

WTO NEW ROUND OF NEGOTIATIONS:
The Doha Ministerial Conference and Post Doha Agenda

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ABBREVIATIONS

3MC	Third Ministerial Conference
CAP	Common Agriculture Policy
CARICOM	Caribbean Community
COMESA	Common Market For Eastern and Southern Africa
COW	Conference of the Whole
CTE	Committee on Trade and Environment
DSU	Dispute Settlement Unit
DTI	Department of Trade and Industry
EU	European Union
FES	Friedrich-Ebert-Stiftung
GATT	General Agreement On Tariffs and Trade
GEAR	Growth Employment and Redistribution Programme
GMOs	Genetically Modified Organisms
IMF	International Monetary Fund Initiative
LDCs	Less Developed Countries
LMG	like-minded Group
LMO	Living Modified Organisms
MAI	Multilateral Agreements on Investment
MFN	Most Favored Nation
NAFTA	North Atlantic Free Trade Area
NGOs	Non Governmental Organisations
NIFCs	Net Food-Importing countries
NTCs	Non Trade Concerns
OAU	Organisation of African Unity
OECD	Oil Exporting Countries
RTAs	Regional Trade Agreements
SADC	Southern Africa Development Community
SDTs	Special and Differential Terms
SEATINI	Southern and East African Trade Information Negotiations
SPS	Sanitary and Phytosanitary Standards
TBT	Technical Barriers to Trade
TRIPS	Trade Related International property Rights
UN	United Nations
UNCTAD	United Nations Commission on Trade and Development
URAs	Uruguay Round Agreements
USA	United States of America
USTR	United States Trade Representative
WB	World Bank
WTO	World Trade Organisation

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It has generally become less contested that globalisation is reality and no one can stop it any more. Competitors in the global village would rather find themselves inside the moving global train rather than under its wheels. The question which SADC must ask itself today is no longer whether or not to join the global train, but how best the region influence agenda and decisions in WTO? The region can only develop sound strategies if its people are well informed and knowledgeable on their interests and threats of today, tomorrow and those coming in the next fifty to hundred years.

This book is based on a regional workshop on the same topic and held in Vumba, Zimbabwe on 8-10 May 2002. The workshop was jointly organised by Trades Centre and Friedrich-Ebert-Stiftung (FES) and I would not want to miss this opportunity to thank the organisers for their vision, zeal and determination in coming up with this fruitful workshop. This is not the first time that the two organisations have organised such an important discussion forum. They have previously held very successful similar workshops and conferences on globalisation issues as they affect Africa in general and SADC in particular. This particular workshop is a follow up to the one organised in the aftermath of the failed WTO Ministerial conference in Seattle. Aim of the workshop was to:

1. Take an audit of what SADC countries had expected from the WTO Doha Ministerial Conference (per each WTO agreement) against the outcomes from Doha.
2. Discuss emerging controversies in the interpretation of what was agreed in Doha – focusing on main areas of concern to developing countries.
3. Discuss the WTO Post Doha process particularly the necessary preparations and steps for SADC in view of the current WTO new round of trade negotiations.
4. Making an analysis of the commitments in the WTO Doha conference, for instance the emerging interpretations or controversies.

The depth and seriousness of both presentations and discussions, as attested in this book, clearly show that SADC people do not take globalisation issues lightly, but have come to realise that through WTO, they can shape the future of their economies and thereby decide their own destiny. We again take this opportunity to extend our unrestricted appreciation to all presenters and participants at the workshop for their fruitful input to the success of the workshop, culminating into this book.

The success of both the workshop and this book has been possible due to the generous funding by the Friedrich-Ebert-Stiftung, Harare. We are particularly grateful to Dr. Felix Schmidt, Resident Director of the foundation for his support. It is our sincere hope that such support will continue till to a point where SADC people adequately capacitated (financially and technically) to take full responsibility of their developmental needs.

Medicine Masiwa - Editor

PREFACE

The changing patterns of economic activity under the momentum of globalisation, demand that countries in Africa build strategic alliances for the protection of the continent's interests. SADC certainly provides a foundation for a strong economic integration based on tradition culture as well as historical ties of its people. It is important that the region defines its interests and try to push for these interests in global forums such as the WTO. The new economic dispensation imposed by globalisation also demands that SADC depart from the traditional bilateral ties based on the export primary commodities and imports of high value finished goods. The region should identify areas where it is more competitive on the global markets and exploit every opportunity offered by WTO to maximise benefits and reduce costs. Crucial to achieve these aims is to develop the ability to identify emerging areas in which SADC has comparative advantage and areas of high rent and then the capacity to appropriate those rents that are realistically within grasp and to develop the capacity to adjust quickly to changing circumstances of rent maximisation and comparative advantage.

Since the late 1980s, the region experienced serious economic problems which have seen its people sink further into poverty and need. Prices of the region's export commodities (agricultural and minerals) in the world market slumped as it faced more competition from other regions. Now that the WTO seeks to further harmonise global trading regimes, SADC must gear itself not only to increased competition, but also to export opportunities that never existed before. However, what is currently needed in order to realise these opportunities is information and knowledge on how to tap such potential.

It is against this background that Trade and Development Studies Centre [TRADES CENTRE] and FES –Harare office initiated a series of studies and workshops culminating into the compilation of this book on The New WTO Round of Negotiations and the Post Doha Agenda. It is our sincere hope that information contained in this book goes a long way to fill an information gap on globalisation challenges and how SADC as a region can respond to these challenges.

Dr. Felix Schmidt
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ASSESSMENT OF THE DOHA MINISTERIAL CONFERENCE

Dr H.M. Murerwa

Viewed from our own perspective here in Zimbabwe, Doha was not quite the resounding success which many, including the WTO itself, have presented. To some extent, even to some considerable extent, our view would be that, once again, and notwithstanding much better preparation and understanding of issues from our side, the developing countries were outmanoeuvred into going along with an agenda which, in real terms and on the ground, continues to reflect the wishes of the developed world, whilst paying little more but lip-service to the very real concerns of the developing nations.

Looking back to Doha, the fact is that, notwithstanding the concerted and well-prepared efforts of the developing world in general, the Doha meeting launched a new round of multilateral trade negotiations : the ninth round of multilateral trade talks since the formation of GATT some decades ago, but the first since the establishment, in 1995, of the World Trade Organisation.

The Doha meeting was immediately hailed a success by the developed nations : and in order that the developing world should, likewise, claim it as their victory, the programme flowing from that desert meeting was given the grand title of the Doha Development Agenda. If I sound a little sceptical or cynical, perhaps it is because those who most vocally emphasize the success of developing countries contained in the Doha outcome are in fact not the developing countries - as one would expect if indeed this was a developing world victory - but rather, the developed countries : among them countries which have stubbornly resisted any meaningful redress of the imbalances flowing from the Uruguay Round package, which have not honoured their own undertakings and commitments in terms of implementation of that package, and which have resorted to all manner of tactic and subterfuge in order to infiltrate an array of new issues onto the WTO agenda. But more of this later.

Doha, of course, took place against the backdrop of considerable international anxiety. The rubble of what had been the Twin Towers of Manhattan's World Trade Centre were still smouldering from the devastating September 11 terror attacks, and the signs of a marked global economic decline had set in.

In Zimbabwe, and I am sure this scene was replicated in all of our countries and indeed in every developing nation across the globe, the message came from the developed nations that, now, more than ever before, Doha *had* to succeed. The future of multi-lateralism itself was at stake : the consequences of a repetition of the Seattle debacle at Doha were ' too ghastly to be contemplated '. Developing countries should adopt a more 'flexible' approach and consider the 'broader' issues involved. And so it went on.

Our approach here was that our position, as always, was flexible : but that flexibility on our part should be met with an equal if not greater flexibility on the part of the developed countries.

The nature of the programme of work adopted at Doha, as manifested in the Ministerial Declaration and Decisions reflects, to some extent, the influence of these developments and the manner in which the developed world used these circumstances to leverage and manipulate the positions of a number of participating countries - developing countries in particular - to achieve their own objective of a new Round of multilateral trade negotiations.

At SADC level, we had agreed that we could, in principle, support the launching of a new Round in Doha if the fundamental focus of that new Round was a development agenda. Let us not be too cynical or sceptical about this: but, past experience must lead us not to place too great an expectation on either the quantity or quality or even the timing of whatever technical co-operation might be forthcoming. Common sense, also, must tell us that, unless there has been or will be a massive change in the mindset of the richer countries, they are unlikely to ever, willingly, assist the poorer countries to gain negotiating skills or market strength which could alter the existing balance of influence or power, and work to the meaningful advantage of those poorer countries.

Northern resistance to meaningful transfer of technology and the entire resort to TRIPS mask, in fact, a deliberate and drastic curtailment of opportunities for the South to acquire and use new technologies. How does the North's supposed commitment to 'liberalisation' and 'free trade' match up to this reality on the ground ?

Overall, therefore, and notwithstanding the much-vaunted success of the Doha meeting, I think it is fair to say - and as this partial assessment of the balance of returns from Doha would suggest - that success may well have been overstated. Of course WTO negotiations, like any other negotiations, can never be a zero-sum game with a winner and, by definition, a loser. Everyone participating in those negotiations should come away a winner. The reality of Doha, and indeed the reality of the entire WTO process is somewhat different.

To begin with, the players within that process are essentially unequal : the developed, rich countries dominate the negotiations, set the agenda and generally run the show. As long as that situation persists, the outcome of any negotiation is unlikely to be very favourable towards ourselves.

And that is the greatest challenge facing us in the aftermath of the Doha Meeting : ensuring that, notwithstanding our weak position, we are able to maximize the gains and minimize the losses of the broad WTO negotiation process. We are only likely to succeed in this endeavour if we work together and if we work smartly.

True, we worked together in the run-up to Doha : and we were better prepared and better briefed than we were before Seattle. But we did not play it smart. As a result, the South-South solidarity and alliance which had been so prominent and so manifest in the run-up to Doha and during the initial phase of the meeting itself, evaporated at the eleventh hour

and as the meeting went into an unscheduled extra day. The other side simply played it smarter.

It is undeniable that the Doha agenda has significantly increased the WTO work programme : by as much as 50 %, according to some estimates. To what extent are we prepared ? The answer, clearly, is ‘ not enough ‘. The workload is stacked against us as developing countries and if we are indeed to minimize losses and maximize gains through the intensified negotiating process, there is much work to be done.

The two-year respite accorded us by Doha is rapidly diminishing : all the more so because the developed world is pushing hard for the Fifth Ministerial meeting to take place as early as mid 2003 - well before our own anticipated schedule. The European Union has stated that it will have submitted discussion papers on all issues on the Doha Agenda by July 2002. But, the fact is that negotiations on the Doha work programme are already under way. The developed countries are already churning out numerous papers and proposals - ostensibly to facilitate discussions - but, in reality, to define the negotiating framework according to their own interests.

Where are our own position and discussion papers ? this is a challenge for us. We need to define those positions, submit those papers - as developing countries, as regional groupings - in order to instill some balance in the process and to infuse our own issues and our own perspective into the burgeoning debate.

Related to this is the need for us to build, amongst ourselves, capacity, information, research and expertise on WTO issues.

In the context of WTO, as indeed in any other forum focused on global governance and the management of international relations, the availability of timely and accurate information is absolutely essential. From a SADC perspective, it is vital, therefore, for our public and private sectors, civil society, academia and our various research institutions to work more closely together to provide inputs which will assist those entrusted with the actual negotiations to make decisions on the basis of full and factual information.

Lastly, our countries face the challenge of building up both financial and human resource levels and a concomitant institutional capacity to enable an effective participation in the WTO process.

I would suggest that there are three basic areas which need to be addressed : your own deliberations will undoubtedly identify others. Firstly, we need to be adequately and appropriately represented in Geneva. Secondly, we need highly competent Head Office or capital-based staff. Thirdly, we need to develop greater competence within our various trade policy institutions, business associations and other related organisations.

As SADC, we are not all represented in Geneva. Those of us who are there, generally speaking, are understaffed and under-resourced. A similar situation is to be found in

capitals, where there is insufficient depth of knowledge or expertise to effectively backstop the process ongoing in Geneva. Outside the Trade Ministries in most of our countries, there is little real depth within other Government departments or within private sector institutions with regard to the level of technical and legal knowhow required to contribute meaningfully to effective participation in the negotiation process.

One way of tackling this particular weakness is for us to create strategic alliances between and amongst ourselves as SADC. At the level of Geneva, this could take the form of collaborative negotiating groups ; whilst at capitals, the establishment of standing consultative fora comprising government, academia, civil society and so on would certainly assist the process.

There is much more I could cover : suffice it to say, however, that our region, like all developing regions, faces a host of challenges flowing from the Doha meeting. Time is not on our side :it never is : but we have to work to ensure that we make best use of whatever little time there is, and prepare ourselves, as a region, for a more effective participation in both ongoing and soon-to-be-launched negotiations.

That preparation begins with a full appreciation of the many complex issues at hand. And whilst I have perhaps been uncomplimentary about the genuineness of the technical assistance promised by way of Doha, let us continue to push for that assistance, and as much of it and as soon as possible, to enable us to meet the now expanded work programme of the WTO. Let that assistance come to us as a region, and let us ensure that that assistance enables us to focus on the priorities and needs of our own countries. From that, let us define broad regional strategies for co-operation and collaboration; and from there, let us input and build upon our views, as SADC, within Africa more broadly, and within the developing world as a whole.

Naturally, we continue to be at a disadvantage when alongside our developed world partners : naturally, their approach will continue to be a divide and rule approach, and naturally, much of the forthcoming agenda will be directed by them. But, we continue to learn and to grow stronger and more organized. If we are able to consolidate as I have suggested above, and if we, as SADC and as developing countries as a whole, are able to approach the challenges of WTO in a more focused, smarter manner, to concentrate on maximizing gains and minimizing losses, we will, inevitably and inexorably begin to make a greater impact upon the definition and enforcement of global economic governance.

ISSUES IN AGRICULTURE – EXPECTATIONS, CONTENT OF DECLARATION AND EMERGING CONTROVERSIES IN INTERPRETING WHAT WAS AGREED IN DOHA.

Julius Mathende

Introduction

Following the collapse of the Seattle Conference negotiations on agriculture commenced in March 2000 under the mandate of article 20 of the Agreement on Agriculture. Doha came two years down the road at which stage substantial progress in agricultural negotiations had been made. Secondly, many of the differences that existed in Seattle had been narrowed down. What was largely expected of Doha was to endorse work done and provide further guidance on the negotiations.

Expectations and Outcomes in Doha and the New Round

The aspect of whether a new Round of Negotiations would be launched in Doha was debated widely in WTO meetings in Geneva and elsewhere. A large number of Developed Countries and few Developing Countries were pro the launch of the new Round as they felt that this would provide a platform to negotiate a wide range of issues on which negotiations had not yet started or stalled. Some of these issues include transparency in government procurement, interactions of trade and competition policy and electronic commerce.

The general feeling of Developing Countries was that engaging into a broad Round of negotiations would put too much strain on them especially given their limited capacity. Secondly, Developing Countries felt that the existing workload on service and agriculture negotiations was in itself too burdensome. It was also felt that all outstanding implementation issues would need to be addressed before embarking on new programmes. Thus, the two development divides went to Doha with different expectations. Developing Countries' final position on this matter would be determined by the acceptability to them of the work programme coming out of Doha. As it turned out a new Round of negotiations was launched in Doha.

Implementation Related Issues and Concerns

Implementation related issues and concerns are some of the aspects that led to the collapse of Seattle negotiations. Debates on these issues intensified post Seattle and on the run up to Doha. The issues relate to commitments made during the Uruguay Round but never fulfilled. In the case of Developed Countries failure to comply was largely deliberate whilst on the part of Developing Countries it was largely due to capacity constraints. The issues are therefore one of enforcing compliance on the former and extending derogations on the later.

The implementation issues related to Agriculture which arise from the problem of enforcement of compliance are the Marrakech Decision on Least Developed and Net Food Importing Developing Countries and the General Council Decision of 2000 directing the Committee on Agriculture to discuss and recommend disciplines on export credits. Those that arise from capacity constraints and other difficulties experienced by Developing Countries and Least Developed Countries in complying with the agreements are listed in annex 1.

The expectation of Developing Countries was that solutions to these problems would be sought prior to Doha or at least in Doha. The Doha Declaration contains a paragraph which provides guidelines on how these issues will be addressed.

Emphasis on Development

There is a general feeling within the circles of Developing Countries that one of the main reasons why they failed to fully benefit from the Uruguay Round and other Agreements such as the Lome is that these agreements did not address the fundamental problems of underdevelopment these countries find themselves in. Thus, greater participation and full integration into the multilateral system can be fully realised if the development problem is addressed. In this context the inclusion of the development agenda in the Doha package was seen as instrumental in building export capacity hence full participation in multilateral trade. This is acknowledged by the Declaration.

The Three Pillars(Market Access, Domestic Support and Export Competition)

Under market access the general expectation was that Doha would come up with a Declaration hinting towards substantial increase in market access of agricultural exports from developing countries. This dream was largely realised. Secondly, there was a desire for the Doha Conference to provide guidelines on a safeguard mechanism for cushioning against import surges in Developing Countries.

Under the domestic support pillar the general expectations were that Developing Countries should exercise restraint in challenging some distortive measures of support developing countries would put in place in pursuance of rural development and food security. Secondly, Developing Countries expected to be given greater flexibility in application of certain amber box measures in pursuance of the abovementioned objectives. It was also expected that a decision on the elimination of the blue box would be made. Furthermore, some Developing Countries hoped that a special facility, a development box, that would to attend to their development needs, would be part of the rules and disciplines to come post Doha.

Substantial reduction and eventual elimination of export subsidies was the aspiration of most Developing Countries. Export subsidies are viewed as a major hinderance to competitiveness of Developing Country commodities. Doha issued a directive which is in line with this aspiration.

Special and differential treatment

It was deemed that special and differential treatment would be an integral element of the negotiations. Secondly, such special and differential treatment would be much improved compared to the concessions offered under the Uruguay Round which in the case of Developing Countries were mostly in the form of extended implementation periods and reduced commitments. The Declaration clearly spells out that special and differential treatment will cut across all elements of the negotiations although it is silent on whether there will be an improvement on the special and differential treatment concessions to be availed to Developing Countries.

Non Trade Concerns

During the first and second phase of the negotiations several members submitted proposals on non trade concerns. These ranged from size of economy and its geographic location and their influence on participation in world trade, environmental issues, food security, rural development, multifunctionality to food safety. The general expectation was to narrow down the negotiation items falling under this subject to a manageable size. There is still a diversity of opinion on this matter.

Transparency in the negotiation process

Some of the basic principles in WTO are that of non discrimination and transparency. In this context all members should be accorded a chance to participate in all processes that lead to WTO resolutions, decisions and agreements. Secondly, such processes should be transparent.

In Seattle and prior to Seattle the WTO “Green Rooms” were alleged to be non transparent and selective. Members expected a more transparent negotiation process on the run up to and in Doha. The General Council attempted to address these problems through structuring negotiations through formal and informal sessions.

However, even then members still allege that consultations within the WTO system still remained biased in favour of bigger Members. The selection process of the “Friends of the Chair” in Doha was queried – so was the creation of the Trade Negotiation Committee (TNC). Secondly, the sitting arrangements in last Chair’s Sessions of Doha were such that more influential members were at the centre and participated actively whilst less influential members were at the periphery.

Content of the Declaration

The agricultural mandate as contained in paragraphs 13 and 14 of the Doha Declaration is as follows:

We recognise the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiation proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of non trade concerns reflected in the negotiating proposals submitted by Members and confirm that non trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as whole.

Interpretation of the Declaration

The major challenges which negotiators will face on legal interpretation of paragraphs pertaining to agriculture in the Doha declaration will most likely be on the following phrases:

- a) We recall the long-term objective referred to in the Agreement to establish a fair and market oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent, restrictions and distortions in world agricultural markets.
- b) ...we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access:...and substantial reductions in trade distorting support.

Under paragraph (a) the terms “fair and market oriented” have been in the WTO agreements for a long time and now there appears to be general common understanding on their interpretation. The terms ‘fundamental reform’ may pose problems in terms of agreeing on the depth of reform and parameters to measure that depth. The same problem may be experienced on measures and terminology to define the strength of rules and disciplines. It also applies to the interpretation of substantial under paragraph (b).

On non-trade concerns the pre-Doha problem of defining aspects that qualify for negotiation under this subject remains unresolved. Doha only directed that these issues be negotiated. Thus, negotiators will again be confronted with the problem of isolating non-trade concerns of some members from trade concerns of others. Some of the issues falling under this subject could be referred to the Trade and Development, and, Trade and Environment Committees as mandated under the Doha declaration. However, this will need members’ consensus.

The terms ‘modalities and concessions’ have their origins in the Uruguay Round and as such have been around for some time. This implies that there is now a common understanding as to their interpretation, hence there is some common understanding on the interpretation of paragraph 14 of the Declaration.

Following the Doha Conference the Committee on Agriculture met from 4-8 February 2002 to wind up phase 2 of the negotiations. This meeting discussed the development box, primary commodity producers, small island developing countries, special and differential treatment, and other issues raised by Members. The forum provided a wide platform to assess the interpretation of some of the elements of paragraphs 13 and 14 of the Doha Declaration post the conference. In this regard I will take some elements of the discussions on the Development Box and Special and Differential Treatment to highlight emerging differences in interpretation of the Ministerial Declaration.

a) Development Box

The proponents of this box argued that the development agenda was accorded prominence in Doha. In this context the Development Box would be an appropriate instrument to further the development agenda. Secondly, it is an appropriate special and differential treatment for Developing Countries. It would address concerns such as food security, poverty and rural development. Policy coverage would include measures related to market access, domestic support, export competition and technical and financial assistance.

By and large the concept of the development box was supported and it was acknowledged that the principle was in line with the Declaration. Some members opinions were that the box should give Developing Countries significant flexibility including decisions on products they would subject to commitments, the commitments they would make and rules and disciplines that would apply. Others opined that this flexibility could be effected through

a graduated approach in which case a single or different set of rules would apply.

