports the introduction of rules on Fisheries Subsidies. The prohibition of fisheries subsidies should be of wide-ranging nature with limited exceptions allowing developing country Members to support subsistence fishing. The African Group welcomes the ability for LDCs to continue to provide prohibited fisheries subsidies, but considers the possibility for developing country Members to provide such subsidies too restrictive. Moreover, the proposed Annex VIII to the SCM Agreement should provide appropriate technical assistance and support in order to allow developing country Members to comply with their obligations and enforce their rights.

As for the negotiations on RTAs, the African Group will continue to work to secure the following:

- Flexibilities for developing countries including non-reciprocal commitments and other Special and Differential Treatment (SDT) needs;
- Incorporate the development dimensions into RTAs, arrangements;
- Preserve the SDT provisions under the Enabling Clause;
- Extend all SDT provisions in WTO rules covering South-South RTAs to South-North RTAs, as envisaged for example, under the EU Economic Partnership Agreements with developing Members.

### **Trade and Environment:**

African countries are not very active in this negotiating file, with the exception of Egypt, Kenya, and South Africa. The African position is similar to that of most developing countries in refusing to restrict the negotiations to a “NAMA plus” outcome by pursuing a list approach -proposed by developed countries - to reduce or eliminate duties on environmental goods. Moreover, the Negotiating Committee on Trade and Environment (CTE-SS) has not yet reached agreement on the appropriate approach to liberalize environmental goods and services. Furthermore, WTO members have not yet agreed on defining the scope of environmental goods and services.

### **Trade-Related Intellectual Property Rights (TRIPS) / Convention on Biological Diversity (CBD):**

The current work at the WTO involves negotiations three main issues:

- 1- The establishment of a multilateral system of notification and registration of geographical indications for wines and spirits under the mandate in paragraph 18 of the Doha Declaration, and as stipulated in Article 23.4 of the TRIPS Agreement, and the work carried in the TRIPS Council since 1997. The African Group, among

110 members, supports the “Draft Modalities Proposal” of June 2008 (with the exception of South-Africa). The Group however remains concerned by the potential cost resulting from the implementation of a multilateral register.

- 2- The extension of the protection of geographical indications provided for in Article 23 of the Agreement to products other than wines and spirits. Discussions are currently at a stalemate due to the continuing refusal by some Members to consider the extension as part of the Doha mandate. Members advocating GIs’ extension (Switzerland, EC, India, Pakistan, Thailand, Sri Lanka, Morocco, Tunisia, Turkey, Romania, Bulgaria, Kenya, Mauritius, African Group with the exception of South-Africa) see the higher level of protection as a way to improve marketing their products by differentiating them from competitors. The African Group requested conducting studies to show the possible benefits to African countries of GIs extension.
- 3- The relationship between the TRIPS Agreement and the Convention on Biological Diversity, in relation to the protection of traditional knowledge and folklore is discussed under the mandate of paragraph 19 of the Doha Declaration and paragraph 39 of the Hong Kong Declaration. There are currently two proposals of interest: the Disclosure Proposal of July 2006 to amend the TRIPS Agreement, supported by the African Group; and the Draft Modalities Proposal. While most developing countries champion the inclusion of the disclosure requirement of genetic resources and traditional knowledge within the patent procedures, developed countries refuse such inclusion.

The African Group supports amending the TRIPS agreement to incorporate certain requirements of the CBD, in particular, that patent applicants should be required to disclose the source and country of origin of any biological resources or traditional knowledge used in their inventions, and to demonstrate that they had obtained prior informed consent from the competent authority in the country of origin and entered into a fair and equitable benefit sharing arrangement. The opposition to this proposal comes mainly from the US, Canada, New Zealand, Australia, Japan, and Singapore.

In June 2008, the African Group co-sponsored the Draft Modalities Proposal (TN/C/W/52), which includes the 3 main issues discussed under the TRIPS agreement.

The Director-General of the WTO has recently accepted to resume his mandated role - under paragraph 39 of the Hong Kong Declaration - to carry out consultations on how to resolve the issue of the relationship between TRIPS and the CBD and the GIs extension.

### **Aid for Trade:**

The WTO will closely coordinate the monitoring and implementation of Aid for Trade over the next six months as the initiative moves towards the 2<sup>nd</sup> Global Review, which was held in first week of July 2009.

The 2<sup>nd</sup> Global review, focused on four objectives :

1. Moving from commitment to implementation: How is Aid for Trade making good on its promise as the agenda moves from commitment to implementation at multilateral, regional and national level?
2. Mainstreaming trade in national and regional development strategies: What are the obstacles encountered by partner countries in mainstreaming trade into national and regional development strategies? How can this mainstreaming process be encouraged? How can the Enhanced Integrated Framework (EIF) support this process in Least-Developed Countries (LDCs)?
3. Sustaining aid flows during the global economic downturn : What impact will the global economic downturn have on Aid-for-Trade flows? How can OECD donors be persuaded to engage long term through additional and predictable financing? What role can emerging South-South donors play in Aid for Trade?
4. Assessing the effectiveness of Aid for Trade : What conclusions emerge from the monitoring framework for Aid for Trade and how is Aid for Trade working at a thematic level?

The African Group stressed the importance of country-led approaches for assisting African countries, LDCs, and low income African members in maximizing the benefits of trade, and calls on all development partners, particularly G20 members, to ensure that financial commitments directed to Aid for Trade are maintained in times of crisis. It is also important to take the regional dimension of projects and programs initiated in Africa into account while implementing Aid for Trade initiatives.

### **Accession:**

The Group reaffirms its full solidarity with all African countries that are in the WTO accession process, and urges all WTO members to facilitate and accelerate this process. It is important to emphasize that African developing countries in the process of accession should not be compelled to make concessions incompatible with their level of development, and that go beyond the commitments undertaken by developing WTO members.

This concludes my report, Thank you for your attention.

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