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African ministers affirm opposition to new issues in Cancun
Tetteh Hormeku

African Union ministers of trade, meeting in Mauritius, have re-affirmed the longstanding position of African countries that the forthcoming Cancun Ministerial Conference of the World Trade Organisation (WTO) should focus on addressing their developmental concerns in the existing agreements, instead of starting negotiations for new agreements, particularly on the so-called Singapore issues – i.e. of investment, competition, government procurement and trade facilitation.

In a declaration adopted unanimously in Grand Baie, Mauritius, on Friday 20th

June, Ministers noted that "WTO members do not have a common understanding on how [the Singapore issues] should be dealt with procedurally and substantively." And, "taking into account the potential serious implications of these issues on our economies", they called "for further clarification on these issues to continue."

At the same time, the Ministers focused attention on the missed deadlines in the current negotiations on issues such as agriculture, TRIPS and public health, special and differential treatment and implementation-related issues. Expressing concern at this evidence of general lack of progress on the issues of critical concern to their countries, they challenged the members of the WTO to

"inject momentum into the negotiations on these issues in order to ensure that the Cancun WTO Ministerial yields positive results for African countries and makes the Doha Work Programme a truly 'Development Agenda'."

The declaration invoked the outcomes of earlier meetings involving African ministers such as the COMESA meeting in Nairobi, SADC in Lusaka, and the LDCs in Dhaka. It was adopted with little drama and no fuss, in an efficient display of unity of purpose and will. This was at the end of a day of deliberations in which a diverse range of speakers -- Ministers, representatives of sister groupings like the ACP group of countries, as well as African civil society organisations -- all urged unity around a common African position as necessary to ensure that the core concerns of Africa prevailed in Geneva and Cancun, whatever pressures are brought to bear on these countries.

Apart from their position on the new issues, the Declaration contained specific positions in all the major areas of the on-going work in the WTO, including agriculture, services, industrial tariff, TRIPS, special and differential treatment, capacity building, and the lack of transparency and inclusiveness in WTO processes.

The Ministers stated that agriculture was of critical importance to Africa's development, with the potential to "lift millions of our people" out of poverty. They added that progress in the agricultural negotiations was essential for the successful conclusion of the Doha work-programme, and strongly urged members to fulfill their Doha commitments. Ministers also noted the need for African countries to continue to enjoy agricultural trade preferences, calling for action to address the erosion of these preferences. Finally, they called for LDCs to be exempt from any obligations to reduce tariffs.

In relation to services, the Declaration charged the Services Council (of the WTO) with failure to satisfy the

requirement in the General Agreement in Trade in Services (GATS) to carry out an assessment of trade in services. Furthermore, in a clear reference to the pressures from developed countries to liberalise their service sector against their will, the Ministers called for due respect for their rights to regulate trade in services and liberalise according to their national policy objectives. At the same time they emphasised the respect to the principle of progressive liberalisation subject to the principle of flexibility, as well as the need to promote and facilitate the participation of African countries in international trade in services. Developed countries only should therefore liberalise their sectors and modes that are of export interest to African countries.

On the Doha mandate regarding measures to enable countries which lack manufacturing capacity to access medicine for public health, the Ministers re-stated their support for their compromise deal reached in December last year, and wrecked by the United States. This deal, they added, still remains a means for members to fulfill their obligations as required by the Doha declaration.

For industrial tariffs, the Ministers stated the objectives of the negotiations as being to facilitate the development and industrialisation of African countries. These must be reflected in the modalities and actual negotiations by addressing tariff peaks and escalations, and take fully into account the special needs and interests of developing and least-developed countries. This required, among others, fulfillment of the principles of special and differential treatment, as well as the principle that developing and least developed countries must not make full reciprocal commitments to reduce their tariffs.

The Declaration welcomed proposals to exempt LDCs from making fully reciprocal commitments, and the proposed studies on tariff liberalisation on LDCs. While cognisant of the special situation of LDCs, it calls for the studies to be extended to other African countries,

and should take into account the effects of previous liberalisation measures undertaken by these countries as well as the potential impact of any proposed modalities for liberalisation. The Ministers also expressed deep concern that the proposed modalities for liberalisation do not take into account the vulnerabilities of African industries, especially in clothing, fisheries and textile sectors, as well concern of African countries over the erosion of their trade preferences. They called for appropriate modalities to address these concerns.