The opposite views were that the objectives of the reform programme as enunciated in Doha are to establish a fair and market-oriented trading system through substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. These are deemed to apply to all members. The argument then was that proposals in the Development Box is in the opposite direction.

b) Special and Differential Treatment

The presentation argued that the Doha development agenda puts great significance to special and differential treatment, and that it would be an integral part of the negotiations that would be duly reflected in the new commitments, rules and disciplines for agriculture. It would also address inequities in trade rules especially on problems relating to high tariffs, peak tariffs and tariff escalation. It elaborated on additional measures that need to be put under special and differential treatment.

Counter arguments were similar to some of those raised under the development box that the objective to establish a fair and market-oriented trading system would be effected through substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. These would apply to all members indiscriminately. Others further argued that some of the problems raised, such as rural development, environment and food security apply to all members.

In March the Committee met again to chart the way forward following the Doha conference. At this meeting a new chairperson was selected and members agreed that negotiations under the third phase shall build on the proposals and submissions worked on by participants over the past two years and be based on paragraphs 13, 14 and other relevant provisions of the Doha Ministerial Declaration. A schedule of work was agreed and is given in annex 2.

This general consensus on the work programme seems to arise from several factors. Firstly, agricultural negotiations have over the past two years been characterised by divergency of opinion whenever new issues are brought forward for discussion. At the beginning of the negotiations in 2000 it took a long time for members to agree that negotiations would be based on article 20 of the Agreement on Agriculture. However, when that common understanding emerged negotiations went on fairly smoothly. As highlighted above members have agreed that negotiations on agriculture will be based on the Doha Declaration and have also agreed on a schedule of work. Most of the existing divergencies in opinion fall under issues for discussion and one is optimistic that compromises will be reached as negotiations proceed.

Issues to be Tackled During the Negotiations

Market Access

Substantial improvements in market access can only be realised through substantial reductions of tariffs, elimination of tariff escalation and peaks, and expanding tariff quotas and improving their management. The major problem with tariff setting is that the levels at which they were bound are very high. Thus, even substantial reductions in tariffs may not necessarily bring about meaningful market access. The principle of granting greater market access to products of interest to Developing Countries was accepted during the Uruguay round as a special and differential treatment. Under the current negotiations, Developing Countries feel that this concession should remain in place and product range extended.

The granting of credit to autonomous liberalisation is not provided for in the Agreement on Agriculture. However, if this were to be negotiated and agreed the most likely condition to it would be that reductions made under autonomous liberalisation be bound. Thus, a thorough analysis of its pros and cons should be made to assess the implications of this argument.

Tariff escalation and peaks are largely applied by Developed Countries and to the detriment of processed and manufactured goods from Developing Countries. All that is required is a common understanding that they are hurting Developing Countries which should lead into the negotiation of rules and disciplines to remedy the situation.

Pre-Doha discussions on tariff quotas centred on their administration and expansion of quota volumes as well as further reduction of in-quota duties. While there was a general consensus that tariff quota management ought to be improved there was little consensus on quota expansion. Some delegations conditioned negotiations on quota expansions on improvement on the transparency of existing quota management systems.

The application of the special safeguard measure is limited to a few Members who reserved this facility upon accession to the WTO. Developing Countries have often alleged that this provision is used against their exports by Developed Countries and instead it should only be available to Developing Countries so that it is used to further their Development agenda.

Domestic Support

(a) Green Box

The peace clause expires in 2003 and under the ongoing negotiations Developing Countries have urged Developed Countries to exercise restraint on domestic support that Developing Countries will provide to their agricultural sectors following the expiry of the "peace clause". This specifically refers to investment subsidies and support to encourage farmers from diversifying from narcotic drugs. The capping of domestic support provided under the green box was not settled under the Uruguay round. The inequitable benefit from green box support

between farmers in developed and developing countries has prompted Developing Countries to be very vociferous about the need to put ceilings on green box support. Developing Countries will need a very high tractive force to pull Developed Countries to their side on this matter. There has been a tendency by beneficiaries of the blue box to amend their domestic legislation so as to legitimately provide blue box support under the green box. This has prompted the need to tighten support criteria under the green box.

(b) Amber box

Doha mandated the substantial reduction of domestic support so this implies that further reduction of amber box support is given. The unfinished business here is the definition of reduction modalities and the need to agree on the levels of cuts to be effected. Secondly, Developing countries' proposals on further reform on the amber box sought flexibility in the provision of certain of subsidies especially those meant to advance food security and rural development. This is still an issue for discussion and could probably best fit into the development agenda. Some subsidies to be provided under non-trade concerns fall under the amber box. In this case it is still to be agreed whether rules and disciplines on such support should be couched within the amber box or separately.

(c) Blue Box

The general view of the majority of members on this box is that it should be eliminated as it is a special and differential treatment for only few members (USA, EU and Norway). However, the negotiation of its elimination will not be an easy task as Doha only mandated the substantial reduction of domestic support and strengthening of rules on the three pillars so as to make them operationally effective.

Development box

The development box was proposed by a group of African countries including Zimbabwe, some Asian countries and Switzerland. It is premised on the weakness of the green box in addressing the development needs of Developing and Least Developed Countries. In order to address these weaknesses a development box has been mooted. Issues such as the measures falling under this box, its difference from the green box, the relevancy of creating a plethora of boxes and the need for such a box not to be discriminatory have been raised. Clarifications have been made on these issues and after Doha there appears to be increasing appreciation of the significance of the development box. However, more work on the development of the concept still needs to be done.

Export Competition

The Doha declaration is fairly clear on the direction the negotiations on export subsidies should take. So is the case on export credits. What would be required of negotiators is greater commitment towards directives issued in Doha on these matters.

Development

In Doha an understanding emerged to the effect that the current negotiations should fully take on board the development needs of Developing and Least Developed Countries. The challenge now is to define and clearly specify the nature and content of these development needs, and have an agreement on how the development agenda will be implemented.

Special and Differential Treatment

There might be three issues to tackle under this subhead being the operationalisation, binding and provision of more meaningful additional measures of special and differential treatment

Conclusions

The agricultural text within the Doha Declaration was widely debated by the Committee on Agriculture before the conference. The Geneva draft was therefore a fairly acceptable compromise. The only material amendment which was effected on this text was the addition of the phrase “..with a view to phasing out, all export subsidies” This was slotted in under pressure from developing countries. Developing Countries especially those within the Cairns Group used this as leverage on a compromise on new issues.

Quite a number of expectations were fulfilled. This implies that the negotiation process adopted in 2000 has to a large extent been very effective in bringing consensus. However, the difference in opinion is still very wide in some areas such as non trade concerns. Furthermore, the launch of a new Round has brought in an additional workload on negotiators especially the Geneva missions. This coupled with a heavily loaded and tight work programme will as Developed Countries have always argued constrain participation in the negotiations.

The current phase of agricultural negotiations will concentrate on working out modalities, and drafting schedules of concessions and commitments. In section 5 several issues that will need to be addressed have been identified. These fall under market access, domestic support, export competition, non trade concerns and special and differential treatment. The work programme seems to put more emphasis on paragraph 14 and tends to assume that most of the issues under paragraph 13 have been agreed upon. In this regard it is not clear whether the negotiations will proceed to work out modalities without reaching consensus on these issues.

Although differences in the interpretation of the Doha text still exists it is envisaged that this will not be a major stumbling block. If anything current indications point in the direction of a common understanding on how the third phase will be handled. However, it is not clear whether that understanding arises from full participation and consultation leading to conviction or manipulation. Secondly, the negotiation process appears to drawing a lot of experiences from and following the Uruguay Round path. This

notwithstanding the agreements emanating from these negotiations will be signed as a single undertaking so lack of progress in some areas would affect progress in agriculture. In addition if these negotiations happen to follow the Uruguay Round path and most Developing Countries are crying foul that they lost under this Round will we win this time? Playing the game is one thing and winning it is another.

Annex 1

Agreement on Agriculture

Tiret 5

“ Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns”

Tiret 7

“ Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least Developed and Net Food Importing Developing Countries, and approves the recommendations contained therein regarding (1) food aid (2) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure(3) financing normal levels of commercial imports of basic foodstuffs: and (4) review of follow-up.

Tiret 8

“Takes note of the report of the Committee on Agriculture(C/AG/11) regarding the implementaion of article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.”

Tariff Quotas

“Takes note of the report of the Committee on Agriculture (C/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.”

Annex 2

The negotiations under this programme shall build on the negotiating proposals and submissions worked on by participants over the past two years and be based on paragraphs 13, 14 and other relevant provisions of the Doha Ministerial Declaration.

The negotiations shall be conducted in accordance with the following schedule:

1. 17-20 June 2002: Export Competition and export restrictions – Technical elaboration of detailed possible modalities, including rules related elements.
2. 2-4 September 2002: Market Access-Technical elaboration of detailed possible modalities, including rules related elements.
3. 23-25 September 2002: Domestic Support-Technical elaboration of detailed possible modalities, including rules related elements.
4. 18-22 November 2002: Matters that require follow up from the previous meetings.
5. 22-24 January 2003: Comprehensive and substantive review of possible modalities, including rules related elements. The review will take place on the basis of an overview paper to be prepared by the Chairperson and to be circulated by 18 December 2002.
6. 24-28 February 2003: Consideration of the first draft of modalities for further commitments. (Draft to be prepared and circulated in advance thereof)
7. 25-31 March 2003: Establishment of modalities as a basis for the subsequent submission of comprehensive draft schedules. (Draft to be prepared and circulated in advance thereof.)

In accordance with paragraph 13 of the Doha Ministerial Declaration special and differential treatment for developing countries shall be an integral part of all elements of the negotiations under this programme. Non-trade concerns will be taken into account in these negotiations as provided for in the Declaration.

The Chairperson will report to the formal Special Session meetings on the work undertaken in the Informal Special Session and to the TNC on each Formal Special Session meeting.

It is also understood that throughout the period covered by this programme the Special Sessions will be complemented by informal consultations, including consultations between Members and consultations under the direction of the Chairperson. The issues to be taken up in these consultations will not necessarily follow the order set out above in

the programme of meetings. As for the consultations by the Chairperson due regard will be given to sufficient advance notice, transparency and the schedule of meetings in the WTO bodies.

AGRICULTURE IN THE DOHA DECLARATION

Kennedy Mbekeani

On 14 November 2001 the Fourth Ministerial Conference of the World Trade Organisation approved the launch of the most ambitious round of multilateral trade negotiations covering 9 topics. 8 topics including agriculture are to conclude by 2005 as a 'single undertaking. However, Members interpretation of the Ministerial Declaration vary so widely. It is still not clear what exactly the Ministers committed themselves to. Ambiguities pertain to almost all the key areas agriculture included.

Agriculture Negotiating Mandate

The agriculture negotiating mandate is based on paragraph 13 and paragraph 14 of the Ministerial Declaration. The mandate revolved around export subsidies pitting the European Union against the practically the rest of the WTO Members. After a prolonged battle between the EU and the Cairns group, the text finally settled on 'without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support' (para 13). The interpretation of paragraph 13 of the Declaration is as unclear as the most aspects of the Declaration. While some Members believe that they succeeded in getting a 'commitment' to the elimination of export subsidies, the EU stresses that Members committed to working towards the elimination of subsidies and have not agreed to a deadline for reaching the goal. The level and speed of the reductions will continue to be at the centre of the negotiations.

Another confusion centres around the definition of export subsidies. While some Members believe that the elimination of 'all forms of export subsidies' mean export subsidy elements in other export competition regimes, such as export credits, food aid or state-trading enterprises, the US has a different interpretation which does not include export credits. Another confusion is in the interpretation of 'substantial reductions in trade-distorting domestic support'. While some Members (particularly the Cairns Group) believe that the mandate includes negotiations on all subsidy boxes (amber, blue and green), the EC stated that this would refer to those notified under the amber box of trade-distorting subsidies.

Paragraphs 13 and 14 of the Doha Ministerial Declaration

Paragraph 13: We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

Paragraph 14: Modalities for further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

Despite a strong campaign in Doha by a large number of developing countries, the Declaration makes no specific mention of the need to create a 'development box' in the Agreement on Agriculture (AoA). However a text on Special and Differential Treatment for developing countries states that 'special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development.' While this basically restates Article 15.1 of the AoA, the requirement that S&D should be embodied 'as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective' was seen as a commitment that future S&D provisions will be incorporated in the AoA in an enforceable manner in contrast to the endeavor language in the Marrakech Decision.

Modalities for further commitments and provisions for S&D should be established before 31 March 2003. The modalities are seen as a recipe for creating schedules and conducting calculations. Based on these negotiation outlines, members must submit their

comprehensive draft Schedules before the fifth WTO Ministerial (late 2003). The subsequent negotiations on rules and disciplines and related legal texts are to be concluded before 1 January 2005.

Implementation Issues

Implementation issues involve concerns raised by developing countries virtually since the coming into force of the Uruguay Round Agreements. They address imbalances in the multilateral trading system that work against developing countries' reaping benefits from it. The most contentious issues are market access for agricultural and textile goods, exemptions from subsidy prohibitions and technical requirements.

A major area within implementation is S&D treatment of developing countries. Because many provisions in the Uruguay Round Agreements that are intended to benefit developing countries are not legally binding, industrialised WTO Members have mostly ignored these 'best endeavor provisions'.

The Declaration deals with implementation issues in a number of areas. The relevant documents and official texts adopted at the Ministerial Conference address these concerns in a confusing manner. In addition to the Ministerial Declaration, two documents deal specifically with implementation:

- The Decision on Implementation Issues and concerns; and
- The compilation of Outstanding Implementation Issues raised by Members.

The specific paragraph on implementation affirms that 'negotiations on outstanding implementation issues shall be an integral part of the work programme we are establishing' and provides three different timeframes for action:

- (i) 'where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate' (para. 12(a));
- (ii) 'the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the TNC [...] by the end of 2002 for appropriate action' (para. 12(b)); and
- (iii) through the adoption of the Decision on Implementation-related Issues and Concerns, it endorses the timelines prescribed for various reviews and examinations.

A great deal of uncertainty comes into question, namely surrounding what issues fall into which timeline. It would seem that, under 12(a), those 'relevant implementation issues' that appear in the Implementation Decision or the list of Outstanding Implementation Issues will now be dealt with under the timeline specified in that mandate (not later than 1 January 2005) and removed from the earlier timelines. Despite potentially differing times of completion, implementation concerns are part of the 'single undertaking' launched in Doha (para. 47).

The Implementation Decision's section on agriculture deals most prominently with the 'green box - an area of great concern for developing countries. Para 2.1 'urges [...] restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.'

What did They Agree to Negotiate?

In agriculture, the mandate in a sense has been expanded to go beyond the terms for further reforms set in Article 20 of the AoA, and brings in wording "reductions of, with a

view to phasing out, all forms of export subsidies ...”.

However, this formulation is counter-balanced by the qualification that this is “without prejudging the outcome of the negotiations”, and the stress on the “long-term objective” of the AoA “to establish a fair and market-oriented trading system through a programme of fundamental reform ...”. The EC is unlikely to give up its export subsidies or even reduce them without America acting symmetrically or being forced to act on its own methodology of subsidizing, and this will likely stall the negotiations.

Development Box

A key demand of developing countries, the creation of a 'development box', remains possible in the course of the post-Doha agriculture talks, as the Ministerial Declaration agrees that "special and differential treatment for developing countries shall be an integral part of the negotiations" to enable developing countries "to effectively take account of their development needs, including food security and development" (paragraph 13). Modalities for commitments and special and differential treatment will be established by 31 March 2003 (the expiry date of the 'peace clause' that currently shield agricultural subsidies from dispute settlement challenges).

The creation of a 'development box' aims to:

- Protect and enhance the food production capacity of developing countries, particularly in key staples
- Safeguard employment opportunities for the rural poor; and
- Protect small farmers from cheap imports.

Path to March 2003

The details of the actual negotiations remain vague, and there is great concern that the final outcome may not adequately address the issues raised at the Doha Ministerial conference. Specifically, there is increasing trepidation that a clear agenda for eliminating export subsidies, though called for in the Ministerial Declaration, might be blocked, using vague language of the declaration as a wedge.

Leading to March 2003, the SADC countries need to address the following:

- (i) To ensure that no more than one negotiating meeting is scheduled simultaneously.
- (ii) To find ways of enhancing the negotiating capacity of the negotiators (both Geneva and capital based).
- (iii) Identify the forms of liberalization that would contribute most to expansion of agriculture.
- (iv) Identify the forms of WTO liberalization that would be most effective in bringing about productive liberalization. In that process the region should be able to respond to the following questions:
 - Can the WTO process be used to improve domestic policies?
 - How best might any adverse consequences of liberalization be addressed?
 - What are the most efficient procedures that might help bring about the desired reductions in protection?
- (v) Identify modalities of addressing food security issues within the AoA.

POST DOHA WTO NEEDS A FAIR AGREEMENT ON AGRICULTURE AND BALANCED WTO STRUCTURES

Dr. M. Masiwa

Introduction

Agriculture forms an integral part of WTO agreements. Provisions of this agreement cover both primary and processed agricultural products. For practical reasons, agricultural products are divided into tropical and Temperate Zone products. Tropical products, as the name may suggest are those commodities largely grown in tropical and sub-tropical areas, covering most of the developing countries. They range from beverages like tea, coffee and cocoa; cotton and hard fibres like jute and sisal; and fruits like mangoes, guavas, bananas and pineapple. Temperate Zone products are those normally grown in countries with moderate temperatures and these include dairy products, grains such as wheat, meat and meat products and fruits such as apples.

Before GATT 1947, rules applying to the agricultural sector were less rigorous and lenient compared to the rules governing industry. Countries therefore were free to apply high levels of tariff and non-tariffs measures on products they felt needed protection from imports. Developed countries in particular maintained high level tariffs and imposed quantitative restrictions, discretionary and variable levies (see box 1). The objective behind these measures were to guarantee high prices for domestic producers in order to assure them high-income levels. Negative effects of these policies were that they reduced opportunities for competitive foreign producers and put heavy burdens on the budgetary resources for governments. The process inevitably encouraged export subsidies because high costs of production in excess of domestic requirements could be disposed of in the international market through subsidies.

Box 1

In 1990 for instance, OECD countries estimated that its members as a whole subsidised their agricultural sectors to the tune of 2 % of its GDP, while agriculture itself only accounted for 3% of GDP. As a result of these subsidies, developing countries' share of agricultural trade fell from 29% in 1982 to 27% in 1992. Over the same period, developing countries' exports of merchandise rose from 16% to 20%. In addition, the unit value of their exports fell by 0.4% per year in the period 1982-92. During the same period, the unit value of exports from developed countries increased by 3% per year. As a result, developing countries' terms of reference worsened by 13 % during this period, whilst trade of terms form the developed countries improved by 14%

Source: (Evans and Walsh, 1995)

Main Elements of the Agreement on Agriculture

The Agreement on Agriculture is about gradual agricultural reform whose major objective is to establish a fair and equitable market-oriented agricultural trading system. Commitments under this agreement are on:

1. Market Access
 - ◆ Tariff and Non-Tariff Measures
 - ◆ Tariff Reductions
 - ◆ Special Safeguard Measures
2. Domestic Support to Producers
3. Export Subsidies

Commitments on Market Access

Restrictions on market access have been in the form of tariff and non-tariff measures. Non-tariff measures include quantitative restrictions, variable import levies, minimum import prices, discretionary import licensing and voluntary export restraints. A key factor about this commitment is that all countries, even the least developed ones, are required to bind all tariffs on agricultural products.

Tariffication of Non-Tariff Barriers (NTBs)

It was evident during the Uruguay Round that most of the barriers to market access in agricultural trade were non-tariff barriers. In order to achieve uniformity in reductions of these barriers, members agreed to convert Non-Tariff Barriers (NTBs) into tariff equivalents (TE). This would be calculated on the basis of average world market prices subject to non-tariff barriers and its internal price in the importing country as:

$$TE = [(internal\ price - external\ price)/external\ price]$$

Whereby Internal prices are representative of wholesale prices,
 External prices are the actual c.i.f. unit import price and
 1986-1988 is the base year for average annual data

After the tariffication, members bound the resultant tariff level on all agricultural products and this bound level became the basis for tariff reduction. In many cases however, developed countries took very high tariff equivalents of non-tariff measures, creating extremely prohibitive tariffs as shown in table 1.

Table 1: Base tariff level after tariffication (%) by selected developed countries

Country	Products	Base tariff level (%)
USA	Sugar	244.4
	Peanuts	173.8
	Milk	82.6
The EU	Beef	213.0
	Wheat	167.7
	Mutton	144.0
Japan	Wheat	352.7
	Wheat products	388.1
	Barley products	361.0
Canada	Butter	360.0
	Cheese	289.0
	Eggs	263.3

Source: E. Jones & P. Whittingham (1998)

Tariff Reductions

Tariffs resulting from the tariffication process are to be reduced by a simple average of 36% for developed countries over the period 1995-2000 [with a minimum of 15%] while developing countries committed themselves to an average reduction of 24% [with a minimum of 10%] over the same period. LDCs are not required to reduce their tariffs, but all members have to bind all tariffs on agricultural products. Non-tariff measures may however be maintained under special conditions such as:

- If the imports of a specific product comprise less than 3 % of domestic consumption
- If the product has been granted special treatment based on food security (e. g. Staple food in developing countries) or environmental concerns

Special Safeguard Measures

Special safeguard measures are regulated in article 5 of the Agreement. The measures respond to concerns by importing countries that, despite tariff equivalents, removal of quantitative restrictions may result in sudden increases of imports which can distort domestic markets. The special safeguard measures are in the form of additional duty imposed on the imported product. The additional duty imposed however, should not exceed one third of the ordinary customs duty for the product. Special safeguard measures allow the imposition of additional tariff when certain criteria are met such as:

- If a certain maximum import volume (volume trigger) is reached, above which customs duty may be applied
- If a certain price level (price trigger) is reached, below which customs duty may be applied

For many African countries, who largely depend on exporting agricultural products, the reduction in tariffs appears to be a positive move since it allows these countries to realise their comparative advantage in exporting to more lucrative markets of the North. However, there is strong resistance by most countries to cut tariffs and food exporting

developing countries will have to wait longer to realise their comparative advantage.

Commitments on Domestic Support Measures (DSM)

Distortions in the international trade is not only caused by high level protective measures, but also by domestic support measures to producers adopted by member countries. These can be in the form of export subsidies or direct payment to farmers by the government. The EU market for instance is largely protected to the Common Agricultural Policy (CAP), which allows the subsidisation of the farmers (see box 2).

Box 2

The EU's Common Agricultural Policy (CAP) accounts for about 50% of the EU's total Budget. As a result, some producers with comparative advantage outside this region are denied access to this market and are pushing for the removal of CAP. The EU itself can gain considerably by reducing its expenditure by cutting/abolishing CAP. However, the EU vehemently protects CAP because it fears that its removal will result in the loss of jobs, market share and will cause instability in the agricultural sector.

Source: Evans and Walsh, 1995

The DSMs for agricultural products are regulated through reductions in Total Aggregate Measure of Support (AMS). The total AMS is based on the aggregate value of domestic support or subsidy given by an individual member to each category of agricultural product.

Reduction in Total Aggregate Measure of Support (AMS)

Developed countries are required to reduce Total AMS by 20% over 6 years whilst developing countries must reduce theirs by 13% in over 10 years. There is no reduction requirement for least developed countries (LDCs).

Exemptions

Amber Box Subsidies: Reductions of Domestic Support

Amber box subsidies are those subsidies that are considered trade distorting. The agreement sets the annual ceiling to the value of domestic support (Annual Bound Commitment Level) and agreed to reduce it by 20% in equal annual instalments over 6 years for developed countries and in 10 years for developing countries as from 1995. Non-product specific and product-specific domestic support measures are added up to obtain the Aggregate Measurement of Support (AMS) which should in turn not exceed the Annual Bound Commitment level.

The Green Box Subsidies: Exemptions from Reduction Commitments

Some exemptions from reduction commitments on domestic support are contained in Article V and annex 2 of the agreement on agriculture. These are subsidies that have no or marginal trade distorting effects on production and do not have the effect of providing price support to producers. These are:

- Investment subsidies generally available to agriculture in developing countries
- Subsidies for inputs (mechanisation of agriculture, development of land, seed, fertiliser irrigation pesticide etc) in LDCs and resource poor nations.
- Support to diversification from growing illicit drugs in developing countries
- General services like research, pest, and disease control, training, marketing and promotion and infrastructure services
- Public stock holding for food security reasons. Developing countries can have administered prices for this reason and the price subsidy is counted in obtaining the AMS
- Domestic food aid. Developing countries are allowed therefore to provide food aid to the poor.

Blue Box Subsidies

In addition to the green box subsidies, direct payments under production limiting programmes are also exempt from reduction commitments under the conditions that:

- Such payments are based on fixed areas or yields
- Such payments are made on 85% or less of the base level of production
- Livestock payments are made on a fixed number of head

One of the likely effects of the reduction of export subsidies and support measures to domestic producers is that it gives comparative advantage to food exporters in Africa. They no longer have to compete with subsidised agricultural products from developed countries on the global market. Prices of food and other agricultural products, particularly from developed countries, are going to increase due to the removal of subsidies. For net food exporters in Africa, this is an opportunity increase their export revenue. For food importers and countries with foreign currency shortage, however, the liberalisation measures can be disastrous in two ways. Firstly, the increased food prices mean that the food will be more expensive on the global market and net food importers have got to give out more money in order to buy enough food for their people. Secondly, the liberalisation measure will promote the concepts of “the supremacy of the price system” and “comparative advantage”. It will be more efficient for a net food importing country to import the food from a country that produces the food more cheaply. Net food importers thus face the risk of remaining perpetual importers with no incentive to produce their own food. Unfortunately the majority of African countries are currently net food importers. It is extremely important that these countries increase their food production levels so that they may not be negatively affected by the liberalisation process. They should instead take advantage of the measures to increase their export revenue by exporting food and other agricultural products.

Reduction in Export Subsidies

Developed countries are required to reduce the value of direct export subsidies to a level 36% below the 1986-90 base period over six years. The quantity of subsidised exports is to be reduced by 21% over the same period. Developing countries are required to reduce the value of direct export subsidies to two thirds those of developed countries in a period of 10 years. No reductions apply for LDCs. Countries that have not used export subsidies (mostly developing countries) are not allowed to introduce them (Lal Das, 1998b).

Special and Differential Treatment for Developing Countries

In the light of the above imbalances, the AOA includes special and differential treatment for developing countries as:

Purchase for and sales from food security stocks: These can be at administered prices if the subsidy is included in AMS. Thus, a country wishing to subsidise food purchase for security stocks would have to reduce subsidies on other products in the same year.

Domestic Food Aid: Developing countries are allowed to untargeted subsidised food distribution to meet the requirements of the poor on a regular basis.

Peace provisions: Developed countries are allowed to offer ceiling tariff bindings instead of tariffication. These peace provisions were built into the Agreement to reduce the likelihood of disputes over subsidies over a period of nine years.

After the UR, there was talk of providing compensation to food importing countries for the higher bills resulting from the liberalisation measures. Problems, however arose on the modalities to calculate the correct compensation levels. A Ministerial decision on “Measures concerning the possible negative effects of the reform programme on Least developed and net food importers” was reached. The decision calls for special measures to be put in place (e. g. finance by IMF and World Bank) to ensure availability of food for LDCs and food importing countries.

Gains and Losses from Agreement on Agriculture

Beneficiaries and losers of the Agreement on Agriculture are shown in table 2. The EU is biggest beneficiary of the WTO Agreement on Agriculture, according to The Economist Intelligent Unit (1995:91). It will gain about \$US18.2 bn from the liberalisation measures. Other major beneficiaries are Japan (\$6.6 bn), South Korea (\$US 2.6bn) and North America (\$US2.5bn). The major loser is former Soviet States and Eastern Europe, closely followed by Africa. Africa is going to lose about \$US 238, a significant loss considering that Africa’s exports are based on agriculture

Table 2: Beneficiaries and Losers of the WTO Agreement on Agriculture

Country	Gain/Loss (\$US)
The EU	18.2 bn
Japan	6.6 bn
South Korea	2.6 bn
North America	2.5 bn
Asia (Excluding Japan)	4.1 bn
Latin America	1.6 bn
Middle East	- 471 m
Sub-Saharan Africa	- 103 m
Former Soviet Union & E. Europe	- 238 m

Source: Economist Intelligent Unit, 1995:91

The Doha Declaration

The WTO Doha Declaration on Agriculture is contained in paragraphs 13-14 as follows:

13. We recognise the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

Comments on the declaration

Dr. Masiwa observed that the Doha declaration on agriculture did not fulfil the expectations of SADC countries and he attributed this to the inherent structural deficiencies of the WTO. He noted that over the coming years, all African and ACP countries (Africa, Caribbean, Pacific) will face trade negotiations on several fronts

simultaneously and it is important to improve their negotiation competency if they are to derive any benefit from these negotiations. SADC must take advantage of the opportunities offered while avoiding potential drawbacks associated with these closely interlinked negotiations. Outside the WTO, Most SADC countries have already suffered drawbacks through non-trade conditionalities demanded by developed countries during the implementation of structural adjustment programmes (ESAPS). Developing countries were forced to accept commitments that go beyond those of WTO. e. g. a developing country may be bound to reduce its tariffs by 20 %, the IMF or WB can demand a reduction of 50 %). The drastic reduction in tariffs have led to a sudden increase of imports, leading to distortion/collapse of local markets and industries (e.g. Sugar industry in Kenya as a result of imports from Brazil). Credits thus should be given to these countries for the liberalisation measures they have done outside the WTO.

There is nothing new in the Doha declaration to show that WTO is coming up with practical ways to solve the problems faced by developing countries, except repeating previous failed commitments. In the declaration, there are many nice words about the contributions of the trading system and WTO and how it benefits member countries, including developing countries. It is undeniable that the trading system has several positive aspects but the declaration must show how it intends to deal with serious problems faced by LDCs and other developing countries in the operations and implementation of WTO system.

The declaration should also include in detail, key points relating to the implementation of a Development Agenda at the WTO in the next phase, aimed at mainstreaming development concerns in the WTO. Development issues should take centre stage in the WTO as proposed by the LDC Ministers at Zanzibar.

On the positive side, the declaration provides a lot of leeway for developing countries in terms of how far they can go. It provides a green light for African countries to respond flexibly to their developmental and food security needs. It also gives them more confidence that in doing so they are less likely to be bullied or otherwise pressured into accepting the far more restrictive interpretations of the AOA that some developed country members prefer.

The WTO structural inequalities

The most common criticism against WTO is that it strengthens the inherent structural inequalities of the international political economy. On the one hand, economic areas where developing countries have a comparative advantage (agriculture and textiles) remain relatively protected. On the other hand, sectors where developed countries have a comparative advantage (financial services, telecommunication etc.) have been put on the fast track to liberalisation. In view of this, the declaration should have seriously addressed the major problem in the WTO system, namely that of imbalance between developed and developing countries. It seems that the WTO system was designed with developed countries in mind. Serious efforts by developing countries to take their interests and concerns on board are continuously undermined by the influential developed countries. Thus future WTO negotiations will be meaningless if the WTO continues to ignore calls by developing countries, particularly Least Developing Countries (LDCs) to

recognise the imbalances that exists between powerful developed countries and the rest of the countries. Although the WTO has tried to improve the general market access to global markets by reducing tariffs, the problem of tariff escalation has not been addressed and this is a major disadvantage for African countries. WTO shortcomings can be summarised as follows

A major criticism against WTO is that it enforces liberalisation measures on behalf powerful industrial nations at the expense of poor developing countries. The strong developed countries almost always dictate the WTO agenda and WTO decision are weighed in favour of these countries. The agenda for developing countries on the other hand are ignored. The Singapore Ministerial Conference for instance, had declared that it would give priority to review problems facing developing countries. This was not to be because it was soon hijacked by developed countries, which pushed on their agenda of further opening up markets in the South.

Although developing countries constitute about 80 % of the members in WTO, the decision making process in the organisation are weighed against their favour. They only act as rubberstamps in key decisions, even if the decisions are not beneficial to them.

A remarkable feature about WTO is the under-representation of Africans in the WTO secretariat. In 1998 for instance, out of the 500 staff members at the secretariat in Geneva, only 5 are Africans, who only occupy junior positions. This questions the legitimacy of WTO, according to Tichaona Jokonya, Zimbabwe's Ambassador to the United Nations.

Questions are also asked about the effectiveness of decisions based on consensus and the principle of one member one vote because they seem not to benefit the majority, who are developing countries. Although it is expected that most decisions would be in favour of developing countries, which constitute the majority of the WTO members, the opposite is true. Most decisions are against developing countries and this suggests that there is fallacy somewhere in the WTO decision-making regime. Walden Bello observed that the WTO operates via the Quad countries and 98% of the issues discussed in WTO are Quad issues. Quad countries consists of the USA, the EU, Japan and Canada.

Lack of transparency in WTO is further demonstrated by the observation that new issues of Quad countries' interests are discussed behind closed doors. Uninvited countries never know what is discussed behind these doors. In a closed door meeting a developed country can inform other developed countries of benefits accrued from its proposal and persuade them not to bloc its initiative. These meeting also help developed countries to narrow their differences and develop common understanding on various issues. Developing countries are usually forced into voting in favour of developed countries due to political and economic pressure applied by the developed countries. A highly indebted developing country for instance, can vote in favour of a developed county in return for debt relief or promise for bilateral investment/aid programme. It is also risky for Africa to bloc some agendas in WTO because, developed countries can push through these agendas in other forums such as the OECD. The decisions reached in these alternative forums will in turn

form the basis for WTO agreements.

Africa's position in the WTO has been further weakened by lack of co-operation among its members. Often African countries go to negotiate at multilateral forums with contrasting positions. This has proved detrimental to the continent as a whole because as individual countries, Africa is weak in terms of market attraction, a key determinant in the global world. Smaller economies always find themselves on the losing end in the bargaining process because they do not have the power of offering market as a bargaining chip. Out of the 46 countries in Sub-Saharan Africa for instance, only 3 have a population of more than 40 million, 30 have a population of less than 30 million and 19 have a population of less than 5 million. The combined GDP for the region amounts to \$US286bn, with South Africa dominating (accounting for \$US125bn). This renders individual countries in this region insignificant in terms of market sources on the global arena and their bargaining power at WTO is extremely weak as they have almost nothing to offer in return for favourable trade terms. As a group, however the region is more attractive and can be strong in the bargaining process.

Attempts to have closer co-operation with Africa have been made before. However it is noted that the co-operation ends as soon as real issues of national interests surface in the multilateral trade negotiations. Unlike Europe or America, where countries are prepared to settle their diverging interests within their trading blocs on a give and take basis, African countries can be easily divided on the basis of:

- Development country versus developing country and least developed countries
- Land locked countries versus coastal countries
- Food importers versus food exporters

Institutional Capacity and Resource Issues

The implementation of WTO regulation imposes a tremendous administrative burden for African countries and stretches its institutional capacity to the limits. The continent is further seriously disadvantaged in the negotiation process due to its lack of human, financial and technological capacity. WTO negotiations are very sophisticated in they cover a wide range of issues, which are very involving. Negotiators need to constantly update themselves with developments and need to adjust their negotiating positions accordingly. It is common for developed countries such as the USA to send over 90 specialised trade negotiators to the negotiating forums, The negotiators are constantly in touch with policy makers, researchers and economic strategic planners at home with high tech communication systems. In a short time, the negotiators are able to convey information on other country's positions. This enables researchers at home to make fast and detailed analysis on the implications of such positions to their economies. In response, they develop or adjust their positions which ensures them economic gains and advice their negotiators at WTO.

African countries on the other hand send very few officers or government administrators who hardly understand deeper implications of WTO commitments to their countries. The officers are commonly out of touch with recent developments and are almost always poorly prepared for the negotiations. In addition, African countries send very few

negotiators, making it absolutely impossible to participate all negotiating sessions, which are usually simultaneous. For instance, only 38 African countries have permanent negotiating representatives in Geneva, where most of the pre-negotiations occur. In SADC, only South Africa, Lesotho, Zambia, Zimbabwe and Mauritius have permanent representatives at all. South Africa has the most (two) while the rest have one each. In the end, resolutions affecting the welfare of their people are passed without them. In contrast, the USA has 40 permanent, non-administrative members of staff at their office in Geneva. During negotiations, these members are given extra technical (legal and trade) assistance. Prior to the negotiations, public and private researchers undertake in-depth analyses to determine the best possible outcome for the country the negotiators develop their position from these analyses. Capacity building is thus a key area where African countries can assist to increase their voice in the WTO.

Strategies

There is great need for African countries to build local capacity to undertake constant analytical and impact assessment research on WTO issue affecting them. The research results can be used to develop negotiating positions. The research would be irrelevant without effective networks between the public sector, private institutions, lawyers, economists, agronomists, exporters, manufacturers, academics and the negotiators in Geneva. It is important that the research results be made available to policy makers, civil society groups and the public at large in a language that can be easily understood by these key stakeholders. It is also essential that national and regional development and trade policies be based on the research results in a pro-active manner.

Networking should also be promoted at regional level. Electronic networking in particular has proved to be effective and efficient. Hence, African government needs to give communication infrastructure such as internet connection priority in their budget allocations. Capacity building can also be enhanced through workshops and seminars. Regional networking should not only be done at ministerial level. Often, it has been proven that civil servants are more informed about trade issue than their ministers. An intensified network system for civil servants is thus an important step in empowering African countries in WTO.

The resource constraint problem can be overcome by creating joint resource pools within a region such as SADC, COMESA or ECOWAS. Instead of individual countries send their own negotiator to WTO, it is more effective if the regional blocs can combine human, technical and financial resources in order to send not only more, but specialised negotiators to the WTO. For instance, SADC can establish an office in Geneva, where all negotiators from the region act as a team. Admittedly there can be some differences regarding national interests but regional interests should be given more priority. A pragmatic mechanism can be worked to narrow the intra-regional these differences.

The Seattle Ministerial Conference in September 2000 has illustrated that civil society groups have tremendous power to influence the agenda and outcome of WTO negotiations. The premature ending of this conference is largely attributable to the civil society, who through their public demonstrations, revealed the alleged undemocratic

nature of WTO negotiations. It must also be noted that it is the civil society groups that brought environmental, and poverty issues on the global agenda. They pushed through the Rio Convention and the international ban on Anti-personnel land mines. African governments can use the power of the civil society groups to gain at least moral support for their cry for a democratic and transparent WTO.

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SADC AND THE POST DOHA NEGOTIATIONS ON TRADE IN SERVICES

Prof. M. Ndulo

Introduction

It is now generally accepted that the domestic services sectors play an important role in, the process of growth and development. It contributes significantly to the creation of employment opportunities, foreign exchange earnings and most importantly, through the reduction of the cost of producer services, increases the competitiveness of the country's merchandise and services exports. Thus, an efficiently run and organized domestic services sector can be used to make SADC countries produce efficiently and to expand their overall export earnings- thus increasing their participation in the global services trade. This is the basic understanding that SADC countries should have at the back of their minds as they continue with the WTO multilateral negotiations in services.

During the past decade, services are the fastest growing sector of the world economy. Services trade and foreign direct investment in services have grown faster than in goods (World Bank, 2002, 69). Exports of services from developing countries doubled between 1990 and 1999. These increased from USD147 billion to USD347 billion. During the same decade the services exports of services were among the top five sources of foreign exchange in 90 developing countries (Butkeviciene et al, 2002, 7). Much of this impetus of growth has come from the global liberalization of services trade. Part of this has been done unilaterally and part of this can be attributed to the GATS framework. Most of the services sector liberalization in SADC has been autonomous under the urging of the World Bank and the IMF. There has been minimal liberalization under GATS and whatever liberalization has taken place has not been used to foster or consolidate the liberalization programme in the goods sector.

SADC countries have so far failed to take advantage of the significant services trade expansion that is taking place globally. Much of this failure can be attributed to procrastination, lack of realization of the importance of the services sector and the inability to agree on a common strategy for both regional and multilateral services trade liberalization. The recent bad experience of the privatization programme of the goods sector under the structural adjustment programme has stalled the liberalization of crucial services sector in most SADC countries.

The mixed experience of privatization programme in the goods sectors in most countries has made it difficult for most governments to build broad domestic support and advance the major and relevant issues in services sector liberalization. The lack of information and data has not helped matters.

Furthermore SADC countries have not used GATS to their advantage and promote their developmental needs. There is a developmental aspect of the GATS agreement that is missing in most discussions on services trade liberalization under WTO in the region. The GATS framework is potentially developmental, especially Article IV, Article V and

Article XIX: 2. Of course, the GATS framework on its own cannot solve the development problems facing SADC countries; it can only create incentives for their resolution. The challenge of SADC countries is to articulate and make full use of the developmental aspects of Articles XIX.2, IV and V of GATS.

Article XIX.2 mandates the liberalization process to be consciously organized and the respect of national policy objectives and the level of development of individual Members in the negotiation process. Article IV is about the increasing participation of developing countries and Article V is about regional integration. Stakeholders in SADC countries should study and understand these articles and see how they can relate them to the developmental concerns of the SADC countries.

It is unarguable that SADC countries, like all other African countries have not yet benefited from the global liberalization of services trade. And they are unlikely to benefit in the near future basically for two prominent reasons: They do not seem to be clear about their interest and strategy in the multilateral services negotiations already underway. They do not have formal national structures to handle the services negotiations. They do not have a structure embracing Geneva, the Capitals and the stakeholders in the national economy to give an input to the negotiations. It must be recognized that participation in services trade negotiations requires an interdisciplinary approach especially in the determination of negotiating goals and approaches. The Ministries of Trade and Industry cannot be left alone to articulate national interests and priorities. They need to involve the Ministries of Finance, Tourism, Health, among others. Only very few countries in SADC have formed Inter-Ministerial Committees to deal with WTO issues. Mauritius is a good example of that.

We are reminded that SADC countries have gone through three generations of multilateral services trade negotiations. The first generation of services trade negotiations was associated with the Uruguay Round. This was done without much preparation. This was understandable given the controversy that surrounded the inclusion of services trade in multilateral negotiations. Consequently, most SADC countries made commitments in sectors that were not important from the developmental aspect or bound the services liberalization that had taken place under the structural adjustment programme.

The second generation has been participation in the sectoral work, in such sectors as telecommunications, financial and maritime transport, taking place in Geneva. Here there has been very little participation by SADC countries. Only South Africa has been active in some of these negotiations.

The third generation is the current negotiations that started in January 2000, in earnest February 2000. The current WTO negotiations in services are mandated under Article XIX. GATS XIX: 1 mandates Members to “enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalization” The major aspect of the Doha Ministerial Declaration was

to re-affirm the negotiations in services that are currently taking place, to stipulate benchmarks and to put a time bound to the services trade negotiations currently taking place to not later than January 2005.

In this paper we look at the current multilateral trade negotiations in services in the following manner. In section 2, we look at the negotiations profile under the current negotiations. In section 3 we look at the SADC's position and interest in the negotiations. We look at the Doha Ministerial Declaration as it pertains to services trade issues in section 4. We summarize and conclude the paper in section 5.

The GATS Negotiations Profile

Written within the GATS framework is a commitment by all WTO members to enter in to successive rounds of negotiations to progressively liberalize trade in services. Article XIX.1 mandated WTO members to begin such negotiations no later than January 2000. Thus WTO members commenced a new round of services trade negotiations in January 2000. In keeping with Article XIX, the negotiations have followed an agreed sequence. This sequence was re-affirmed at the Doha Ministerial and a time frame for the current round set. The sequence and the time bounds are explained below. This has been the stocktaking exercise, the development of the negotiating guidelines and procedures, the submission of initial requests, the submission of initial offers and the conclusion of the service negotiations. This will be translated into specific commitments.

Stocktaking Exercise.

The stocktaking exercise by the Council for Trade in Services began in February 2000 and ended in March 2001. The exercise produced a Roadmap that contained guidance on the formulation of negotiations guidelines and procedures and provided a time framework. SADC countries, just like other African countries, were not active in the services negotiations during this phase. They had limited participation and impact (OAU/UNECA, 2001b, 5).

Negotiating Guidelines and Procedures.

The conclusion of the stocktaking exercise in March 2001 ended the first stage of the negotiations. The stocktaking exercise developed the guidelines and procedures for services negotiations as provided for under Article XIX of the GATS. These were adopted in March 2001. There are three aspects of these guidelines that are important for the services trade negotiations. These are those defining the scope, the objective and principles, and the modalities of the negotiations. Let us go through these because they are important for the negotiation process itself.