On special and differential treatment, the declaration re-iterated Africa's oft-stated demand that all S&D provisions in the WTO agreements be reviewed with a view to strengthen them and make them more precise, effective, binding and operational. As on implementation issues, Ministers called for urgent need to complete work in this regard, as a matter of priority before Cancun.

In another declaration on the Economic Partnership Agreements (EPAs), Ministers affirmed the importance of consistency between these negotiations and the aims and objectives as set out in the Constitutive Act of the African Union, with the various regional economic groups as the building blocs of African integration. The EPA declaration also emphasised the importance of the unity and solidarity of the ACP group as necessary for the EPA negotiations.

In clear reference to the pressures by the European Union to rush the process of negotiations and fragment the collective ACP strategy, the Declaration on the EPAs emphasised the "importance of phase I of the negotiations in which ACP groups as a whole negotiated the applicable principles, as a foundation and framework to phase II of the negotiations, during which groups of countries are expected to set out to negotiate free trade agreements with the EU. It also urged the ACP and EU to address all outstanding issues under the phase I negotiations.

Both declarations were adopted following focused deliberations on the measures needed by Africa to ensure that its interests prevailed in the face of stark balance sheet of the disappointed hopes of Doha. In his welcome address to the Ministers, Honourable J Cuttaree, Minister of Industry and International Trade of the Republic of Mauritius asked Ministers to draw their strength and decision of purpose from their unity in order for Africa's pressing concerns over the core issues of the Doha agenda to be recognised in Geneva and Cancun.

He reminded ministers that nineteen months after the hope and optimism evoked with the launch at Doha of trade negotiations under the "title of Development Round", the development agenda is stranded in missed deadlines. The negotiations have failed to yield "balanced outcomes in which the interests of all, particularly those who are in most need are truly attended".

Cuttaree stated that "had the WTO been effective in finding expeditious solutions to the problems of TRIPS and Public Health, we should have seen an improvement for millions of people in Africa who are suffering from deadly diseases".

Nor have African countries had any comfort "on their basic concerns in the areas of special and differential treatment, agriculture, and textiles.

He pointed to the double standards at play in the area of industrial tariffs. Here, proposals to drastically cut and eliminate tariffs, which African countries have already declared a recipe for disaster, are being pursued by countries that had themselves used this instrument in the early stage of their industrialisation process. "Having used the ladder for so long, it is not fair that they should kick the ladder off to the detriment of our countries".

In a similar vein, Ambassador Vijay Makhan, Interim African Union Commissioner, cautioned that while trade

is important Ministers need to beware of those who sing the praise and play the tune of unbridled trade liberalisation. He reminded them of the case of the former UK trade minister, Stephen Byers who, while in government promoted trade liberalisation as panacea to problems of development, only to confess once outside government, that his optimism had not been borne out in practice. Makhan argued that a "conducive international trading environment is as important, if not more important, than efforts at national level to make trade an effective instrument for development". This requires action on the imbalances and inequities of the international trading system, such as the persistent deterioration in the terms of trade for primary commodities, tariff peaks and escalation, the asymmetry in the treatment of capital and labour in the area of services, as well agricultural subsidies in developed countries which are daily destroying the livelihood of African farmers.

Referring to the failures in the Doha agenda to address these problems, Makhan said that this created a situation where "once again pressure will be brought to bear on us to compromise on our stand so that Cancun can be a success. This cannot and should not be allowed to happen."

On her part, Adelaide Mkhonza, Assistant Secretary-General of the African, Caribbean and Pacific (ACP) countries stated that the glimmer of hope contained in the Doha development agenda for ACP and other developing countries to rebalance the rules of the WTO has been undermined by a stalled process. The missed deadlines are set to over-load and stretch the agenda to the detriment of countries with limited resources. The African Union provided a foundation of collective action of African countries, together with other countries of the ACP group, for the necessary action to redress these imbalances.

African civil society organisations, who for the first time were allowed to meet under the auspices of the conference and

to address the Ministers, underscored their support for the collective effort of the Ministers for international trade rules which reflected the needs and interests of the people of Africa.

In their statement, presented on their behalf by Jane Ocaya-Irama of Uganda, the civil society organisations called on the Ministers to focus on addressing the inequities of the existing agreements of the WTO, and reject any attempt to launch negotiations on the Singapore issues in Cancun. They made detailed recommendations for redress of imbalances in areas such agriculture, TRIPS, services, S&D.

In addition they drew attention to the undemocratic, and untransparent processes of the WTO, and called for the elimination of such abusive practices such as exclusive informal meeting, mini-ministerials, and such other untransparent devices as "friends of the chair". Aware of the pressures by developed countries to derail African countries from their concerns in the trade negotiations, they pledged to work with ministers as they strive for rules and agreements which will serve the interest of African women and men.