Scope of the Negotiations

For the breadth and scope of the services negotiations, the following was agreed:

. There shall be no a prior exclusion of any service sector or mode of supply in the negotiations

. Special attention shall be given to sectors and modes of supply of export interest to developing countries.

. MFN exemptions shall be subject to negotiation according to paragraph 6 of the Annex on Article II Exemptions.

. Negotiations on Safeguards under Article X shall be completed by March 15, 2002.

Objectives and Principles of the Negotiations

The following objectives and principles of the negotiations were agreed. These were:

. The negotiations shall be conducted on the basis of progressive liberalization of services trade.

. The negotiations shall recognize the right of Members to regulate, and introduce new regulations, on the supply of services.

. The negotiations shall aim to achieve higher levels of liberalization of trade in services to provide for effective market access.

. The negotiations shall increase the participation of developing countries in trade in services

. There shall be appropriate flexibility for individual developing country members in the negotiations

. The process of liberalization shall take respect for national policy objectives, the level of development and the size of the economies of individual countries.

. The negotiations shall take place within and shall respect the existing structure and principles of the GATS, right to specify sectors in which commitments will be undertaken and the four modes of supply.

On the whole there was more active participation of SADC and other African countries in developing the negotiations guidelines and procedures. As a consequence, the guidelines and procedures developed were development-friendly and in keeping of the principles of GATS that seeks to increase the participation of developing countries in services trade and respects the developmental concerns of the individual countries. The Negotiating Guidelines can be considered as “development friendly” because they captured a number of elements of importance to SADC and African countries.

Modalities

The modalities agreed are:

- . The negotiations shall be conducted in special sessions of the Council of Trade in Services
- . They shall be transparent and open to all Members
- . The starting point for the negotiations of specific commitments shall be the current schedules
- . The negotiation shall be based on the request-offer approach
- . There shall be appropriate flexibility for individual Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and when making access to their markets available for foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.
- . Credit should be given in the negotiations for autonomous liberalization undertaken by Members.
- . Assessment of Trade in Services should be carried out and technical assistance given to developing countries.

It is fair to say that there has been considerable background work to assist SADC and other developing countries in their preparatory work on services negotiations. UNCTAD, WTO and other International Organizations have done this work. At the national level there has also been a lot of work done in specific services sectors especially under the CAPAS programme. This preparatory work has provided a basis for discussion and exchange of information among members on the policies that are being pursued by them in the various sectors.

Unfortunately, it has not been possible for SADC and the other African countries to participate effectively because of the small size of their delegations in Geneva. The negotiations guidelines and procedures have responded to some of these concerns regarding the capabilities of the small delegations of SADC and other developing countries in Geneva and the capacity constraints in their capitals. The shortcomings were already manifested in some of the proposals submitted during the first stage of the negotiations (OUA/UNECA, 2001b, 5).

The request-offer approach agreed to in the modalities of negotiations favors the SADC countries. It allows all participants to promote their specific interests directly by sector, by mode of delivery and by objective market. The approach also facilitates the evaluation of the possible impact of the specific commitments that countries will be assuming as a result of the negotiations, and the evaluation of the value of the concessions granted and received during the process.

Submission of Initial Requests

The services negotiations have been on course and have progressed well. The next stage is the initial requests. The deadline for the submission of initial requests is June 30, 2002. Not many African countries have submitted initial requests as yet.

Submission of Initial Offers.

The next stage will be the submission of offers. The deadline for this is March 31, 2003.

Conclusion of the Services Trade Negotiations.

This stage will concretize the services negotiations into specific commitments. The current rounds of services negotiations are to be concluded no later than January 1, 2005. This is the deadline set by the Doha Ministerial. The negotiations are to be concluded as a single undertaking.

3. SADC Position and Interest in the Negotiations

To do an audit of what SADC countries had expected from the WTO negotiations on services and the Doha outcome, we can look at SADC's position on services trade negotiations and the Guidelines and Procedures agreed in Geneva, together with the Doha Ministerial.

There was a lot of preparatory work in the SADC countries towards Doha. Furthermore, the SADC position was synchronized with that of the COMESA countries and the African Group. The SADC position on services trade negotiations is articulated in the Mauritius Declaration. The African Group in Geneva has also influenced the negotiations over the Guidelines. The SADC position in services is as follows:

- . Support the importance of maintaining the existing architecture of the GATS.
- . Support the request-offer approach as the main method of services trade negotiations
- . Retain the positive list approach to services trade negotiations
- . Emphasize the effective implementation of GATS Articles IV and XIX:2. This concerns the provisions in GATS that give form to the "increasing participation of developing countries" and the liberalization of market access in sectors and modes of supply of export interest to developing and least developed countries.
- . Negotiate for the greater liberalization of mode 4, especially by developed countries, through the elimination of barriers to market access. The major gains to the liberalization of mode 4 would be the removal of the asymmetry in the liberalization

process i.e., where significant progress has been made in liberalization in sectors like financial services and telecommunications, where movement of capital and technology play important roles and where developed countries have a comparative advantage. While service sectors like construction, professional and business services, in which movement of natural persons are of considerable importance and in which developing countries can claim some competitive advantage, liberalization has been minimal.

- . Providing credit for autonomous liberalization in service sectors undertaken by African countries.

- . Support for work in the rule-making area, especially on emergency safeguards measures. This should be expedited.

- . Reserving the right of members to regulate the services sectors.

- . The revision of Articles VII and IX of GATS in order to take into account the concerns regarding transfer of the technologies and technical know-how with regard to investments by multinationals.

The Doha Ministerial Declaration

As pointed out earlier, the current multilateral negotiations in services were mandated under GATS Article XIX. However, several decisions were made at Doha which impact on the Geneva process of the services trade negotiations. These are reflected in the Doha Ministerial Declaration. There was no major controversy on the services negotiations at Doha as the case was with the new issues and the implementation concerns so strongly articulated for by developing countries. The controversial issues in the services negotiations were cleared before Doha- in the Geneva process.

Nevertheless, the Doha Ministerial made the following decisions that advanced the Geneva negotiations process. These are:

- . The Doha Declaration affirmed the right of Members under GATS to regulate, and to introduce new regulations on, the supply of services.

- . It asserted that negotiations should be conducted with a view to promoting the development of developing and least developed countries.

- . It recognized the work already undertaken in service negotiations, initiated in January 2000 under Article XIX in Geneva.

- . It re-affirmed the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations as stipulated in the Preamble and mandated under Article IV and Article XIX of GATS.

The Doha ministerial declaration not only re-affirmed the negotiations to be pursued under the declaration, but also stipulated benchmarks to the negotiations and mandated that they shall be concluded not later than 1 January 2005. The conclusion will be in the form of a single undertaking with the other co-current multilateral negotiations.

The Doha ministerial declaration met the expectations of SADC and other developing countries. There was little controversy in most aspects of the declaration on services. The declaration supported and re-affirmed the development-friendly nature of the negotiation process already under way. It maintained the existing architecture of the GATS, which is potentially development enhancing. The declaration gave the opportunity to SADC and other developing countries to push for their national interests and priorities within the context of the current negotiations, such as negotiate for the liberalization of mode 4 and the operationalization of the best endeavor promises of technical assistance from the developed countries.

Conclusion and the Way Forward.

Efficient and competitive domestic services sectors are necessary to enhance the process of growth and development among SADC economies. Globally there has been a tremendous growth in services trade. SADC countries, like most other African countries, have failed to take advantage of this significant growth in services trade. To take advantage of the expansion and increase the participation of SADC countries in the global services trade, there is need for the countries to re-position themselves in the multilateral services trade negotiations under WTO. Most importantly, SADC countries need to take advantage and make full use of the developmental aspects of the GATS agreement in their negotiations.

The current negotiation in Geneva has produced `development friendly` guidelines and procedures on which SADC countries can advance the liberalization process. The Doha ministerial declaration re-affirmed this. Both the current Geneva negotiations and the Doha ministerial declaration met the expectations of most developing countries. There is therefore very little discernible controversy on the substance and direction of the negotiations.

At the current stage of the negotiations SADC countries need to increase their participation and get more involved in the submission of initial offers whose deadline is June 30, 2002. At the same time SADC countries need to either create or strengthen their formal structures in the negotiation process. A structure that would link the Geneva, Capital and national stakeholders in the negotiation process. This would tremendously help the articulation of national interests and priorities in the negotiations. Therefore, those countries that have not established such structures should do so immediately.

SADC countries can improve the quality of their participation at the multilateral level by making regional trade negotiations in services trade move faster than the multilateral negotiations. This would provide a learning experience. There is substantial services trade in the region that needs to be taken advantage of. Strategies at the regional level could then be devised that could be instrumental in formulating a common position for

SADC at the multilateral level. Having a common SADC position would enhance better negotiating leverage and negotiating strength during multilateral negotiations. SADC countries as a group have a better chance of negotiating better deals with the stronger WTO partners than individually. The SADC countries already made a decision at the 2nd TNF to deepen the regional integration process by moving faster at the regional level and to focus their efforts at the four priority areas. These are finance, telecommunications, transport and energy-related services. This process needs to be pushed further.

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MARKET ACCESS FOR NON AGRICULTURAL PRODUCTS A CAUTIOUS APPROACH

Dr. Boodhoo

The Doha Ministerial Declaration provides, with respect to negotiations on market access for non agricultural products that

“negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction and elimination of tariff peaks, high tariffs and tariff escalation as well as NTB’s, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions....”.

Negotiations are therefore expected to address in a significant manner reductions in tariffs on Industrial products, including the fisheries sector and to substantially reduce or to eliminate, where appropriate, tariff peaks, high tariffs and tariff escalation. The modalities of the negotiations are yet to be worked out but they should be such that the objectives contained in para 15 of the Ministerial Declaration should be achieved.

Tariff reductions are aimed, primarily at creating the necessary conditions for increasing access to international markets. This is precisely the reason why most of the previous Rounds of Negotiations were geared towards reducing the level of tariffs. Indeed, compared to an average tariff of 40% prevailing before the coming into force of the GATT in 1947, the different rounds of negotiations have managed to bring that level down to an average of 3.6%.

Despite the very low level of tariff on a whole range of products, however most of the developing countries, especially those in Africa have not been able to tap the trade opportunities that were expected to devolve from lower tariffs. Nor has the lower tariffs helped in diversifying the industrial base of these countries. The reason is quite simple: the lower the level of tariffs, the higher is the level of competitiveness required to tap market access opportunities. In view of the disparity in terms of technological development and consequently competitiveness and productivity between the developed and developing countries, the latter have not been able to increase the volume of their trade as a result of reductions in the MFN Tariffs negotiated in the various rounds of negotiations since 1947. The situation is most likely to remain unchanged if not to worsen as the benefits of technological development, a sinequa non factor to enhance competitiveness, remain highly concentrated among the developed and some developing countries. Should therefore the developing countries, in particular those that have been exporting their goods under preferential trade regimes agree to deep cuts in tariffs or to the dismantling of tariff peaks, high tariffs and tariff escalation in the present circumstances? Will it be in their advantage to bring down the MFN rate of duty which the negotiations on market access for non agricultural products are expected to achieve? The answer is clearly NO.

Why Trade Preferences?

Cognizant of the fact that most of the developing countries will not be able to compete with the developed countries on the basis of MFN tariffs, a number of schemes have been put in place to stimulate exports from developing countries by charging lower tariffs or granting duty free entry to developing country exports.

Market access for ACP countries under the previous LOME convention and now the Cotonou Agreement, the Caribbean Basin Initiative, the Generalised system of trade preferences, the Africa Growth and Opportunity Act etc are vivid examples of such schemes. These schemes provide an opportunity to the beneficiary countries to reduce their prices to final consumers without loss of revenue and with an edge on competition.

If the preference beneficiary countries have been able to access the markets of the developed countries, it is not because of reductions in MFN tariffs, but because of these preferential schemes. If normal (MFN) tariff rates are high, the benefits to the beneficiary countries are significant because the margin of preferences in the circumstances is higher. By margin of preference is meant the difference between the preferential rate of duty and the MFN tariff. For example both the ACP countries and the LDC's export their products duty free to the EU market under the Cotonou Agreement and the Every But Arms initiative respectively. They enjoy a significant preferential margin on a whole range of products such as textiles and clothing, foot wear etc where the rates of duty vary between 12 and 20%. The margin of preferences or the percentage point tax advantage are therefore between 12 and 20%. Even if the cost of production is higher by say 10% in these countries compared to third countries imports, the margin of preferences will be largely sufficient to mitigate the impact of the higher production cost

and will even provide an edge in terms of pricing. In the case if the cost of production is lower or comparable to third country imports, then the level of competitiveness resulting from the tariff preferences will provide a far better access compared to third country imports. The simple logic that devolves from this postulation is that the higher the level of MFN tariff (i.e tariff peak or high tariff) as already mentioned above, the larger is the resulting margin of preference and therefore the better the access.

It needs also to be emphasized that many countries, especially the EU and the US use specific tariff duty. They may be in the form of variable duties, seasonal duties, percentage of a specific content of imported commodity etc. For example the bound rate of tariff duty for sausages is 1494 Ecu/T as specified in the EU schedule. These specific duties if converted into advalorem equivalents are indeed very high resulting thus is a very high level of preferential margin. It is in the interest of the preference beneficiary countries that these high tariff levels which are basically levied on sensitive products and which are also products of export interests to countries of the ACP, LDC etc be maintained.

The Impact of Tariff Negotiations

As already mentioned, tariff negotiations at the WTO aim at reducing or where appropriate, eliminating MFN tariffs. This is bound to have a direct bearing on the margin of trade preferences as the gap between the preferential rate of duty (zero in the case of the Cotonou Agreement) and the MFN rate of duty will be reduced or eliminated, resulting evidently in a squeeze in the competitive margin. As competition exacerbates with the reduction on MFN Tariffs it will become increasingly difficult to compete both with the developed and those developing countries that were not subject to the same preferential treatment. A major setback in exports should be expected, with the normal spill over effects on the economic development of the preference beneficiary countries. An indication of the reduction in the margin of preference on the exports of some products from the ACP countries are provided below in the case if MFN tariffs are reduced by 20, 30 or 40%.

Product Description	MFN Duty	ACP Duty	Tariff Reductions and Reduction in the Margin of Preferences		
			20	30	40
Trousers and breeches	12	0	9.6	8.4	7.2
Ties,	12	0	9.6	8.4	7.2
Woven fabric	12	0	9.6	8.4	7.2
Footwear	17	0	13.6	11.9	10.2
Fish (fresh orchilled)	16	0	12.8	11.2	9.6
Tuna	22	0	17.6	15.4	13.2
Leather articles	12	0	10.8	8.4	7.2
Television projection equipment	14	0	9.8	8.4	8.4

As is evident the deeper the tariff cuts, the higher the incidence on the margin of preference and consequently the greater the impact on the competitive margin of the ACP countries. If tariffs are to be dismantled completely as envisaged in certain cases in the Doha Ministerial Declaration, then the margin of preference will disappear all together. Consequently, negotiations on tariffs which as a matter of fact are geared towards reducing or eliminating tariffs, are not necessarily in the interest of many developing countries, in particular the preference beneficiary countries of the ACP, the LDC's etc.

It is quite often averred that tariff negotiations have the merit of opening up markets which were hitherto difficult to access, especially non traditional markets like Japan and the Eastern European Countries. This is an argument which is also quite often used even by some countries in the ACP. The problem with Japan or Eastern European Countries is not tariff barrier per se. Indeed almost all the Eastern European countries and Japan provide enhanced access to developing countries through their respective GSP schemes. Tariffs in Japan on an average is far lower than that in the EU or the US. The access, however proves difficult, not because of tariffs but because of NTB's, including very complicated distribution systems and networks. The focus of the negotiations on market access therefore should be on the dismantling of NTB's but not on tariffs. Such an approach will be in the interest of the ACP countries, the LDC's etc and other preference beneficiaries.

Negotiations - the right methodology

The first five round of GATT negotiations on tariffs proceeded on an request-offer basis. In the sixth round, tariffs were reduced on a linear basis by a certain fixed percentage on most of the products, with the exception of those found on a list of sensitive products. In the Tokyo Round, a harmonised formula commonly known as the Swiss formula was used and which read as follows:-

$$Z = \frac{AX}{A+X} ; \text{ where}$$

Z	-	resulting tariff
A	-	coefficient 14 or 16
X	-	initial tariff

The Swiss formula was meant to reduce higher tariffs by a higher percentage and lower tariff by a lower percentage. In the Uruguay Round, a combination of all the above methodologies was used due to major divergences on the modalities to be adopted for the negotiation between the US and the EU. The only condition was that an average of 40% reduction should be reached. Developing countries at all time have used the request – offer approach.

In view of the fact that tariff reductions would have far reaching implications for preference beneficiary countries as explained above, it would be in the interest of these countries to adopt a formula that would have a minimal incidence on the tariffs of those goods they are currently exporting or those with export potentials. In the circumstances, an agreement on tariff reduction by a certain average, giving countries the latitude to decide the levels of tariff cuts to be undertaken on different products would be in the interest of preference beneficiary countries. The linear method as a second option may also be examined. In the event that these methods fail to attract consensus, a combination of all the methodologies could be used as was the case in the UR. It would also be absolutely important for preference beneficiary countries (the ACP, LDC's) to enter into a process of dialogue with their traditional partners and indicate to them the adverse implications of MFN tariff reductions on products of export interest to them.

**MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS:
Situation for SADC – The expectations from Doha, content of declaration and
emerging controversies in interpretation of what was agreed in Doha.**

A. Nhara

Introduction

The post-war global economy has undergone vast changes and international trade has increased significantly as national economies have become more interrelated and dependent upon each other. Clearly this integration has been facilitated by eight rounds of multilateral trade negotiations under the auspices of GATT. Early rounds focused mainly on industrial tariff reduction and the last round, the Uruguay Round extended the coverage of negotiations to agriculture, services, intellectual property protection and trade-related investment measures.

Post- Uruguay Round Tariff Scenario

It is widely recognized that tariff reduction has been one of the key functions of the multilateral trading system. The Uruguay Round indeed made significant progress in increasing the spread of bindings and reducing the levels of tariffs on industrial products.

In the Uruguay round, developed countries agreed to cut their tariffs by an overall percentage of 40% and developing countries and transitional economies by 30% over a five-year period starting 1st January 1995. Additionally, developed and certain developing countries agreed to eliminate all tariffs in certain sectors, the so called zero-for zero sectors and these include pharmaceuticals, construction and medical equipment. These concessions resulted in the proportion of industrial products entering developed country markets on a duty free basis doubling from 22% to 44%. Additionally, the weighted average level of tariffs applicable to industrial products was expected to fall from:

- 6.3% to 3.8% in developed countries
- 15.3% to 12.3% in developing countries and,
- 8.6% to 6% in transitional economies.

It is also pertinent to note that the Uruguay Round negotiations were expected to result in 99% of all non- agricultural imports into developed country markets entering under bound rates. The figures are 73% and 98% for products entering the developing countries and transitional economies respectively. [SLIDE ONE] However it would be useful to examine the agreed liberalization in the Round versus the slippage or “backsliding” allowed through the use of special or general provisions for imposing new restrictions e.g safeguards, Anti-dumping etc on products of export interest to developing countries.

While the above scenario depicts significant strides towards enhancing export opportunities of developing countries, by making future market access more secure,

transparent and predictable, issues of peaks and escalation in the tariff domain remain of central concern to these countries as follows:

Tariff peaks: Developing countries note with concern that post Uruguay round protection in developed countries is characterized by tariff peaks (very high tariffs in the developed countries on some products in comparison to their respective average tariffs) especially on products of critical interest to developing countries including textiles, clothing, and leather and leather products.

As a result of these peak rates the average reduction in applied tariffs for developed country imports from developing countries (37%) is lower than the average decline in applied tariffs for imports from the rest of the world (40%). [SLIDE TWO]

Tariff Escalation: Although reducing tariff escalation in developed country markets was a major objective of developing countries in the Uruguay Round, it has been observed that developed countries continue to levy higher tariffs on processed exports from developing countries compared to exports of raw materials thus reinforcing the role of developing countries as sources of raw materials while discouraging value added export production. This has negatively impacted on the development in developing countries of resource based processing and manufacturing industries. [SLIDE THREE]

In the run-up to the aborted Seattle Ministerial Conference several proposals were made for possible inclusion of non-agricultural tariffs negotiations in a new WTO round. The EU, Australia, Japan and New Zealand called for comprehensive tariff negotiations aiming at harmonizing the tariff structures of all members across all non-agricultural products without exclusions. Additionally, they were advocating for a tariff band approach to tariff reductions (with low, medium and high bands) accompanied by simple and weighted average reductions. It is expected that this approach will facilitate the elimination of tariff peaks, tariff escalations as well as nuisance tariffs. In some areas they were calling for formula elements that include comprehensive binding, minimum cuts/maximum average tariff cuts in other words floor/ceiling cuts.

On the other hand several developing countries have raised concerns with regards to how tariff cuts have already led to de-industrialisation or the closure of their domestic industrial firms. They also note that most of their members do not possess the factors required for sustained export growth while trade liberalization has led to increased import propensity. This has led to a 3% increase in the average trade deficit as a percentage of GDP in the 1990s as compared to the 1970s. According to the African Development Bank (ADB) trade liberalization in Zimbabwe in 1990 resulted in slackened formal sector job growth resulting in unemployment rising from 10 to 20%. Abrupt tariff reductions have also been cited as being behind reduced manufacturing capacity utilization, unemployment and reduced real wages in Nigeria in the late 1980's resulting in partial policy reversals in 1990, 1992 and 1994.

In this regard they proposed a "request and offer" approach where developing countries should be given tariff concessions in areas of export interest to them. Additionally, there

should be scope for asymmetry where developing countries do not have to fully reciprocate developed country offers. Despite the low tariffs on industrial products in developed markets, developing countries also wanted the multilateral negotiating agenda to focus on non-tariff barriers (NTBs) affecting market access for their products e.g minimum local content requirements on manufactured tobacco in the US, anti-dumping and safeguard measures.

Expectations

From the pre-Doha consultations amongst member states, it was apparent that developing country groupings, notably the Geneva driven African Group expected the Ministerial Declaration to set up a Working Group within the WTO to examine the issue of market-access for non-agricultural products and work out the modalities for the negotiating process. The Working Group's would examine inter-alia:

- the impact of previous tariff reductions on firms' competitiveness, employment and government revenue in developing countries.
- The effects that tariff peaks and escalation in developed countries have had on the trade prospects of developing countries.

Developing countries had also hoped that a specific decision will be made that the reduction or elimination of tariff peaks and tariff escalation in the developed countries will not be conditional on concessions from the developing countries.

In the SADC context, Member States' expectations were that the inclusion of industrial tariff negotiations in the new round should be conditional upon a clear demonstration of the commitment by developed countries to provide meaningful market access for exports from LDCs, small economies and developing countries and particularly to eliminate protection for industries for which SADC member states possess a competitive advantage. An important exercise in this regard would be to identify those tariffs which particularly restrict their exports of industrial products and these would then form the basis for their market access requests in the negotiations. SADC identified UNCTAD and the WTO as some of the institutions which could provide technical assistance and analysis to facilitate this process. The key elements to consider would include:

- addressing tariff peaks in sectors of export interest
- addressing tariff escalation in order to diversify production and exports by sector.
- the elaboration of meaningful provisions on special and differential treatment for developing countries with a view to promoting industrial development in Africa.

The SADC member states were also supportive of a technical analysis exercise to identify precisely, the challenges and opportunities involved in future industrial tariff negotiations.

The Doha mandate in non-agricultural market access

The Doha Ministerial Declaration in para.16 [SLIDE FOUR] outlines the mandate for the reduction or elimination of tariff and non-tariff barriers for non-agricultural products.

The paragraph singles out products of export interest to developing countries and less than full reciprocity in reduction commitments for developing and least developed countries (LDCs). It further stipulates that modalities to be agreed “will include appropriate studies and capacity-building measures to assist LDCs to participate effectively in the negotiations.”

The central issue, viz, “modalities to be agreed”, lays out the framework for how negotiations will proceed and can include numerical targets, formulas, sector-by-sector and request/offer approaches. In as much as they structure how and which tariffs will be targeted for reductions, these modalities can have a significant impact on the outcome of the negotiations.

Reference is made to the provisions of Article XXVIII *bis* of GATT 1994 which provides for some flexibility in the negotiations with regards to developing countries’ industrial development and revenue concerns, thus paving the way for asymmetrical tariff reductions and consideration of a country’s level of development. Additionally, reference is made to the provisions of paragraph 50 of the Declaration which relates to the concept of special and differential treatment of developing countries which should apply to these negotiations.

However, contrary to the expectations of SADC countries highlighted above, the Declaration has not established a study process in the WTO to assess the effect of previous negotiations on developing countries’ industries as well as the likely impact of future negotiations to precede the negotiations. Instead there is provision to include appropriate studies and capacity-building measures in the negotiating modalities to be agreed upon by members.

Challenges for SADC

Several challenges now face the SADC region in its efforts to effectively participate in the multilateral negotiations process. Initially, there is need for technical analysis to identify precisely the challenges and opportunities involved in this process. In this regard it would be appropriate to assess comprehensively the impact of previous trade reform initiatives, particularly the Uruguay Round on key variables such as revenue, employment and sectoral competitiveness.

Appropriate lessons could be drawn from this experience and may form the basis for the formulation of appropriate policies that would underpin our regional industrialization initiatives. Trade policy liberalization is only one among an array of policies countries have to follow simultaneously for promoting economic growth. There is therefore need to identify those complementary policies necessary to support the liberalization process to ensure its success. These may relate to, inter-alia,

- tax reforms to mitigate the revenue impact of tariff cuts
- safety nets to compensate displaced workers
- technology upgrading to enhance firm’s competitiveness

The need to sharpen multilateral trade negotiating skills cannot be overemphasized. This should be underpinned by enhanced capacity to analyse trade data and preparation of

technical argumentation in support of negotiating positions. There is also an urgent need to build capacity for taking contingency protection measures to cushion domestic industries faced with increased competition or unfair trade through the establishment of the requisite WTO consistent legal and administrative frameworks. For the SADC region, an additional challenge is to juggle the growing number of preferential agreements in force and under negotiation, together with the many components of the evolving multilateral agenda.

Given the onerous task before us, it is imperative for the region to identify its trade-related technical assistance requirements through systematic coordination and take advantage of resources available under the WTO's Doha Development Agenda Global Trust Fund (DDAGTF).

Market Access for non-Agricultural Products

We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with relevant provisions of Article XXVIII bis of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

Tariff Binding on Industrial Products (Percentages)

	Tariff Line		Imports	
	Pre	Post	Pre	Post
Total	43	83	68	87
Developed countries	78	99	94	99
Developing economies	21	73	13	61
Transition economies	73	98	74	96

Source: UNCTAD Secretariat

Frequency of Post-Uruguay Round Tariff Peaks
in the Industrial Section by Product Group
(Percentage of tariff lines within each group with duties above 12% ad valorem)

Product Group	m a r k e t			
	United States	Canada	European Union	Japan
Leather & Leather Products	12	4	0	22
Textiles	21	45	1	1
Clothing	44	93	0	0
Footwear	42	67	0	71
Glass Products	10	5	0	0
Vehicles	4	1	8	0

SOURCE: WTO SECRETARIAT

Bound tariffs on industrial products. Simple average of processing and by MT					
Leather & leather products	Importing markets	Wood, pulp, and furniture	Textile and clothing	Leather, rubber, footwear & travel goods	Metals
	United States				
2.0	Raw material	0.0	2.8	0.0	0.8
2.3	Semi-manufactures	0.7	9.1	2.3	1.1
11.7	Finished products	0.7	9.1	11.7	2.9
	Canada				
0.3	Raw material	0.2	2.5	0.3	0.1
5.7	Semi-manufactures	0.9	11.1	5.0	1.7
10.3	Finished products	1.9	14.5	10.3	5.2
	European Union				
0.1	Raw material	0.0	2.6	0.1	0.0
2.4	Semi-manufactures	1.0	6.6	2.4	1.2
7.0	Finished products	0.5	9.7	7.0	2.8
	Norway				
0.0	Raw material	0.0	0.1	0.0	0.0
	Semi-manufactures	0.2	7.8		0.3
4.4	Finished products	0.6	9.5	4.4	2.5
	Switzerland				
0.1	Raw material	1.2	1.6	0.1	0.0
0.8	Semi-manufactures	2.9	3.9	0.8	1.1
3.2	Finished products	1.7	5.5	3.2	1.3
	Australia				
4.2	Raw material	0.3	1.5	4.2	0.6
11.5	Semi-manufactures	7.0	22.9	11.5	0.8
22.0	Finished products	8.9	35.7	22.0	11.8

SOURCE: WTO SECRETARIAT

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

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MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS: SITUATION FOR SADC – THE EXPECTATIONS FROM DOHA AND EMERGING CONTROVERSIES IN INTERPRETATION ON WHAT WAS AGREED IN DOHA

Dr. D. B. Ndlela

Background

The non-reciprocal tariff and non-tariff preferences, commodity protocols and development aid underpinned the ACP-EEC cooperation covered by the 4 Lome Conventions from 1975 to 2000. During this period, innovative instruments to compensate the ACP states for shortfalls in earnings from agricultural and mineral exports were introduced. Under the STABEX and SYSMIN instruments, ACP states dependent on exports of agricultural and mineral commodities could seek compensation using agreed thresholds. These preferences were regarded as transitional measures while restructuring and diversifying the ACP economies.

During the life of the Lome IV Convention between 1990 and 2000, a number of landmark events occurred in the world, in both the political and economic environment. These events significantly determined the mood, tempo and outcome of the negotiations for a successor cooperation agreement. Amongst these landmarks were:

- a. the dramatic political changes in Eastern Europe at the end of the Cold War, creating new poor neighbouring states close to the EU;
- b. the accession to membership of the ACP Group and Lome Convention of a democratic and developed South Africa capable of negotiating alone with the EU;
- c. the implementation of IMF/World Bank sponsored structural adjustment programmes by many ACP states thereby redefining the role of the state and liberalising trade and financial regimes;
- d. the establishment, at the conclusion of the Uruguay Round Talks, of the World Trade Organisation (WTO), an overseer of a rules-based world trading system;
- e. the failure of the 3rd WTO Seattle Ministerial Conference signalling the unity of purpose and determination of developing countries to fight against globalisation and wholesome liberalisation;
- f. the failure by the ACP countries to increase and diversify their production and exports of especially non-agricultural products under preferential treatment.

Under the Most Favoured Nation (MFN) principle of GATT, to which 69 ACP and EU states were already members, the preferential provisions of the Lome Conventions were regarded as discriminatory against other members of the WTO. Thus the Lome IV Convention had to be notified to the WTO and was given a waiver. The non-reciprocal preferences enjoyed by ACP states since 1975 under Lome could not last indefinitely.

Both the ACP and EU undertook reviews of the performance of the Lome Conventions using technical experts in research institutions, universities, non-governmental organisations and other international and regional organisations. For the first time in the history of ACP-EU cooperation, a broad-based consultation process involving all the stakeholders was invoked, in both the EU and ACP regions.

The exports of the ACP states into the EU dwindled from 6.7 % in 1976 to 3 % in 1998. There had been limited diversification as 60 % of ACP total exports were concentrated in only 10 commodities. The ACP countries had lost the EU market share to other developing countries who were exporting under the non-preferential Generalised System of Preferences (GSP). ACP manufactured exports, of which 70 % were textiles, had grown only by 1.5 % during the period 1988-97.

During all this period it became evident that even with the relaxation of rules of origin to allow for supplies of non-agricultural products from the ACP states, the latter could not improve their overall supply situation. The market access which had been readily available since 1975, had not been utilised to the full due to mainly supply-side constraints.

In spite development aid under the European Development Fund totalling Euro 22.8 billion over the 1986-98 period, in many ACP states poverty levels had increased, while the standards of infrastructure had deteriorated. Some of the recipients of the largest share of official development assistance had been downgraded into the LDC category. Is this not a negative pointer to use of aid without own production as a development strategy?

The Cotonou Agreement, signed on 23rd June 2000 by 15 EU member states and 77 ACP states set out the following objectives:

- poverty eradication;
- deeper and broad-based political dialogue involving all stakeholders;
- sustainable development; and
- gradual integration of ACP states into the global economy.

The Cotonou Agreement has introduced innovations in the various instruments of cooperation. The major changes are the strengthening of the political dimension, the extension of the partnership to new actors, the rationalisation of the financial cooperation, and the preparation of a new WTO compatible trade regime.

The ACP-EU New Framework for Economic and Trade Cooperation

The non-reciprocal trade preferences to ACP states which were granted by the EU since 1975 at the beginning of Lome I Convention including tariff and non-tariff preferences have been rolled over under the Cotonou Agreement until December 2007. This is to allow for negotiations for new trade arrangements. The agreement provides that as from January 2008, a new set of reciprocal trade agreements, termed Economic Partnership Agreements (EPAs), in essence Free Trade Areas (FTAs) will replace the current trade regime. These new agreements should be WTO compatible by meeting provisions of

Article XXIV of GATT and covering “essentially all trade.” Due to the nature of its preferences, the Cotonou Agreement has been notified to the WTO and the parties have applied for a waiver.

The proposed future ACP-EU trade cooperation arrangements will aim at promoting trade between the ACP states and the EU and amongst the ACP states, while ensuring a better balance in the trade of the cooperating parties. However, the main objective is to promote the progressive integration of ACP countries into the global economy by enhancing production and attracting investments. But are these cooperation arrangements, while being WTO compatible at the same time meant to accommodate the special and differential treatment of countries according to levels of development? This could mean graduated preferences and phased or asymmetrical liberalisation with sufficient transition periods. This is main thrust of this paper, as shown in section 3 below.

Market Access for non-agricultural products under Doha

In Doha the WTO declared that a new “work programme” had been agreed and acceptable to all of the organisation’s member states. The adopted work programme includes the following agenda:

- New multilateral trade organisations to begin in January 2002 and to completed by 1st Janaury 2005.
- Negotiations on the so called “new issues” which are not currently covered by WTO agreements – trade and competition policy, trade facilitation and investment, and transparency in government procurement - will only take place after the Fifth Ministerial in 2003 if an "explicit consensus" exists among WTO members.
- WTO was mandated to continue exploratory work and study on many other trade-related issues.

The ministers agreed at Doha to launch tariff-cutting negotiations on all non-agricultural products on the following issues:

- a. “To reduce, or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries”. It is stated that these negotiations shall take full account of the special needs and interests of developing and LDCs, and recognize that these countries do not need to match or reciprocate in full tariff-reduction commitments by other participants.
- b. The participants have to reach agreement on how (“modalities”) to conduct the tariff-cutting exercise. The agreed procedures will include studies and capacity-building measures that would help LDCs participate effectively in the negotiations. Several options of the modalities are to be taken into

account, e.g. in the Tokyo Round, the participants used an agreed mathematical formula to cut tariffs across the board; in the Uruguay Round, participants negotiated cuts product by product. In the WTO “work programme” launched at Doha a formula or several formulas will be found to conduct the tariff-cutting exercise.

- c. While average customs duties are now at their lowest levels after eight GATT Rounds, certain tariffs continue to restrict trade, especially on exports of developing countries — for instance “tariff peaks”, which are relatively high tariffs, usually on “sensitive” products, amidst generally low tariff levels. For industrialized countries, tariffs of 15% and above are generally recognized as “tariff peaks”.
- d. The practice of “tariff escalation”, in which higher import duties are applied on semi-processed products than on raw materials, and higher still on finished products is another example tariff barrier used by industrialized countries. This practice protects domestic processing industries and discourages the development of processing activity in the countries where raw materials originate.

The key dates for negotiations on market access on non-agricultural products are:

- January 2002 as the starting date of negotiations
- 5th Ministerial Conference, 2003 (in Mexico) as the stock taking target date
- 1 January 2005, as part of “single undertaking” deadline.

SADC situation, the expectations and emerging controversies in interpretation Doha agreement

SADC as a region and its member states have several concerns, namely:

- a. How to deal with the recognised position of the fragility of the economies of the LDCs as a distinct ACP group within SADC states. Under the ACP-EU Trade Arrangement, the EU has provided that this category of countries do not have to negotiate for new trade arrangements in order to continue enjoying non-reciprocal preferences.
- b. Negotiations for EPAs due to begin in September 2002 with the new trade arrangements coming into force on 1st January 2008 aim to achieve free trade areas within a stipulated period. It is also envisaged that some financial aid will be negotiated for and provided to compensate ACP states for the costs of trade liberalisation and economic restructuring.

- c. As from March 2001, the EU opened its market to “Everything But Arms” (EBA), extending duty and quota-free access to all imports from all LDCs except arms. The minor variation is that liberalisation for sugar and rice will be in 2009 and for bananas in 2006. The LDCs will be given annual increases of 15 percent in the quotas for sugar and rice until full liberalisation is achieved. The EBA offer made in fulfilment of calls under the WTO Singapore Ministerial Declaration on LDCs and promised for 2005 under Article 37(9) of the Cotonou Agreement goes beyond the provisions of the Cotonou Agreement. All the SADC LDC states will benefit from this further opening up of the European Union market. However, as these LDCs belong to ACP regional integration communities, e.g. SADC, the EBA will further complicate the configuration of negotiating groups for the proposed EPAs. E.g. it may not be in the interest of Malawi, Mozambique and Zambia to negotiate an EPA in the same group with Zimbabwe and Botswana.

- d. In addition to non-LDCs SADC member states, there is also the unique position of South Africa a non-LDC and non-developing country excluded from benefiting from most of the provisions of the Cotonou Agreement, has a Trade Development and Cooperation Agreement (TDCA) with the EU, negotiated over a 4-year period and signed in October 1999. The TDCA which meets the requirements of the WTO Article XXIV of GATT of 1994 includes provisions for financial assistance, trade-related issues, economic cooperation and a Free Trade Area by the year 2012 after asymmetrical liberalisation of trade between the two parties.

Conclusions

The Doha “work programme” concentrates on tariff reduction with limited reciprocity from the ACP poor countries and is silent on development programmes to upgrade the capacity of the countries from the South.

It is also not clear in the Doha “work programme” how SADC will define its intended level of the tariff reduction process for non agricultural products under the three distinct groups of countries currently existing in the region.

TRIPS AND SADC EXPECTATIONS IN DOHA: EMERGING CONTROVERSIES IN INTERPRETATION OF WHAT WAS AGREED

T. A. Mushita

MARGINALISATION OF AFRICA

In the globalization process, the African continent is the most marginalised; it could be said to have failed to attract any meaningful investment and development. Africa has lost its share of world trade, with this counting for less than two percent by 1997 (Thompson, 2000). The continent is always vulnerable to primary commodity price fluctuations, declining price cost Africa more than twice what it received in aid during 1986-90. Between 1990 and 1993, real commodity prices again fell, by more than half.

The prognoses for how World Trade Organization (WTO) agreements would affect Africa are also not encouraging. According to OECD (Organization for Economic Cooperation and Development) figures, there was only one loser, in the Uruguay round, Africa, while European trade is expected to expand by \$61 billion per year by 2002. Africa can expect a contraction of \$2.6 billion per year (Staden 1994).

Southern African debt service as a percentage of export varies from 6 to 25 percent for each economy. While external debt appears insurmountable, Sub-Saharan Africa has only attracted 1.4 percent of the US\$280 billion invested around the world. The African Development Bank estimates that Africa's share of foreign direct investment (FDI) in developing countries declined from 16% percent in the 1970s to 5 percent by the mid 1990s (Thompson 2000). Yet the FDI that did enter Africa had higher profit ratios (up to 25percent) than elsewhere (UNDP 1998).

Foreign investment remains overwhelmingly focused on the extraction of raw minerals. Southern Africa has known the export of profits from such investments for over 100 years: today's globalization ideology has simply renamed it "liberalization". The human toll of these macroeconomic statistics defines the real marginalisation: hunger is the greatest manifestation of consumption shortfalls in Africa as most food is not available in required quantities.

On the other hand, while globalization is facilitated and influenced by technological developments and modern information technology, the process is mainly driven and enabled by choices at the multilateral levels.

Though the process is undertaken at national levels, it is influenced by multilateral agreements, and this has led to rapid liberalization of finance, trade and investment. Although developing countries including the SADC region, have been a part of the process of rapid integration, the decision making process in the making of policy choices, has in the main, been dominated by governments of the developed countries. As a result, the SADC region is affected with the current process of market liberalization and globalization as it were.

The Expectations of the SADC Region

Most countries in the region were involved in a series of consultation processes within their constituencies in an effort to determine the specific focus and nature of priority areas of concern to their economies, which needed to be addressed by the Ministerial Conference in Doha, QATAR. The implementation and review of the Agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS) Article 27.3(b) and 71.1 remain the most controversial and complex issues in on-going negotiations within the World Trade Organizations (WTO).

The SADC region like other countries in Africa, is concerned with issues related to health, food security, biodiversity conservation and sustainable use, patenting of life forms, market access and rural development.

To this end, the aspect for possible sui-generis policy option for plant variety protection under Article 27.3 (b) to protect traditional knowledge and farmers rights including the right to exchange seeds, and the need to harmonize TRIPS with the provisions of the CBD and the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) was raised.

These consultation processes, also raised the need to recognize the imbalance in the current WTO agreements between the obligations of developed and developing countries respectively in view of the different level of socio-economic development realized by each side, as well as the different level of administrative, organizational and financial capabilities available in both groups in terms of executing their commitments.

The other expectations of the region had to do with addressing tariff rates of exports from the region to advanced countries as tariffs levied on agricultural exports are still very high and subsidies on domestic goods and exports have not yet been reduced by developed countries.

In fact, advanced countries constantly urged the developing countries to remove all forms of subsidies that support development. Agricultural subsidy in OECD countries reached 406 billion dollars (i.e. more than one billion dollars a day) Ghaleb, Razzak and Sharawy, 2001).

This sum is double the amount required to reduce the rate of the populations suffering from malnutrition in the world to an acceptable level by 2015, that is 180 billion dollars. Furthermore, the TRIPS Agreement imposes strict restrictions on the right of developing countries to provide health care to their peoples, develop pharmaceutical industries and secure drugs at affordable prices to the majority of the populace. This agreement blocks an attempt of technology transfer from the developed to developing countries and does not avail any protection of the cultural heritage nor the genetic account of these countries in the face of multinationals.

In this regard, a number of issues were identified as important and critical for inclusion in the review and these are:

- The right of developing countries to provide health care to their peoples, develop pharmaceutical industries and secure drugs at affordable prices to the majority of the people;
- Technology transfer from the developed to developing countries including the protection of their cultural heritage in the face of multinationals;
- Addressing the lopsided mechanisms of dispute settlement in WTO which currently does not assist developing countries in gaining their rights as the power to impose penalties is given to the disadvantaged country;
- The technical capability of small and poor countries to impose penalties on powerful countries which is very weak, bearing in mind political, economic, military and trade relations between these two groups;
- Anti-dumping measures, which protect the poor countries;
- Financial, technical and capacity building assistance programmes targeted towards developing countries designed to address trade and enhance sustainable market access and economic development;
- Reduction or elimination of tariff peaks, high tariffs, and tariffs escalation, as well as non-tariff barriers, in particular on the products of export interest to developing countries;
- The review of Article of Article 27.3(b) and the implementation of the TRIPS Agreement under Article 71.1 and the relationship between the TRIPS Agreement and the Convention on Biological Diversity and the protection of traditional knowledge, innovations, technologies, systems and practices, especially, those related to biodiversity conservation and sustainable use;

CONTENT OF DECLARATION AND EMERGING CONTROVERSIES

Issues highlighted by the Ministerial Declaration and its work programme captures some of the concerns of developing countries, however the Declaration can be considered as a statement of intent. The challenges are what will happen in the real negotiations, the implementation proposals, transparency of the system and capacity to effectively and efficiently address the issues raised by developing countries.

The aspect of a new round and addition of new issues is of significant concern to the SADC countries as the intention was to review the implementation of the agreed work programmes. The addition, of other issues will not only complicate the work programme, but add more challenges to developing countries, who are already struggling to cope with and meeting their obligations and commitments within the framework of the current WTO work programme.