The very presence of civil society organisations formally at the gathering of Ministers and the fact that they addressed their concerns directly to the Ministers was a welcome precedence for AU. But while the civil society organisations lend support to the Ministers, it was clear that their demands were stronger, and went far beyond what the Ministers were able to adopt in their Declarations.

According to Thomas Deve of MWENGO from Zimbabwe, this gap between civil society demands and the Ministers' positions sets a mark for judging how far the Ministers will go in the coming months to hold up to their collective positions in the face of pressure. It also outlines the tasks ahead of civil society groups in Africa and beyond to ensure that Ministers live up to their commitments to Africa.

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The decision-making process and the single undertaking

Shefali Sharma

Though this is the last subject on the panel, it is perhaps one of the most important subjects given that we have discussed some very serious implications of investment in the WTO. We have also discussed how BITs (Bilateral Investment Treaties) are a serious concern and that a multilateral framework in investment is not going to reduce their scope or their number. We have also talked about how there is not even a remote sense of consensus on any aspects of these negotiations much less an agreement on the clarification exercise. Given this, why is the decision-making process so crucial to discuss in the run up to Cancun?

While the preparatory process began a month ago, today there is still no clarity as to what exactly this process entails. Will there be a declaration? A communiqué? A series of sheets of paper going to Cancun? Will there be a Ministerial draft text for Cancun and in what form? This will not be explicit until at least July 24th—the ONLY real General Council meeting scheduled during the entire preparatory process.

After July, there will only be about 15 working days before September, meaning before the whole process moves to the capitals. 15 days. How are governments, especially resource strapped ones, but ALL governments supposed to practically handle inputs into this process? How are they to ensure that the proceedings here are not only filtering to capital ministries, but also receiving feedback from citizens at home?

Does this process facilitate inclusiveness and transparency especially since the list of outstanding and unresolved issues is long and complicated? There are currently a series of important issues at stake:

agriculture, implementation, special and differential treatment, TRIPS and health, tariff liberalisation in industrial products (which is another key area for developing countries), services and the four important decisions on the Singapore Issues. And all of these negotiations are in a state of deadlock! Nor is this an exhaustive list; there are a series of other decisions that Ministers are expected to take in Cancun.

Is this process more transparent, more predictable, more inclusive since Seattle? No. How do we judge this? For the following reasons:

1) The entire process is informal. Apart from the July 24 General Council meeting, there are two forms of meetings taking place. The first is the open ended Heads of Delegations (HOD) Meetings (the ambassador plus one other person from the mission) where no minutes are taken and where meetings are “open” for all members. The entire process is informal. The second will be in the form of small group consultations or “green rooms.” If any briefings of the small group consultations are to take place, they will be done in the HODs format. This means that there will be no formal records at all for most of the preparatory process. As the process escalates and momentum builds towards Cancun, it will become unclear how many meetings will be taking place simultaneously and it is even less likely that Ambassadors will be able to attend all “open-ended” HODs.

2) The process is squeezed into a shorter time than the preparatory process for Doha, though more issues are on the table. Currently, members are dealing with 17 issue areas (this does not even count the subsidiary issues in each of these areas). But the process started much earlier for Doha.

3) The process is unclear. As mentioned, we do not know what kind of concrete paper will be produced for the Ministerial, or what role “friends of the Chair” might play, etc. In this case, these “friends” are helping the chair move the process towards Cancun. In other cases, the term

“friends” in the WTO could mean a group of countries interested in the same issue or supportive of it i.e. “friends of investment.”

4) The process is entirely "chair-driven." This dangerous practice of reverse consensus has become habitual in the WTO. By "reverse consensus," I mean that normally in most UN bodies and as was supposed to be the norm at the WTO, consensus is achieved through a series of drafts that put forth a variety of positions that are then discussed openly (at the UN, they even project the draft onto a screen in the meeting room whereby members can see the changes being proposed). Consensus is then attempted collectively. The reverse consensus process (as I am defining it) at the WTO starts with a clean text i.e. differences in views are not reflected by the use of brackets in the text or are limited to very few brackets. The text is prepared by the Chair based on his or her understanding of where consensus lies, based on informal consultations and “on his own responsibility.” This process of reverse consensus requires enormous political or economic clout to alter language. Unless you have political clout or you are a member of a large coalition of countries that propose changes, amending the text is difficult.