Bearing in mind that the capacity of developing countries is limited; it is a concern and challenge to imagine how these countries are expected to meet their negotiating obligations under such environment. The aspect of capacity building which, have been

promised have not materialized in real terms, hence the negotiating capacity of developing countries is unlikely to change in this round.

These new issues relate to the following aspects:

- Relationship between trade and investment;
- Interaction between trade and competition policy;
- Transparency in government procurement;
- Trade facilitation;
- WTO rules;
- Geographical indications for wines and spirits;
- Trade and environment.

The Declaration on TRIPS, public health, access to existing medicines and research on new medicines and further negotiations envisaged on traditional knowledge and biodiversity will test the WTO system to address the special and differential treatment of developing countries. The establishment of working groups (though not with negotiating mandates) on trade, debt and finance and on trade and transfer of technology will also be another challenge.

No substantive research has been undertaken on all of the above issues hence there is no clear understanding of the issues. There is need to carryout detailed research on the above issues and use the results to come up with clear positions to enable negotiators to effectively engage and determine negotiating positions.

The declaration make mention of coming up with supportive mechanisms for ensuring the establishment of effective public health delivery systems, access to existing medicines and research into new medicines. However, the framework and modalities for the above proposed access regimes are not provided which leaves everything to open interpretation due to the ambiguity of the language used.

The issue of IPR held by the private corporations on the medicines indicated is not even mentioned. It there fore leaves the access to existing medicines by developing countries to speculation as the position of the corporate industry was not addressed nor indicated.

The cost element of the drugs will not therefore be reduced and developing countries need to tackle these issues, as many people presently can not afford the drugs with the current cost being charged.

At the same time, the contradictions between the TRIPS/WTO and the CBD agreements need to be addressed, especially, the aspects of IPR and patents and the issue of national sovereignty, ownership and control of biodiversity by developing countries.

In this case, Article 27.3(b) has to be reviewed against the background of indigenous knowledge, innovations, technology, systems and practices and the need for creating relevant legislative frameworks to protect community knowledge systems. Such a process should take on board aspects related to farmer's rights, community resource rights and provisions of the recently concluded International Treaty on Plant Genetic Resources for Food and Agriculture.

The other aspect relate to geographical indications were currently African countries are in a quagmire as to whether they should also include some of their products, which are specific to the region and join the negotiations as well. There is need for research to identify the types of products, which fit the definition of geographical indications which the regional countries can include in the negotiations and these could be coffee, tea, artifacts, and others.

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**TRADE AND INVESTMENT – SADC SITUATION, CONTENT OF
DECLARATION AND EMERGING CONTROVERSIES IN INTERPRETATION
OF WHAT WAS AGREED IN DOHA AND CONFLICT OF INTEREST
BETWEEN NORTH AND SOUTH**

Dr. Boodhoo

Prior to the 1st WTO Ministerial Meeting held in Singapore in 1996, a number of Developed Countries made a forceful move to include in the meeting's agenda negotiations for a Multilateral Agreement on Investment at the level of the WTO. The "demarche" of these countries was not subscribed by the majority of the Developing and Least Developed Countries.

The proponents of the Multilateral Agreement on Investment argued that, worldwide there are a number of barriers that prevent foreign investors to enter the host countries freely. A Multilateral Agreement on Investment would, according to them remove these barriers and allow a smooth flow of investment. This concerns mostly countries of the developing world, where the investment regime is still highly regulated. As the Multilateral Agreement on Investment would lead to greater deregulation of the investment regime, it would be instrumental in creating the flow of investment in the developing world.

Principles of the MAI

The edifice or the basic principles on which the proposed Multilateral Agreement on Investment would rest are the following:-

- (i) **the Most Favoured Nation Treatment (MFN).**
According to this principle, Member States party to the Multilateral Agreement on Investment should not discriminate between the sources of investment i.e the same treatment should be given to all countries in respect of investment

- (ii) **National Treatment (NT)**
If the MFN principle does not allow Member to discriminate between the sources of investment, the NT principle prohibits discrimination between foreign investment and local investment. In other words the same treatment should be given both to foreign and local investors and the same rules should apply to both of them.

- (iii) **Transparency**
All legislation, rules, regulations and practices associated with investment should be made public.

On top of these basic principles there are other-important elements of the proposed Multilateral Agreement on Investment. These are:-

- (i) **The right to establish**
Any foreign investor should be free to invest in any sector at any time. However the existence of safeguard clauses and exceptions in an eventual MAI would mitigate the rigidity of this provision.
- (ii) **The right to exit.**
If an investor decides to stop operation at any time and move out of the country he should have the freedom to do so.
- (iii) **Repatriation of Capital.**
Investors should be allowed to repatriate their capital freely.

Position of Developing Countries

The majority of the Developing Countries has objected to the Multilateral Agreement on Investment on the following grounds:

- (a) The WTO is a trade organisation. Its function should be restricted to trade issues only. In fact art III of the Marakesh Agreement which lays down the functions of the WTO is very clear on this issue. In particular Art III:2 reads as follows:-

“The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference”.

- (b) Issues that link investment measures to trade are already covered by the TRIMs (trade-related investment measures) agreement in the WTO. The acceptance of this agreement in the Uruguay Round was already a major concession by developing countries. (TRIMs for instance prohibits countries from having a local content policy for their industries, thus restricting the South’s development potential). The WTO should stick to having TRIMS and not broaden its scope by incorporating investment regimes as a whole.
- (c) The proposed Multilateral Agreement on Investment would deprive developing countries of a large part of their economic sovereignty. This goes against various UN charters and declarations. It removes the right of states and the powers of governments to regulate foreign investments and investments in general as well as other key elements of macroeconomics policy, financial management.
- (d) If there is a need to discuss the inter-related issues of investment needs, rights of investors and obligations of investors, the forum should not be a negotiating venue like the WTO, but a more open and neutral body such as

UNCTAD, which has the general mandate to discuss policies within the development context. Through UNCTAD-9, UNCTAD also has been given the specific mandate to discuss at intergovernmental level the implications of a MAI. Thus an educative process can be conducted at UNCTAD in the next few years, and there is no need to begin a similar process in the WTO.

- (e) Countries are already over-burdened from having to study and implement their Uruguay Round obligations. They cannot be overstretched further in dealing with new issues such as labour standards, investment treaty and competition policy. There should therefore be a moratorium for the time being on the inclusion of yet more new issues. The Northern countries should instead focus their energies into helping the South to review the Uruguay Round results and to take measures to amend the agreements where needed, taking into account the need to consider the equity aspect of the rules (ie the equitable sharing of benefits and costs arising from the Uruguay Round and from the present trade rules). There should also be serious discussion and decisions on provision of extra concessions, aid or compensation to those developing countries (especially the LDCs) who have suffered losses resulting from the Uruguay Round.
- (f) If there are to be new issues to be discussed, they should be legitimately and clearly associated to trade, such as the impact of fluctuating exchange rates on the South's trade and the effects of low commodity prices and continuing debt on the South's trade earnings and balance of payments. Unless these genuine problems are resolved, the North should refrain from adding more of their issues on the agenda as this would put even more unfair pressures onto their Southern trading partners.

1.6 Given the very strong position of Developing Countries against the Multilateral Agreement on Investment the Singapore Ministerial meeting did not mandate for negotiations of a MAI but agreed to the setting up of a working group to examine the interrelationship between Trade and Investment. The Working Group has already held 5 meetings so far during which a range of issues have been discussed. The most important issues discussed so far are:-

- (a) Implications of the relationship between Trade and Investment for economic growth;
- (b) The economic relationship between trade and investment;
- (c) Stocktaking and analysis of existing international instruments and activities regarding trade and investment;
- (d) Analysis of existing provisions of the WTO agreement on investment;

- (e) Examination of the Basic Concepts such as the right to invest, the right to establish and the concept of non discrimination.

1.7 During the discussions held so far, the positive effects of Foreign Development Investment have been recognised and the direct relationship between investment and economic growth has been established. In fact most studies carried so far have pointed only to the positive effects of Multilateral Agreement on Investment, the negative effects have been ignored. There is therefore need for a balanced and comprehensive approach in this context.

1.8 Moreover, as can be noted, the Working Group has identified four clusters of issues (i) FDI and economic development (ii) interrelationship between trade and development; (iii) stock taking of investment treaties (bilateral, regional, plurilateral and multilateral) (iv) issues related to value added of investment.

1.9 Although inputs from Secretariat and certain members have been received on the first three issues, further work is still required, especially on cluster (iv). Several other issues need to be adequately covered. These are:-

- (a) It can only be surmised that MAI can increase FDI. By how much? What incremental growth will it bring?
- (b) What are the merits of MAI in regards to risks of marginalisation and coherence at level of international community? How would Bilateral Investment Treaties and other investment agreements contrast/compare with MAI in this respect?
- (c) There are other complex relationships that have to be studied as a result of the various WTO Agreements e.g. (i) competition and investment/trade (ii) TRIPS/Investments. All these issues belong to the same economic process in the globalisation context.
- (d) How will the development dimensions be taken into account? What type of negotiations are necessary? How one could afford to ignore issues like balance of payment, establishment and access of investors and, all of a sudden talk of contentious issues like environment and labour as proposed by the OECD MAI?
- (e) It is today well known that France, USA and Canada would not like MAI to be concluded in the way it has been formulated by OECD. But, suppose that this MAI emerges, will WTO rubber stamp it given a good number of Members are proponent of the MAI.

MAI of the OECD

Since 1995 the OECD Countries have been negotiating a MAI. The work should have been completed in 1997 but due to major differences in the position of the Members, it

was postponed to April 1998. However due to a surge of social movement against the MAI and the emergence of strong reservations among some of the proponents of the agreement such as the US, France, and Canada, negotiations have been frozen.

The negotiating text of the OECD MAI is indeed a very impressive one. It contains all the basic principles such as the MFN, NT, Transparency. Moreover the definition of investment is a broad based one which includes not only Foreign Direct Investment but also include the direct or indirect ownership or control of asset. For instance portfolio investment and all sorts of asset management by residents or national of contracting parties through offshore companies are covered under the MAI. The text also contains provisions on Privatisation, Monopolies, State Enterprises, Investment Incentives, Intellectual Property, Public Debt, Work Permits, Investment Protection, Expropriation and Compensation etc.

There is also a specific provision in the OECD MAI relating to non members. In fact provision has been made for non OECD Members to join the agreement once it has been negotiated. In other words there was the agenda of extending the agreement to encompass the developing countries.

There is the general perception that an eventual WTO agreement on Investment would be largely inspired from the OECD text. There is therefore a need to scrutinise our investment regime in the light of the OECD MAI provisions. A quick analysis of our investment regime has revealed the following:-

- (a) The principle of non-discrimination (Most Favoured Nation Treatment & National Treatment) is largely observed in many african countries.
- (b) Some work needs to be done on the transparency aspect.
- (c) In many countries Foreign Investors have the right to establish, to exit and to freely repatriate their Capital. However exceptions do exist.

As is evident therefore, many of our countries meet the requirements of the MAI and would not require substantial adjustment in their investment regime to conform to the MAI. But there is a need to adopt a cautious approach in eventual negotiations to avoid any slippery ground which may endanger the interest and sovereignty of Africa in formulating its economic policies.

The Doha Mandate

The OECD agenda on investment did not make much headway due to a prolonged deadlock. The focus has now shifted to the WTO where a decision to negotiate a multilateral framework to secure transparent, stable and predictable conditions for long term cross border investment was taken at the 4th WTO Ministerial Conference in Doha. The formulation of the decision is quite ambiguous as it subjects the negotiations to a decision to be taken on the modalities at the 5th WTO Ministerial Conference on the basis of **explicit consensus**. It is clear to everybody that decision making at the WTO is

through consensus. But to have this emphasised not only in respect of investment but also in respect of the other Singapore Issues points out that the debate on modalities risks to be very fierce. It also begs the question about the fate of the negotiations if **explicit consensus** is not reached at the 5th WTO Ministerial Conference. The debate therefore is still very open.

It is also important to very carefully read para 22 of the Doha Declaration that already indicates the possible content of the proposed framework which is indeed very broad and includes scope and definition, transparency, non discrimination, modalities for pre-establishment commitments based on a GATS type, positive list approach, development provisions, exceptions and balance of payment safeguard, consultation and the settlement of dispute. It has also been emphasized that the development, trade and financial needs of the Developing and LDC's be taken into account.

It would appear therefore that the Decision contains some flexibilities and also seems to be development oriented. However it is only the active participation of the developing countries in the deliberations of the working group on trade and investment and in forthcoming negotiations that will really give meat to the development dimension.

The focus of the discussions at the WTO is currently on procedures and not on substance.

Recommendation

African countries should participate in negotiations on Investment along the following lines:-

- (i) the discussions on investment should be based on the GATS framework so as to provide flexibility to developing countries in making commitments and formulating policies;
- (ii) Any eventual discipline on Investment should have an in-built provision on safeguard;
- (iii) developing countries should have the flexibility of maintaining a negative list of sectors that would not be subject to the provisions of such an Agreement;
- (iv) incentives provided to investors should remain outside the scope of such an Agreement;
- (v) developing countries should be allowed to put a threshold on the amount of investment;
- (vi) the Financial crisis in East Asia and in other parts of the world warrants a cautious approach to what constitutes an Investment Portfolio. The african approach in this regard should be accordingly guided.

Consequently negotiations should focus exclusively on FDI.

- (vii) Africa should engage in the discussions in a manner that allows it to gain the support of the proponents of the MAI for effectively addressing the concerns of Small Developing Economies on the basis of equitable and beneficial trade offs.
 - (viii) There should be inbuilt special and differential treatment for developing countries with a lot of focus on the development aspect.
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TRADE, DEBT AND FINANCE – SADC SITUATION, CONTENT OF DECLARATION AND EMERGING CONTROVERSIES IN INTERPRETATION OF WHAT WAS AGREED IN DOHA AND CONFLICT OF INTERESTS BETWEEN NORTH AND SOUTH

Dr. M. Tekere

Introduction

One of the major achievements of developing countries during the WTO Doha ministerial meeting was the inclusion of debt onto the WTO agenda. The Doha declaration in paragraph 36 specifically states that

“We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.”

The external debt burden faced by most countries of the Southern African Region is one of the worst manifestations of global injustice in today's world, as the human development situation in many of these countries has remained disastrous. Despite a succession of adjustment programs, the economic situation remains weak and far too high a proportion of national budgetary resources and foreign exchange reserves are diverted towards debt servicing. Too little of the already limited resources are available for social development.

The widening saving investment gap due to restrained growth, coupled with the fall of commodity prices on the world markets and severe droughts in the region has reduced the region's capacity to export its products. These factors have severely limited the capacity of the region to generate savings and investable surpluses and therefore adequate foreign exchange, which is needed for servicing external debt, and hence has increased payment defaults. The use of foreign currency to pay debts has led countries to reduce their capacity to import goods vital for industry, agriculture, transport and essential services such as education, health and water supplies.

Structure of Southern African Region Debt

A careful examination of the debt situation in the region reveals quite some stunning inferences on its composition. Because of the serious problems that African countries in general and the Southern African countries in particular have been experiencing over the years with their balance of payments position, this has propelled them to borrow heavily

from private banks and multilateral agencies [IMF and WB] and less and less from official sources.

Table 1.1 Structure of external debt (Millions of US\$ Current Prices)

	Bilateral				Multilateral				Private		Short term		IMF	
	Concessional		Noncon		Concessional		Noncon							
	1980	1998	1980	1998	1980	1998	1980	1998	1980	1998	1980	1998	1980	1998
Angola	....	2527	....	1011	....	212	....	67	....	5696	....	1710	0	0
Botswana	28	102	23	11	32	194	53	178	8	24	4	7	0	0
DRC	667	1806	1620	4213	194	1601	127	681	1462	899	3298	3565	373	423
Malawi	111	284	112	16	147	1900	72	90	192	20	116	32	80	102
Mauritius	39	294	37	27	25	60	53	201	165	1327	47	573	102	0
Mozambique	....	2268	....	1810	.	1798	....	96	.	1770	....	365	0	207
Namibia	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Seychelles	16	49	4	7	3	22	2	37	0	31	59	42	0	0
South Africa	....	0	....	0	....	0	....	0	....	1326	....	1144	0	0
Swaziland	69	74	34	0	17	69	45	79	24	0	15	28	6	0
Tanzania	2388	2480	88	581	305	3049	261	93	339	263	1770	900	171	268
Zambia	778	1617	314	1348	19	2031	374	211	726	141	586	329	447	1188
Zimbabwe	15	961	83	238	0	532	3	1183	594	619	90	768	0	407

Source: Africa Development Indicators

Note: Unavailable data in both tables is shown by

Noncon means non-concessional

Servicing Southern Africa's stifling external debt is chewing up billions of foreign currency annually, which money the majority of the countries can ill-afford. Mozambique (257%), Tanzania (112%), Angola (282%), DRC (232%), Malawi (108%), Zambia (203%), lead the pack of Highly Indebted Countries in terms of external debt as a proportion of GDP (according to table 2). In total, the seven countries owe about US\$40 billion or an average of 150% of their combined GDP as at 1998. Mozambique owes about US\$5,5 billion, which translates, to 327% of its GDP, followed by Zambia whose total external debt of US\$7 billion is 195% of its GDP. During the period of 1992 to 1994, for instance, Zambia used about 98 percent of its donor assistance to pay off foreign debt. Lesotho is at the bottom of the list with a debt of about US\$1 billion, which is equivalent to 61% of GDP. The other four SADC countries Botswana, Mauritius, Namibia, South Africa have a comparatively low external debt burden. Botswana had a total external debt of about 10% of GDP in 1996. (Madakufamba 1998).

Sources of Debt in SADC

Mainstream economics justifies borrowing in so far as it helps in financing a "savings gap"; to mobilise funds for investment and economic growth. For a clear understanding of the evolution of debt in Southern Africa there is need to go behind the veil of orthodox economic theories and use before-and-after independence analysis.

The Southern and Eastern African Region's external debt burden has gained widespread attention as a serious policy issue over the past few years. This is mainly due to serious suffocation of the region from debilitating debt. The present value of debt to exports ratio of 396% (COMESA Vision 2000) makes the region one of the heavily indebted in the world. The World Bank classification of indebtedness has shown that of the 21 COMESA member states, 11 are severely indebted, 3 moderately and 7 less indebted. Its total external debt stock in 1996 was estimated at US\$124 billion (COMESA Vision 2000). The debt service has had serious negative effects on health, social services, employment levels and education. Such is the debt situation that the possibility of breaking out of the debt cycle seems virtually impossible.

There are various sources of the debt escalation in SAR S and the main ones include;

- a) Odious Debt that derives from the colonial legacy and the fight for independence.
- b) Mal-development model that refers to expansionist and populist policies, which these countries adopted soon after independence.
- c) Deterioration of terms of trade and declining external viability
- d) Variable interest rate terms
- f) Drought and Floods
- g) Protection in the industrial countries markets
- h) Political and Civil unrest
- i) Capital flight

Role of Regional Integration on Debt And SADC Debt Profiles

Role of regional integration on debt.

The linkage between multilateral trade and debt has not been subjected to serious theoretical and empirical scientific scrutiny. In fact, the most documented linkages are between regional integration and growth, development, investment creation, trade creation, social welfare, policy credibility and sustainability, efficiency and welfare gains. Much of the literature on international does not investigate the role of trade on debt situation and likewise research on debt rarely captures the trade dimension.

For Africa debt is one of the key constraints to developments such that, multilateral trade schemes that fail to capture the debt dimension render themselves inappropriate for the African context. It is therefore important to factor the debt issue in designing trade integration and co-operation schemes for Africa. For example, the ratio of external debt to GDP ratio for SADC [excluding SA] is over 100% implying that in any given year

SADC's national output would be inadequate to SADC debt of the region. Debt servicing is chewing up billions of foreign currency annually and the trend is set to continue for some time.

International trade and integration plays an important role in terms of debt reduction in a number of ways specifically through:

- Payment systems,
- Trade expansion,
- Investment creation and aid
- Collective bargaining for debt reduction.

The relationship between the above and debt is the subject of detailed discussion in the following chapters. Below we only highlight the essential transmission mechanisms and relationships.

The primary instrument of international economic co-operation that has a direct impact on debt is trade expansion spurred by trade liberalisation. Trade impacts on debt in various ways. First, expansion of trade generates incomes, employment through increased trade and growth and more importantly foreign currency, through increased trade, usable to settle debts. Second, trade integration reduces the need to borrow from outside as larger markets provide the scope for full capacity utilisation, attainment of economies of scale and efficiency. Further among the various sources of foreign currency [aid and FDI] required to service debts, trade revenue is not the only largest source but it's sustainable and does not perpetuate dependence or indebtedness. For example, instead of reducing aid it would either increase indebtedness change the debt terms and conditions while increasing dependency and vulnerability of debtor countries.

In addition, international trade reduces commercial debt particularly when trade is created among member states and diverted from non-members trade. By shifting trade from non-members to member countries SADC states effectively shift commercial debt, which forms a substantial part of the debt structure. Linked to commercial debts is the issue of import - export credit lines offered to developing countries by donor countries. Unpredictable credit lines, due to foreign exchange scarcity, have had the effect of thwarting regional integration efforts and perpetuating debt in Third world countries. This is because, initially borrowing eases the revenue-expenditure gap. But in most cases, especially high-risk countries susceptible to recessions, low economic growth and/or political instability such as Mozambique, Angola, Democratic Republic of the Congo and Zimbabwe, creditors prefer cash upfront for services provided. A case in point is the substantial alteration in credit lines for Zimbabwean firms exporting within the region. For example, due to the forex crisis, freighting and forwarding firms in Zimbabwe can only do business with South African firms to a maximum of ZAR\$100 000 unless they prove that they have adequate foreign currency to exceed that amount. Clearly this hampers trade and significantly frustrates integration efforts and in most cases will expose companies to borrowing from abroad and hence incurring debt. To address debt using trade instruments, it is therefore important to put in place regional export- import credit schemes that would shift commercial debt from outsiders to among member states.

Finally trade also reduces debt through, barter trade, employment creation, increased incomes and growth.

Monetary union and particularly payment mechanisms play an important role in reducing debt. By adopting, a single currency or a common unit of account to settle commercial debts regional integration directly and positively affects debt situation of member countries. The transmission mechanism between debt reduction and monetary/ payments settlement is straightforward. First countries in a regional grouping may agree on 'limited currency convertibility' and therefore accept settlement of commercial debts in currency of one another. Second, they may establish a common clearing house and a common unit of account to settle outstanding debts. A good example was the UAPTA used in the COMESA to settle commercial debts between the member states. The main advantage is that the need to settle debts in hard currency is removed and exchange rate risks are minimised.

Regional integration also serves as a vehicle for reducing debt through investment creation. Large markets attract new investment and enable existing firms to operate at near full capacity hence attaining economies of scale. Investment creative effects of regional integration directly impact positively on production, output, exports, debt servicing and incomes. As a result, the need for borrowing is reduced and capacity to service existing debt is enhanced.

Further, regional integration creates the platform for collective bargaining of debtor countries, which is lacking generally but very important for reducing debts and relaxing the terms and conditionalities of debt. More often negotiations for debt reduction are a contest between an organised groups of creditors, for example the Paris Club, against an individual poor debtor country. In such circumstances, the debtor nation is under tremendous pressure to make more concessions. Thus, regional integration should be called upon to strengthen the collective bargaining position of debtor nations and facilitating creditor-debtor negotiations to the benefit of debtor nation. Formation of debtor cartels, bar the logistical difficulties, could also help developing countries in general and Southern African countries in particular.

Debt Profiles of SADC countries

Table 2.1: Total debt, debt to exports ratio and debt service paid for selected SAR countries (US\$ million)

Angola	1980	1985	1990	1994	1996	1997	1998
Total debt (US\$ mill)		2497	8594	11297	11225	11841	12173
Debt to Exports (%)	-----	-----	-----	278	219	181	236
Debt service paid (US\$ million)		156	326	258	894	1129	1353
Botswana							
Total debt (US\$ mill)	147	334	563	689	614	562	548
Debt to Exports (%)	20	38	23	30	21	15	19
Debt service paid (US\$ million)	15	48	106	93	152	104	79
DRC							
Total debt (US\$ mill)	4770	6171	10270	12322	12826	12330	12929
Debt to Exports (%)	-----	-----	-----	594	693	682	774
Debt service paid (US\$ million)	542	497	348	16	48	13	19
Malawi							
Total debt (US\$ mill)	830	1018	1558	2025	2315	2229	2444
Debt to Exports (%)	-----	-----	-----	217	294	217	226
Debt service paid (US\$ million)	87	110	133	80	89	85	84
Mozambique							
Total debt (US\$ mill)		2714	4653	7272	7566	7639	8208
Debt to Exports (%)	-----	-----	-----	1039	1345	708	539
Debt service paid (US\$ mill)		55	79	123	141	104	105
South Africa							
Total debt (US\$ mill)	-----	-----	-----	21671	26050	25221	24712
Debt to Exports (%)	-----	-----	-----	70	72	67	69
Debt service paid (US\$ mill)				2902	4236	6542	4378
Tanzania							
Total debt (US\$ mill)	5322	3750	6438	7235	7362	7129	7603
Debt to Exports (%)	-----	-----	-----	719	499	403	484
Debt service paid (US\$ mill)	161	162	179	184	271	166	162
Zambia							
Total debt (US\$ mill)	3244	4576	6916	6804	7054	6654	6865
Debt to Exports (%)				465	389	389	438
Debt service paid (US\$ mill)	410	138	202	376	251	245	202
Zimbabwe							
Total debt (US\$ mill)	786	2415	3247	4537	4994	4924	4716
Debt to Exports (%)	-----	-----	-----	170	154	139	140
Debt service paid (US\$ mill)	65	422	471	603	664	686	981

Source: The Africa Debt Report, Jubilee 2000

Note: ----- Represents unavailable data

The above table 2.1 shows the nature of debt in some selected Southern African Countries over the period 1980 to 1998. The analysis of debt pattern and value can be done through dividing countries in the above table into three categories based on the nature of their debt/export ratios.

Countries with debt/export ratio $> 200\%$ [Angola, DRC, Malawi, Mozambique, Tanzania and Zambia] should expand their exports by more than 200%, to cover all their debt obligations. For example, Angola had a debt per capita figure of more than \$1000 and its debt service consumed more than five times the total spend publicly on health and education. The DRC had total arrears of \$8.2 billion by 1998, and its debt service ratio has been 0.3% of GNP. The domestic debt of this country was well above \$10bn and most of this debt is considered "odious debt". Malawi expenditures on debt service consumed 4.7% of GNP and this was 1.9% higher than the expenditures on health. Worst stricken by the debt problem over the year has been the Mozambican economy. The total expenditure on debt service has been 0.8% higher than the expenditure on health.

Transmission mechanism between regional trade liberalisation and debt

The level of indebtedness depends on a number of socio-economic, political, internal and external variables and within these trade policies although not a sufficient condition plays a very important role. In this section we review the level of SADC indebtedness under both a liberalised and protectionist trade regime and as far as possible relate indebtedness to shifts in trade policy. No close correlations are however assumed given that indebtedness is a function of several variables.

A comparison of the ratios of debt to exports for the before and after trade liberalisation for selected SADC countries shows a very interesting pattern [see table 3.1]. Before liberalisation scenario shows a low exports to debt ratio compared to the post trade liberalisation period implying that trade liberalisation was associated with increased indebtedness.

Table 3.1. Structure of external debt service payments. Millions of US\$ (Current Prices)

YEARS	Bilateral				Multilateral				Private		Short term		IMF	
	Concessional		Noncon		Concessional		Noncon		1980	1998	1980	1998	1980	1998
	1980	1998	1980	1998	1980	1998	1980	1998						
Angola	....	16	0	61	....	1	0	1	....	1013	0	0	0	0
Botswana	1	7	2	6	0	13	10	53	1	6	2	0	0	0
DRC	48	0	136	0	2	0	22	0	189	0	45	....	101	1
Malawi	4	6	7	1	2	29	3	18	53	1	16	0	3	26
Mauritius	2	33	4	6	0	4	6	39	29	205	8	0	3	0
Mozambique	....	24	0	13	....	24	0	12	....	12	0	0	0	25
Namibia	....	....	0	0	....	....	0	0	....	1	....	....	....	0
Seychelles	0	4	0	2	0	1	0	6	0	6	37	0	0	0
South Africa	....	0	0	0	....	0	0	0	....	3324	0	....	0	432
Swaziland	2	8	6	0	0	3	4	13	5	0	2	0	0	0
Tanzania	32	63	2	1	2	63	23	44	36	18	26	6	39	39
Zambia	16	17	22	20	0	33	51	88	238	59	0	....	84	6
Zimbabwe	3	59	0	33	0	8	3	200	43	585	15	0	0	58

Source: Africa Development Indicators .ADB 2001.

Note: Unavailable data is shown by

Noncon means non-concessional

There are various mechanisms through which trade liberalisation leads to increased debt levels

- ❖ Liberalisation was followed by devaluation of local currencies, which meant debtor firms, or governments had to fetch for more local currency to pay off foreign debts. In Onimode's [1988] view, balance of payment disequilibria and hence debt are inevitable in Africa because of the combined effects of devaluation, liberalised imports and withdrawal of exchange controls
- ❖ Many of the commercial aid [export/ import credit guarantee schemes] provided to developing countries are tied to procurement of imports from the donor nation. These have caused increased indebtedness because some of these goods are priced well above world market prices
- ❖ Trade liberalisation and structural adjustments in Southern Africa have implied removal of price controls and export subsidies among other measures. Removal of export subsidies has flattened the export capacity of these countries. Taylor, [1989] shows that export subsidies unambiguously increase capacity utilisation and with appropriate multiplier values and intermediate import content of output, the trade balance improves as well, without unpleasant side effects on interest rates and

inflation. The stimulation of exports thereof can contribute significantly to debt reduction.

- ❖ Trade liberalisation exposed local industries to intense foreign competition which caused firm failure and inability by firms to meet their debts both foreign and local
- ❖ Liberalisation of prices especially of decontrol of interest rates caused sudden swelling of debts and firms failed to service some of the debts
- ❖ Liberalisation allowed firms to borrow directly offshore sometimes without approval by government leading huge debt built up

Liberalisation resulted in increased pressure on foreign currency resources. What in fact happened was that even the most closed economies did not have restriction on exports, so what they opened up was the import regime. As a result, the exports response from liberalisation was weak whereas imports flooded the local market. More imports and less exports mean more obligations to pay foreigners and vice versa.

However, it should also be noted that the trade and debt reduction nexus for SADC integration is not automatic but dependent on several factors such as sequencing and phasing of liberalisation as well as built-in mechanisms to distribute benefits.

Funding of SADC Programs and Debt

Sources of funding for SADC programs.

The three main sources of funding for regional organisations, programs and projects are donor aid, subscriptions by members states and private sector investments. Both the SADC and COMESA have strong policy positions that their Programs of Activities should be funded primarily from member states own resources with particular emphasis on involvement of private sector. Shockingly, though the regional bodies have continued to rely heavily on donor funding, which is an unhealthy scenario in light of the prevailing gruesome debt in the regions. In 1996-1997 only 25-30% of funding for the SADC Program of Action was sourced locally, implying about 70% - 75% was sourced from external sources (IGD 2001). By 1998/99, the SADC region became more dependent on external resources for its Program of Action with about 86% of its financial resources externally derived. Table 5.1 below shows the project financing status of the SADC region for the period 1998/99.

Table 5.1:SADC Project Financing Status by Sector (US\$ million), 1998/99

SECTOR	No	Estimated cost					Funding status					G
		Total	foreign	%	local	%	secured	%	Under-neg	%		
FANR	76	488.26	445.26	91.3	42.46	8.7	278.95	55.5			18	
ART	15	122.41	96.42	78.8	25.99	21.2	78.77	64.4			43	
Inland Fisheries	9	54.41	52.64	96.8	1.77	3.3	27.29	50.2	0.75	1.4	26	
Forestry	13	103.14	97.32	94.4	5.82	5.6	43	41.7	22.26	1.3	37	
Wildlife	10	91.7	90.73	98.9	0.97	1.1	77.89	84.9			13	
Food security	11	69.56	62.97	90.5	6.59	9.5	24.18	34.8			45	
LPAD	12	8.33	7.01	84.1	1.32	15.9	2.1	25.2	3.7	44.4	2..	
Marinefish& res	6	38.71	38.71	100			17.72	45.8	2.5	6.5	18	
Mining	36	18.16	12.54	69.1	5.62	31	11.83	65.1			6..	
Water	2	27.83	23.89	85.8	3.94	14.1	11.88	42.7	0.11	0.4	15	
Industry & trade	7	9.97	9.96	99.9	0.01	0.1	0.98	9.8	4.13	41.4	4..	
Energy	41	603.92	566.42	93.8	37.5	6.2	382.28	63.3	28.68	4.8	19	
Tourism	11	4.96	4.21	84.9	0.75	15.1	2.95	59.5			2..	
Trans & comm	174	6474.4	5528.1	85.4	946.3	14.6	2991.7	46.2	550.9	8.5	29	
Fin&investment	1	0.4	0.4	100			0.3	95.5				
HRD	16	44.76	44.76	100			17.27	36.4	1.5	3.4	26	
Environment & land	7	7.8	6.55	84	1.25	16.1	2.03	26.1	3.7	47.4	2..	
Culture & info	7	15.9	15.9	100			4.95	31.1			10	
GRAND TOTAL	378	7696.4	6658.5	86.5	1037.8	13.5	3696.2	48.1	618.23	8.1	33	

Source : SADC HDR 2000

The table above shows that 378 projects were in SADC books during between 1998/1999 with an estimated total cost of US\$7696.4million. It was estimated that 86.5% of funding for these projects would come from foreign sources and only 13.5% was expected to be mobilised from local sources, clearly revealing an unhealthy dependence on foreign financing. Foreign funding creates debts which if not managed well turns into a debt trap. Of the total amount required to kick-start these projects only 48.1% was secured from both local and foreign sources and 8.1% was under negotiations leaving a staggering financial gap of 43,9% i.e. about US\$3381,93 million.

According to the SADC HDR (2000), the fact that only 48.1% of the SADC Program of Action has been funded reveals the technical capacity constraints in the conceptual design of projects in the organisation. To note that the sub-region is currently languishing from the vitiating debt and yet the very body, which seeks to abate the crisis, continues to rely heavily on external funding is treacherous at its worst. Such acts from the regional bodies will simply perpetuate the regional strangulation from external debt burdens.

Reliance by SADC on donor funds for financing its ever-escalating program is one of the main sources of the debt ballooning in SADC. Technically, SADC acts as a broker in sourcing funds for its regional projects such as the rehabilitation of transport corridors [Maputo, Beira, Nacala]. Once a project is identified as a regional project, SADC states collectively seek funds for such a project first from donors and then among them. Instead of member states allocating some funds from their budgets towards these 'regional projects', their first point of call for funds is donor organisations. Once donors are identified, SADC acts as a broker to source funds but the agreement for funding is usually bilateral. In some cases, a consortium of donors pledge funds and sign financing agreements not with SADC states but with one country, a case in point is the Beira transport Corridor in Mozambique. Thus, the collective work of SADC ends as and when funding is pledged. In such cases, the recipient country is left alone to negotiate with the consortium of donors the terms of financing which can be unfavourable given that one country negotiates with a collection of donors. The point is that regional projects generate individual country debts yet SADC has no system to manage such debts.

Regional Policy Harmonisation and Debt

Case for policy harmonisation in reducing debt

Regional policy harmonisation can be the most effective way addressing debt problem at the regional level. Macroeconomic policy co-ordination and harmonisation entails the adoption of similar macroeconomic policy instruments to achieve common policy objectives. More often policy fragmentation both at national and at regional level forms fertile ground for debt escalation. Absence of clearly laid out national development framework or plan in most SADC states is the key problem and testifies of lack of policy co-ordination and harmonisation. Further national policies, priorities and strategies in general are not linked to regional policies, priorities and strategies. The absence of harmonised macroeconomic policies in the SAR region has led to sub-optimal national investments and constrained regional trade and economic growth and development.

The case for co-ordinating macroeconomic policies is based on three grounds.

- ❖ Firstly, macroeconomic policy adjustment in one country has spillover effects on others, forcing them to adjust as well.
- ❖ Secondly, the desire to avoid competitive currency devaluation's to improve competitiveness of national economies.
- ❖ Finally, the prediction that poorer countries should catch up with richer ones because they can take advantage of existing technological developments without having to develop their own (Jenkins and Thomas, 1996) as cited by Chipeta.

State of policy harmonisation in SADC

Table 6.1: SADC Indicators of Convergence

	SADC (14)	Non-SACU (9)	SACU (5)
Growth rates			
1 Average Real GDP Growth Rates (1991-92), %	1.53	0.51	3.36
2 Range of Average Real GDP Growth Rates (1991-94)	-9.00 to 7.00	-9.00 to 7.00	0.20 to 5.10
3 Average Real GDP Growth Rates (1995-98), %	4.03	4.19	3.74
4 Range of Average Real GDP Growth Rates (1995-98)	-3.00 to 8.50	-3.00 to 7.90	2.1 to 6.4
5 Average Inflation Rates (1991-94)	641.53	991.68	11.25
6 Range of Average Inflation Rates (1991-94)	1.60 to 7.983.1	1.60 to 7.983.15	6.80 to 13.70
7 Average Inflation Rates (1991-94)	162.79	248.65	8.22
8 Range of Average Inflation Rates (1995-98)	0.18 to 1749.8	0.18 to 1749.80	7.40 to 8.73
Fiscal Policy			
1 Average Budget Deficit , % of GDP(1991-94)	-3.33	-4.43	-1.79
2 Range of Budget Deficit , % of GDP (1991-94)	-10.03 to 6.39	-10.03 to 2.65	-6.63 to 6.39
3 Average Budget Deficit , % of GDP (1995-98)	0.54	0.66	0.37
4 Range of Average Budget Deficit as % of GDP (1995-98)	-7.38 to 13.65	-7.38 to 13.65	-3.91 to 2.39
Trade Policy			
1 Average current account , % of GDP (1991-94)	-3.71	-11.79	7.58
2 Range of average current account as % of GDP (1991-94)	-24.55 to 25.56	0-24.55 to 3.37	-1.07 to 25.56
3 Average current account , % of GDP (1995-98)	-8.71	-7.97	-8.68
4 Range of Average Debt Ratio,% of GDP (1991-94)	-18.60 to 9.00	-14.63 to 0.30	-18.60 to 9.00
5 Average Debt Ratio as % of GDP (1991-94)	92.15	149.14	23.76
6 Range of Average Debt Ratio as % of GDP (1991-94)	7.45 to 324.73	54.12 to 324.73	7.45 to 46.47
7 Average Debt Ratio as % of GDP (1995-98)	89.95	136.40	24.91
8 Range of Average Debt Ratio as % of GDP (1995-98)	4.65 to 298.92	30.00 to 298.92	4.65 to 57.49

Source: SADC Databank

The indicators in the above table show a faster movement towards convergence in SACU than in Non-SACU member countries. The range of average inflation rates between 1995-1998 for no-SACU countries has been from 0.18-1749.80 compared to that of the SACU region that was only 7.40-8.73. It is also interesting to note that whilst the range of average debt ratio as percentage of GDP between (1995-1998) was 30.00 to 298.92 for

non-SACU countries that of SACU ranged from 4.65 to 57.49. These ranges clearly show that the SACU countries have made considerable strides towards regional integration than the Non-SACU SADC countries because of the high level of policy harmonisation. Therefore, policy harmonisation can go a long way in reducing debt and achieving meaningfully significant growth. The degree of divergence in the indicators is still very high in the SADC region and this calls for the enhancement of the integration process and the need to strengthen the macroeconomic policy co-ordination in the sub-region.

The table 6.2 below shows the overall budget deficit as a percentage of GDP and the inflation rate for the SADC countries over the period 1990-1998. An analysis of the level of budget deficits and inflation in view of debt shows that there is a strong positive relationship among the three variables. Countries with high budget deficits and inflation [Angola, DRC, Mozambique, Zambia and Zimbabwe] also tend to have high debt levels. But SACU countries in general and Botswana in particular do have budget surpluses, low inflation and subsequently very low levels of debt.

Table 6.2: Overall budget deficits as a percentage of GDP and inflation rates 1990/1998 for selected SADC countries

Country	Average Debt (1990/1998) (US\$ millions)	Deficit average 1990/1998	Inflation average 1990/1998
Angola	10383.5	-16.9	1079
Botswana	555.6	6.6	11
DRC	11 599.5	-14	3711
Malawi	2001	-7.3	29
Mozambique	6430.5	-3.8	37
Tanzania	7020.5	-1.2	22
Zambia	6890.5	-3.8	82
Zimbabwe	3981.5	-6.6	25

Source: SADC HDR 2000. SAPES TRUST

Macroeconomic convergence in the region is highly unlikely in light of the high budget deficits and inflation rates that the economies are currently suffocating from. Inflation as shown in the table above has been very high in the region throughout the 1990s and it ranged from 1.2% in Seychelles to 3711% in the DRC with an average rate of 10% during 1990-1998. The main causes were the widespread fiscal in-discipline, deficit financing and currency devaluation. These escalating rates make it increasingly impossible to have macroeconomic harmonisation, worse still monetary harmonisation in the region. The region also experienced a wide divergence in budget deficits. These divergences reflect the discrepancies in the fiscal policies that are pursued by these countries. It is in light of such deficits that hopes of macroeconomic convergence in the region seem to be abstracted.

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KEY ISSUES ARISING FROM DOHA DECLARATION (TRADE FACILITATION, DISPUTE SETTLEMENT UNDERSTANDING, TRADE AND ENVIRONMENT, E-COMMERCE AND TRANSFER OF TECHNOLOGY)

C. Mbegabolawe

1. ISSUES ARISING FROM DOHA DECLARATION

- Trade facilitation (para 27)
- Dispute Settlement (para 30)
- Trade & Environment (para 31)
- Electronic Commerce
- Trade and Transfer of Technology (para 37)

Context:

- 2.1 The WTO process is a peculiar regime of continuous negotiations for creating market access and rules to that end. In some cases these negotiations are mute, low profile and almost unnoticed, as in the form of the regular work of the WTO through Committees, Councils, Working Groups etc; and in other cases the negotiations are formal – such as the negotiations round format: Uruguay Round, Doha Round etc.
- 2.2 At the core of this regime lies the promotion of national economic and other interests – through trade or related avenues: interest for national economic growth, development and employment, and poverty alleviation for certain countries.
- 2.3 This is how one should look at the nature of the issues that the more economic active and industrialised countries bring to the WTO and push for their negotiation: these countries will do everything to fast track negotiations in areas of economic importance to themselves but relegate to endless Committees, Councils or Work Groups other issues not considered in similar light.
- 2.4 Lastly, the developed countries always push onto the WTO agenda issues raised or mandated them by their business and social stakeholders. Examine all the various issues on the WTO agenda and you can see the shadow faces of farm lobbies, pharmaceutical companies, labour unions, multinational companies, steel industry states, environmental conservationists, etc.
- 2.5 Compare with the situation in developing countries in general: the constituency or stakeholder mandate is weak: If it is not governments or maybe academia and NGO sector: no other stakeholder has the awareness of the challenges and opportunities/potential of the WTO regime and its consequences.

3. **Demandeurs**

3.1 Who is/are the demandeur(s) in these issues and what do they want?

3.2 Examine each of the paragraph:

A. Trade facilitation

- (i) Singapore issue, where CTG – in comparison to its sister issues of competition, investment and transparency in government procurement, where Work Groups had been created – will continue reviewing, clarifying and improving aspects of Articles V, VII and X of GATT 1994.
- (ii) However negotiations will take place after the 5th Ministerial
- (iii) What is to be done – what activities to be carried: From Doha to next Ministerial two aggregate actions: a work (or study) programme on specific issues expediting movement, release, clearance of goods (including transit) and identifying technical and capacity needs of developing countries; at next Ministerial: taking a decision – by explicit consensus, on modalities of negotiations (Does this also mean a decision on whether or not to launch negotiations on the issue?)
- (iv) Who is the demandeur – principally EU but supported by developed and member of developing countries.
- (v) What are the issues for our countries:
 - a) this is one area of the Singapore issues where it is not stated explicitly that members recognize the need for some multilateral rules or framework (unless one infers this from the referred GATT 1994 Articles) – is this a window for developing countries to reject – as they have been doing – rule making in this subject?
 - b) Does further work in the CTG commit our countries to pre-negotiations and/or what will be the subject of negotiations post 5th session?
 - c) How can we use the Chairman’s classification to our tactical advantage – issue discussed at length the first day.
 - d) When will the decision to launch or not launch negotiations take place – is it “after” the 5th Ministerial and “after” the Fifth Session, or does “after” refer to a ‘prevention’ decision?
 - e) Notwithstanding the above unclarities –our countries should ideally use the 2 years or less time remaining to substantively engage in the C.T.G. work and build their technical case/arguments and submissions for the crunch decision time.