The WTO director-general, Dr Supachai, last February 2002 at the Intellectual Property Rights Commission meeting in London pledged that he would address decision-making issues at the WTO when he became Director General. But discussions on the issue of transparency and rules of procedure are also in a state of deadlock. The most recent draft regarding internal transparency is dated December 2002. Why? because a number of influential countries refuse to provide clarity on important demands from developing countries. For example, here are some of the basic proposals made by the Like Minded Group of developing countries that need a response:

Facilitators must be chosen in Geneva through a transparent process and must not be demandeurs of the issue they are

chairing. For example, a Cairns member would not be eligible to chair the agricultural negotiations. Meetings at the ministerial should be announced at least a few hours ahead so that all interested parties can attend. Late night marathon meetings should be avoided. It should be clear which country is proposing any draft proposal that is circulated during the Ministerial. Delegations have the right to decide who speaks in meetings and should be allowed at least two representatives. The most important issue in their proposal was that differences of position must be clearly reflected in Ministerial texts.

These are very basic demands and result from the fact that none of these basic procedures were followed in Doha. For instance in Doha, there were all night green room consultations, during which LDCs and the Africa Group were persuaded to reverse their positions. In the last plenary session, Barbados (not India) demanded an amendment on paragraphs referring to negotiations on the Singapore issues, followed by several other countries. However, they were ignored.

They had to settle for a chairman’s text that clarified that negotiations could not begin unless there was agreement on modalities. After Doha, the WTO was quick to state on its website that the Chair’s text was not part of the official Ministerial texts, though the chair read out his statement before the final gavel.

The Doha story is a repeat of the Singapore Ministerial, with added drama because India was portrayed as the only dissenting voice. But in Singapore also, the decision to adopt the four Singapore issues was taken by 30 countries (of the then over 120 members) in a green room. The Singapore Issues were then put on the WTO agenda in spite of opposition by many developing countries. The Singapore text states, “it is clearly understood that future negotiations, if any, regarding multilateral disciplines in these areas, will take place only after an explicit consensus.” Doha was a repeat of Singapore, only now members have included the term ‘modalities,’ Meaning

countries have to agree on the terms of negotiations before accepting to negotiate.

Are WTO members courageous enough to define “explicit consensus?” Allow me to define it for you as the following: Unless people state an approval to negotiate, there is no explicit consensus.

But when asked in the WTO what explicit consensus means, it is said, “it means the same as consensus.” And consensus in the WTO is “passive consensus,” which means that unless you object, you agree. This means that if you are not present in the room, you agree.

As momentum builds to Cancun, pressure is building to put the Singapore Issues on “fast track.” This means that countries must decide yes or no to negotiate without having agreed to the elements of the negotiations-- a “yes or no” decision, despite the fact that the WGTI (Working Group on Trade and Investment) shows no sign of any agreement in the clarification exercise.

This fast track approach is essentially signing a blank check to negotiate. We need to remember the TRIPS negotiations in the Uruguay Round where we started with talks about counterfeiting and ended up with 20 year monopoly rights. As a result, today there is deadlock on the TRIPS and health negotiation and the US Trade Representative suggests that governments should negotiate with their pharmaceutical companies to get a solution. Can we afford a similar process on four complex issues in the WTO?

The Indian Prime Minister said on November 10, 2001, while Ministers met in Doha:

“For most developing countries, the Uruguay Round had done little for economic growth, while poverty levels and income gaps have worsened...This is also why we have argued strongly that implementation issues should first be resolved before we try to widen the WTO agenda further. Our public is unwilling to

accept another post-dated cheque, when an earlier one has bounced.”

Now, hopes are pinned on Agriculture. But the US is hiding behind the EC criticism on CAP reform while it’s own farmbill continues to allow dumping onto the world market and the EU cap reform will do nothing but shift support from one box to another. European NGOs say, the “The EU’s current proposal would in effect not commit the EU to do more than it is already doing.” And we all know that there will be no real change until after 2013.

Yet, both the US and the EU continue their quest for market access in Services, in Industrial products, in Agriculture from developing countries. In exchange for what? The Singapore Issues?

Norway’s State Secretary of Trade said yesterday in the opening of the Symposium, “It took 50 years to negotiate industrial tariffs. Agriculture has just started. These things take time. This is a real challenge to us due to our climate conditions and the special role of agriculture.”

The question to ask Norway, then, (who is also a proponent of investment): Is Norway willing to support LDCs, most African countries, Caribbean countries and many Asian countries who are saying we need more time to assess development implications of these issues in the WTO arena? There is a special role for investment in developing countries, and they should have the right to decide in which fora and at what pace they should handle investment. We should first deal with the problems at hand with existing agreements.

A final note on technical assistance (TA), since it is often used as an excuse to introduce the Singapore issues at the WTO and within the trade departments of member state governments. According to the WTO Technical Cooperation Audit report handed to member states on the evaluation of such technical assistance activities for 2002, “The current

evaluation system does not provide evidence of the sustainability of the results since it stops where the TA ends. Indeed, sustainability can only be verified through ex-post evaluations taking place one-two years after the completion of the TA. Such evaluations may generate valuable information, but cannot be carried out without additional resources. In any case, there is little point in measuring the sustainability of individual activities, which are too short and specialized to have much long-term impact; that is not even their aim normally.”

WTO documents further admit that the Technical Assistance is quantity based and not on quality: “The emphasis in the prevailing approach to TA in the WTO is on quantity. This is perhaps not surprising given the demand-driven notion. But within this there is a need to focus also on the quality of the capacity-building. Squeezing complex issues into 23 days when they need five, not providing an administrative assistant for regional seminars, reinventing presentations with each resource person who deals with a given subject, and omitting to make reference to local/regional issues, all detract from quality.”

For all of these reasons and the fact that the process leading up to Cancun is extremely untransparent and problematic, we must oppose a fast track approach to modalities for the Singapore Issues in Cancun. It is imperative for democracies everywhere.

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No to investment negotiations at Cancun

Gertrude R Takawira

“No to New Issues”, “No Investment Negotiations at Cancun”, these are the messages coming from the Non Governmental groups and Civil Society

Movements from countries in both the North and the South. African governments and those in other developing countries have also voiced their opposition to ‘new issues’ at Cancun.

New Issues

The four Singapore Issues; investment policy, competition policy, transparency in government procurement and trade facilitation have captured the most attention as the “new issues”. Technically speaking all other WTO agenda issues after Marrakech (1994), such as, the Pre-Doha new issues, (trade & environment, trade & labour standards and e-commerce) and the Doha new issues (non-agricultural market access, trade, debt & finance and trade & technology transfer). Therefore, investment policy is only one of the new issues.

Investment negotiations at Cancun, Mexico in September 2003, if allowed to succeed will create binding rules within the WTO on investments globally - a multilateral investment framework (MIF). The concern of all those that are against negotiations on a MIF are that the outcome of the negotiations within the WTO, would be unfair and against the interests of developing countries. Four reasons could be cited on why developing countries should maintain the position of “No to Investment Negotiations”. But, before these are listed it important to note that, once negotiations begin it is difficult to back-roll the process. Thus, negotiations will most likely lead to an agreement. Once this agreement is reached and signed by participating countries it is generally irreversible, becomes binding on the signatories regardless of the government of the day, and becomes subject to the disputes settlement and sanctions procedures within the WTO.

Most developing countries are not ready for an investment agreement and they should block the investment issues at Cancun for the following concerns:

- There is a need for a full understanding of the development implications and clarification to

the many questions that are being asked.

- Investment is not a trade issue and should not be brought under the remit of a trade body such as WTO.
- Developing countries have not fully analysed the implications of a MIF for their economies and for their policy options, e.g. If National Treatment and MFN principles are applied developing countries would substantially lose their policy space.
- The demands on most negotiators from the developing countries in Geneva and in the capitals are overwhelming and they do not understand the implications of an investment agreement on their countries.

The viewpoint of the proponents of an investment agreement

The industrialised and the major developed countries are the advocates of a WTO investment agreement. At a recent meeting on 10-11 June, of the WTO's Working Group on Trade and Investment (WGTI), the principal message from the major developed countries was that negotiations should be launched on investment at Cancun. Arguments for this message were as follows;

- A WTO agreement on investment could complement the existing networks of bilateral investment agreements and other bilateral and regional agreements.
- It cannot be denied that a relationship exists among investment agreements, investment flows, trade flows and trade rules. These relationships would benefit from clear rules at the multilateral level.
- The US perceives a failure to negotiate an investment agreement as a missed opportunity by the WTO, to

shape the international environment for investment

- The EC's emphasis on transparency requires an efficient forum such as WTO, for the weak developing countries to protect themselves against the strong.
- Although rules on corporate responsibility are necessary to frame the power of transnational corporations, the WTO is not the venue for such rules.
- Too much policy space to countries could give rise to negative effects such as corruption e.g. where countries are allowed to allow some investments but not others.