B. Trade and Environment

- (a) Marratech issue, a strictly EU demand, and widely seen as horse trading for agriculture
- b) Negotiations to take place, but only on 3 issues, (out of the that had been identified by the CTE) , and as yet an unclear forum and presumably to be concluded by January 2005.
 - (i) Relationships between existing WTO rules and specific trade obligations in the MEAs, as applicable to the parties that are members of both the WTO and the MEA in question. Limited mandate (not WTO and all MEAs) and to cater for the US which is not party to many MEAs: this is an incentive to weaken MEAs.
 - (ii) Regular info exchange between MEAs and WTO, and granting of observer status – to whom? - MEA Secretariat or organizations?
 - (iii) Reduction or eliminations of tariff and NTBs to environmental goods and services
- c) Several issues arise from the above negotiating mandates.
 - (i) What forum will be used for the negotiations and what implications will this have on SADC and developing countries: CTE or more negotiating groups?
 - (ii) Why the observer status in this area when the GC handles the issue
 - (iii) What are environmental goods and services? How will this be related to negotiations in agriculture, services and industrial/non-agricultural products?
 - (iv) The fisheries subsidies part is strangely placed: both under WTO rules negotiations (subsidies) para 28 and here (p31): where do negotiations on this subject belong – to one or both, and how will this be related?
- d) Para 32: CTE to continue its programmed work, but with emphasis on three areas;:
 - (i) effect of environmental measures on market access
 - (ii) TRIPS
 - (iii) Labelling
- e) what is of note that the report of the 5th Ministerial coned lead to additional negotiations in these 3 areas.
- f) **Issues**
 - (i) The work programme of 32 is not limited to countries' members of MEAs but all members, including developing countries

- (ii) There is need to identify issues of interest, and perhaps more positively so in order to make technical and strong arguments against the use of environmental measures for market protectionism, and the relationship of the TRIPS Agreement with such bodies as CBD etc.

- (iii) Labeling requirements, especially based on unilateral or national pressures, have both proliferated and cost developing countries dearly in their exports of horticultural guidelines are desirable if they can be developed under the CTE mandate

- (iv) There is need to review our strategies, in order to push our own positive agenda on trade and environment – utilize the Rio? and 10 conference scheduled for September in SA, NGO – environments at home and abroad, regional collaboration etc.

- (v) How can this largely positive para 32 be linked to the negative 31 in order to ensure a balance: Otherwise one aspect of trade and environment will be enforceable and obligatory for all, and in the interest of developed members, while another is best endeavour – an area of interest to mostly developing countries.

- (vi) Costly, the issue of coherence mentioned in first day's proceedings: Similar related aspects for trade in agriculture, services, TRIP, non-agricultural tariffs and WTO institutional reform.

C.

D.

E. **Electronic Commerce**

- (i) no new work programme apart from a reaffirmation of the work programme started at the Geneva Ministerial on study and analysis of the issue

ORGANISATION AND STRUCTURE OF THE DOHA WORK PROGRAMME

B.G. Chidyausiku

Introduction

The 4th WTO ministerial Conference, Doha, 9 – 14 November 2001 came up with a Ministerial Declaration embodying an ambitious work programme to be achieved within a period of 3 years with paragraphs 45-52 of the Declaration setting out how the programme is to be organised and run. This paper outlines the organisation and structure of the work programme. It will start by looking at the organisation of work as mandated by the Declaration and end by outlining the work programme as provided in the Declaration.

Organization of Work

One particular interesting aspect of the organisation of work is that paragraph 46 of the Doha Declaration provides that the overall conduct of the negotiations “shall be supervised” by the ‘Trade Negotiations Committee (TNC) under the authority of the general Council’. Thus the work programme clearly mandated the TNC to work under the authority of the General Council. However, realising that this is a very complex process and that arrangements can easily be manipulated, guidelines have been adopted on the functioning of the TNC vis-à-vis the General Council and other WTO negotiating bodies. For instance the TNC should not hold its meetings back to back with the General Council as that would be stretching the human resources of developing countries as well as leading to the erosion of the authority of the General Council.

Under paragraph 47, it is provided that the negotiations are to be treated as ‘part’ of a single undertaking’ except in respect of improvements and clarifications of the Dispute Settlement Understanding (DSU) and shall be concluded not later than 1 January 2005 in accordance with paragraph 45 of the Declaration.

Paragraph 52 provides that elements of the work programme that do not involve negotiations should be accorded high priority and shall be supervised by the General Council, which shall report to the 5th Ministerial Conference. There are also implementation issues, which have to be considered as a priority and an integral part of the work programme, and part of a single undertaking if re-negotiation of rules is supervised by the TNC.

Lastly, the negotiations are to be conducted in a transparent manner among participants. This will allow the increased and effective participation of all Members.

Given that the organisation of the work programme is complex, it is imperative that developing countries take all the necessary measures within the context of the WTO to avoid losing out in the process of negotiations.

Doha Work Programme

The Doha programme can be broken down into three broad categories of priorities and action. These are the negotiating mandates of the Doha Ministerial Declaration, the negotiating mandates of the decision on implementation-related issues and concerns and negotiating proposals included in the compilation of outstanding implementation issues raised by members that will be considered by relevant WTO bodies. The three categories are intertwined and must be examined together.

Negotiating mandates

The negotiating mandates under the Doha Ministerial Declaration include several specific deadlines on a number of issues that have to be negotiated before the general deadline of January 2005. These include:

Agriculture

Agriculture negotiations geared at substantial improvements in market access, the reduction and phasing out of all forms of export subsidies and substantial reduction in trade distorting domestic support. Under these negotiations, Special and Differential Treatment (S&D) is an integral part of all elements of the negotiations and should be embodied in the schedules of concessions and commitments. S&D should also be accorded place in the rules and disciplines to be negotiated so as to be operationally effective and to allow developing countries to effectively handle their development needs including food security and rural development provisions on S & D. The deadline for modalities for further commitments including S&D provisions was set for 31 March 2003 and that for draft schedules on these modalities set for not later than the 5th Ministerial Conference. The Special Session of the Committee on Agriculture has already agreed on a work programme for establishing modalities by 31 March 2003.

Given the fact that Agriculture is the mainstay of many developing countries' economies, negotiations in agriculture are of great interest to developing countries including SADC countries. Improved market access will mean increased exports to developed countries. The removal of export subsidies and the reduction of trade distorting domestic support entail improved competitiveness of developing countries' agricultural products. This will ensure both market access and S & D.

Services

Negotiations on trade in services are aimed at promoting the economic growth of all trading partners and the development of developing countries. Negotiations under Article XIX are on going however, the Doha Ministerial Declaration provides that initial requests for specific commitments be submitted by 30 June 2002 and initial offers by 31 March 2003.

Developing countries recognise the role being played by trade in services in terms of promoting economic growth and development. Most developing countries have undertaken liberalisation in various service sub-sectors with the aim of realising economic growth. Liberalisation of the services sector has brought with it a number of

both negative and positive aspects to their economies, most of which require in-depth analysis. It becomes imperative that an assessment of trade in services be carried out at both the national level and at the WTO level taking into account experience with liberalisation in the services sector. This will allow further negotiations to be adjusted in accordance with findings of such an assessment. Such an assessment should be done immediately given the Doha set dates. This will also help in identifying areas of further commitments and scheduling.

Market access for non-agricultural products

With regard to market access for non-agricultural products, the Ministerial Declaration stipulates that such negotiations are aimed at reducing or eliminating tariffs (including tariff peaks, high tariffs, tariff escalation and non-tariff barriers). This should be done by January 2005. Such reductions or elimination should ensure S & D measures for products of export interest to developing countries. Reductions should also take into consideration special needs and interests of developing countries and LDCs, including through less than full reciprocity in reduction commitments.

As the case with trade in services, developing countries have liberalised considerably their non-agricultural sectors particularly the manufacturing sector. This partly contributed to the de-industrialisation of a number of countries particularly in export oriented sub-sectors such as textiles and clothing. In view of this, it is important that an assessment of the impact of trade liberalisation on the countries' economies be conducted. The idea is to build and strengthen the countries' weak industrial base to avoid reliance on export commodities for export earnings and enhance employment creation. Tariff reductions also have a negative fiscal impact of reductions in government revenue hence further constraining the national budgets. All these aspects have to be thoroughly assessed before commitments on tariff reductions can be made. It becomes imperative that notwithstanding the ideals of free market access for products, developing countries must be accorded reasonable time to allow diversification and industrialisation. This might entail tariff protection for targeted infant industries and targeted export sectors. The WTO can also be used as a platform to induce international financial institutions to support the industrialisation of developing countries financially with the ultimate goal of free trade.

TRIPS

On negotiations on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) the Doha Ministerial Declaration gives a fresh mandate for negotiations for establishment of a multilateral system for the notification and registration of geographical indications for wines and spirits by the 5th Ministerial Conference. It notes that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed as a matter of priority in the Council of TRIPS as an outstanding implementation issue as recognised in paragraph 12. The Declaration also echoes the need for continuation of work on relations with the Convention on Biological diversity and traditional knowledge.

It is in the interest of developing countries to identify possible areas that might benefit from such geographical indication measures for notification. Developing countries must also put great weight on the protection of traditional knowledge and biodiversity as well as call for technical assistance in this area.

Paragraph 6 of the Declaration on the TRIPS Agreement and Public Health recognises the lack of manufacturing capacities by some WTO Members for the purposes of making effective use of compulsory licensing under the TRIPS Agreement and instructs the Council for TRIPS to find an expeditious solution to the problem and to report to the General Council before the end of 2002.

The Doha Ministerial Declaration recognises that the negotiating mandate under Trade and Investment is to negotiate for a multilateral framework for investment after the 5th Ministerial Conference on the basis of a decision to be taken by consensus at that Session on modalities of negotiations.

Irrespective of whether a consensus will be reached or not at the 5th Ministerial Conference, it is imperative for developing countries to start building on the modalities of negotiations in trade and investment to avoid being marginalised. This can be done taking into account country experiences with respect to previous investment activities in developing countries e.g. the impact of foreign direct investment on industrialisation, local entrepreneurship, export competitiveness and the development of supply capacities for these their economies. Special development, trade and financial needs of developing countries and LDCs should be taken into account at the 5th Ministerial Conference. This will enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances.

Trade and competition

Negotiations for a multilateral framework on trade and competition will take place after the 5th Ministerial Conference on the basis of a decision to be taken by consensus, at that Session on modalities of negotiations.

It is imperative that future negotiations should refrain from coming up with a notion of one-size-fits all, but take into account country specific needs. There is also need to call for technical assistance.

With respect to transparency in government procurement, the Declaration calls for negotiations for a multilateral framework after the 5th Ministerial Conference on the basis of a decision to be taken by explicit consensus, at that Session on modalities of negotiations. Negotiations shall be limited to transparency aspects and not to restrict the scope for countries to give preferences to domestic supplies and suppliers.

Transparency in government procurement is related to competition, investment and services and therefore must be examined in relationship to negotiations in these areas. Whilst governments might benefit from transparency in terms of competitive products,

governments also face the dilemma of supporting domestic industries through purchasing from them. It becomes imperative that negotiations on government procurement take into account the specific needs of specific countries particularly developing countries in terms of giving preferences to domestic industries. Giving preference to domestic supplies helps in creating the much needed industrial base. Developing countries are also worried that transparency can be used for the purposes of increasing market access for products of developed countries into developing countries' markets.

Trade facilitation

The Doha Ministerial Declaration calls for negotiations for a multilateral framework on negotiation on trade facilitation after the 5th Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. It also notes that by the 5th Ministerial Conference, the Council for Trade in Goods should have reviewed, clarified and improved relevant aspects of Articles V, VIII and X of the GATT 1994 and identified trade facilitation needs and priorities of Members, in particular developing and least developed countries.

Just like other Singapore issues, there is need to take into account special needs and priorities of countries. There is also need to pressure for commitment to ensure adequate technical assistance and support for capacity building.

WTO rules

WTO rules have been viewed in some cases to be impediments to the multilateral trading system (MTS). To this end, the Ministerial declaration echoed the need for negotiations aimed at clarifying and improving disciplines under the agreements of Article VI of GATT 94 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these agreements and their instruments and objectives. The need to clarify and improve disciplines and procedures applying to regional trade agreements was also agreed upon. The negotiations should take into account the developmental aspects of regional trade arrangements.

Developing countries welcome negotiations aimed at clarifying and improving disciplines in the said areas. Such work should be aimed at improving free trade rather than further distort it. With respect to regional arrangements, there is clear indication for the need for studies at the regional and continental levels to ascertain the impact of growing free trade arrangements in other parts of the world on African regional economic communities such as SADC, COMESA and the AEC. As a general concept, FTAs should compliment the MTS rather than compete with it.

Dispute Settlement

On the Dispute Settlement Understanding (DSU), developing countries are in favour of negotiations on the improvement and clarification of the DSU by May 2003 with the view of increased access to the body by developing countries who lack technical expertise in this area. There is need to call for technical assistance in dispute settlement.

Trade and environment

Negotiations on trade and environment according to the Ministerial Declaration, are to focus on

- a) the relationship between existing WTO rules and specific trade obligations set out in the Multilateral Environment Agreements;
- b) the reduction and elimination of tariff and non-tariff barriers to environmental goods and services;
- c) the Committee on Trade and Environment is to pursue work within its terms of references; and
- d) the Committee on Trade and Environment was also mandated to act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

Whilst every country has environmental concerns in terms of environmental protection and sustainable development, it is important that environmental measures do not distort trade. They must not be used as technical barriers to trade. Developing countries must ask for greater commitment by the demanders on environmental issues that such concerns will not be used as trade barriers particularly with respect to trade in agricultural products.

Electronic commerce

With regard to electronic commerce the Ministerial Declaration calls for the maintenance of current practices not to impose customs duties until the 5th Ministerial Conference. However, it is silent on what will happen after the 5th Ministerial. Given the importance of electronic commerce in the development of economies and that it is a conduit for technology transfer, developing countries prefer the continuation of non-custom duty on electronic commerce. Moreover, this will be a step in trade liberalisation, setting an example of free trade.

General Council

The Ministerial declaration gives the General Council the mandate to implement a work programme on small economies and make recommendations to the 5th Ministerial conference. Since the SADC region and African as a whole have small economies, it is imperative for SADC countries to support positions taken by small economies as a show of solidarity in the SADC and African Group frameworks.

Ministers at the Doha Conference recommended the establishment of a working group under the auspices of the General Council to establish the relationship between trade, debt and finance and of any possible recommendations on steps that might have been taken within the mandate and competence of the WTO. Ministers also called for working groups on trade and transfer of technology. These areas are important to the development needs of developing countries so much that anything that is in favour of debt

cancellation, or rescheduling and technological transfer must be supported. Such measures must not be conditional. Developing countries must also fully participate in such working groups.

Technical co-operation and capacity building

With respect to technical co-operation and capacity building, developing countries welcome the WTO mandate to support domestic efforts for mainstreaming trade into national plans. However, technical co-operation must not be tied to negotiating areas of interest to developed countries such as the Singapore/ New Issues. It must be aimed at building developing countries capacities to be able to benefit from the MTS.

Decision On Implementation-Related Issues And Concerns

The Decision on Implementation-Related Issues and Concerns is linked to the negotiating mandates as entrenched in the Doha Ministerial Declaration. For instance the decision on GATT 1994 which provides for an interpretation of “substantial interest” in Article XIII is linked to market access for non agricultural products, the decision on the Agreement on Agriculture urging the exercise of restraint on developing countries measures on green box, rural development and food security is linked to agriculture, transfer of technology and environmental provisions in the Doha Ministerial Declaration.

The pleasure of the decision on implementation is that it gives deadlines for the implementation of decisions made by Ministers. The successful implementation of these decisions will herald the first commendable step towards addressing the implementation issues in the WTO. By and large developing countries stand to benefit from the implementation of the issues as agreed. However, the major challenge is to ensure adherence and commitments to these decisions by Member States. This might mean calling for increased co-operation by all members in ensuring the successful implementation of the decision as adopted by Ministers. A system of awarding benefits to those Members who adhere to the decisions can also be devised. WTO technical co-operation must also come handy in assisting developing countries implement existing WTO obligations as well as increasing their effective participation in future trade negotiations.

Compilation Of Outstanding Implementation Issues

Ministers at the Doha Ministerial Conference agreed that outstanding implementation issues be addressed in line with paragraph 12 of the Ministerial Declaration. The paragraph attaches importance to such outstanding implementation issues. It also stresses the determination to find appropriate solutions to them. Negotiations on outstanding implementation issues are an integral part of the Doha Work programme to be undertaken as a matter of priority by relevant WTO bodies which shall report to the Trade Negotiations Committee. To this end, it is important for developing countries to identify those outstanding implementation issues that are of interest to the country for negotiation in various WTO bodies.

Given the very wide issues under the work programme, it is estimated that the negotiations involved in the new round would attract the same work load as in the Uruguay Round plus at least fifty percent more in respect of new subjects and issues. This is really a daunting task for developing countries given their capacities. The road is long and bumpy but with care developing countries can reach the end with considerable benefits.

PROGRAMME

TIME	TOPIC	PRESENTER	DISCUSSANT
DAY I Wed 8. May	14.00 hrs Hired bus leaves Harare from Crowne Plaza Monomotapa Hotel for Vumba. Expected to arrival time is 16.30hrs		
17.00 hrs	Registration and tea		
18.00	Working Dinner - Welcome address and Introduction	Dr. F. Schmidt, Director, FES & Dr. M. Tekere, Director, Trades Centre	
19.30 hrs	Official Opening “ WTO- Challenges for SADC countries – post Doha	Hon. Dr. H. Murerwa Minister of Industry and International Trade, Zimbabwe	
DAY II			
7.00-8.00	BREAKFAST		
SESSION I 8.15 - 9.15	KEYNOTE ADDRESS WTO- Doha Ministerial Conference- An overall assessment of achievement and failures of Doha- Developing countries perspective	H. E.; B. Chidyausiku, Zimbabwe Ambassador to Geneva	Dr. Garth Le Pere, Director, Institute of Global Dialogue - SA
SESSION II	Expectations from Doha versus Outcomes [THE AUDIT - CASE OF SADC]		
9.15 - 11.00	Issues in Agriculture. - The expectations, content of declaration and emerging controversies in interpretation of what was agreed in DOHA	Mr. J. Mathende, Min. of Agriculture, Zimbabwe & Dr. K. Mbekeani, SATRN, Botswana	Dr. M. Masiwa. IDS, University of Zimbabwe
11.00 - 11.15	TEA BREAK		
SESSION III. 11.15 - 13.00	Issues in services. - SADC situational analysis, the expectations, content of declaration and emerging controversies in interpretation of what was agreed in DOHA	Prof. M. Ndulo, University of Zambia	Mr. B. Zwizwai, IDS, University of Zimbabwe
13.00 – 14.00	LUNCH BREAK		
SESSION IV. 14.00 – 15.30	Market access for non-agricultural products. Situation for SADC - the expectations from DOHA, content of declaration and emerging controversies in interpretation of what was agreed in DOHA	Dr. Boodhoo, Min. of Trade and Commerce, Mauritius & Mr. A. Nhara, Acting Director, Tariff Commission, Zimbabwe	Dr. D. Ndlela, ZimConsult
SESSION V 15.30 - 17.30	TRIPS - SADC situational analysis, the expectations, content of declaration and emerging	Mr. A. Mushita COMMUTEC	Mr. A. Mushita COMMUTEC

	controversies in interpretation of what was agreed in DOHA		
18.30	COCKTAIL		

DAY III 10/05/02 SESSION V 8.15 - 9.15	NEW ISSUES [SITUATION AND MAIN CONCERNS FOR DEVELOPING COUNTRIES] Trade and Investment. - SADC situation, content of declaration and emerging controversies in interpretation of what was agreed in DOHA and conflict of interests between North and South	Dr. Boodhoo, Min. of Trade and Commerce, Mauritius	Dr. R. Dhliwayo, University of Zimbabwe
SESSION VI 9.15 - 10.15	Competition policy and govt procurement. SADC situation, content of declaration and emerging controversies in interpretation of what was agreed in DOHA and conflict of interests between North and South	Ms. T. Hartzelberg, South Africa	Dr. K. Mbekeani, SATRN, Botswana
	TEA BREAK		
SESSION VII 10.30 - 11.30 SESSION VIII 11.30 - 12.30	Trade, Debt and Finance. SADC situation, content of declaration and emerging controversies in interpretation of what was agreed in DOHA and conflict of interests between North and South Small economies/LDCs and S&D. Content of declaration and emerging controversies in interpretation of what was agreed in DOHA and conflict of interests between North and South	Dr. M Tekere, Director, Trades Centre Dr. Boodhoo, Min. of Trade and Commerce, Mauritius	Dr. R. Dhliwayo, University of Zimbabwe & Dr. D. Ndlela, ZimConsult
SESSION IX 12.30 - 13.30	Other issues [trade facilitation, dispute settlement understanding, trade and environment, e-commerce and transfer of technology]. Key issues arising from Doha declaration	Mr. Mbegabolawe, Zimbabwe	Ms. T. Hartzelberg, SA & Prof. Ndulo, Zambia
DAY III	THE POST DOHA PROCESS [2002-2005]- WHAT PREPARATIONS		
SESSION X 14.30 - 15.30	Organisation and structure of the working program	H. E.; B. Chidyausiku, Zimbabwe Ambassador to Geneva	

15.30 -16.00	Necessary preparations and steps for SADC. + Regional institutional linkages on WTO	Dr. K. Mbekeani, SATRN, Botswana & Dr. Boodhoo, Min. of Trade and Commerce, Mauritius	
16.20	CLOSING OF CONFERENCE & Departure to Harare		