Double standards of the major developed countries

One of the most critical analyses of the two faced maneuvers by the developed countries was made by Professor Ha-Joon Chang (in his book *Kicking Away The Ladder*). Adopting an historical approach, Chang finds that the economic evolution of the now-developed countries differed dramatically from the procedures that they now recommend to poorer nations. He describes this as an attempt by the developed nations to "kick away the ladder" that they used to climb to the top, thus preventing the developing countries from adopting the same policies and institutions that took them to the top.

The industrialised countries and the major developed countries managed, regulated and controlled foreign investment, regarding the entry and conditions of entry, transfer of funds etc. throughout the industrial revolution and various development eras. Yet, the proponents of multilateral investment frameworks insist on principles of non-discrimination (Most Favoured Nation and National Treatment), rights of investors to free transfer of funds and compensation for "expropriation" etc. If developing countries are denied space to nurture their young industries and major sectors through subsidies and other favours, then the only other growth

strategy for the developing countries is to let the TNCs take over. And yet again when the issue of corporate responsibility of TNCs is raised, suddenly the WTO is not the right venue for that issue. Thus as the EC argues, it would seem that it is alright to agree on investors rights at the WTO, but not of the social and environmental rights.

Recommendations

At the Sixth SEATINI Trade Negotiators' Workshop held in Arusha on 2-5 April 2003, the following recommendations were made.

- African countries (and indeed the developing countries) should play an active role in the remaining meetings of the working group (held on 10-11 June in Geneva) and strongly voice their concerns on the issues listed for clarification. (In Geneva several developing countries maintained that there were many issues that were still unresolved and that they did not agree that negotiations should commence).
- The African countries should insist that any investment framework (whether in or outside the WTO) should have a fair balance between the rights and obligations of investors and host countries, and between the rights and obligations of host and home governments. In this respect, the proposal put forward by a group of developing countries (including some African countries), on investors' obligations, should be supported.

Several NGOs from both the North and the South, have issued joint statements calling for the explicit rejection of the launch of negotiations on investment and other Singapore issues at the WTO Fifth Ministerial Conference in Cancun.

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Editorial: Pre-Cancun Process and the Singapore Issues

With less than 10 weeks to go before the Fifth Ministerial meeting of the WTO, several preparatory meetings have been held in Africa (and other regions) and several more are planned before Cancun. These so far have ranged from regional and sub-regional meetings to less formal brainstorming sessions, including several organized by the non-governmental community. This *Bulletin* has reported on many of these including a preparatory meeting organised by SEATINI for African trade officials, meetings of COMESA, the Trade Ministers of the Least Developed Countries in Dhaka and more recently, the African Trade Ministers meeting in Mauritius (see the article by Tetteh Hormeku in this issue of the *Bulletin*). In parallel with these meetings is the on-going process in Geneva, both formal and informal, centered in the General Council, the Trade Negotiations Committee as well as various Committees and Working Groups established to deal with the Doha Work Programme.

A close reading of these two processes--in the regions and capitals on the one hand and in Geneva on the other, suggests a near complete disconnect between the two. While the former is designed to contribute towards more informed and balanced outcome at Cancun, the latter is proceeding on a totally separate track, oblivious of the concerns and pre-occupations of the overwhelming majority of the WTO's membership. There are ominous signs that the current Geneva process will replicate the pre-Doha preparations, which summarily ignored the views of African, and LDCs Ministers articulated in Abuja and Zanzibar before the Doha Ministerial meeting.

The impasse in Geneva on each and every issue of interest to Africa and the LDCs since the launch of the Doha negotiations largely reflects the undemocratic manner in which the Doha agenda was adopted. It also reveals the preferences of the developed countries to pursue their own

agenda, notably in starting negotiations on the four Singapore issues, legitimising and further cementing the imbalances in agriculture, services, TRIPS and accelerating the pace of market opening in developing countries.

To be sure, the preparatory meetings in Africa have provided an important opportunity for Ministers to “*take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary*”. In as much as the post—Doha negotiations have been largely driven by Geneva—based delegations, the involvement of Ministers and of the civil society in the preparatory processes may help restore some balance to the negotiations.

However, given the fact that most of the Geneva-based negotiations do not have adequate and balanced record of discussions so far and which accurately reflect their positions, African Ministers in Cancun will face additional challenges. They will be called upon to exercise a major leap of faith in accepting the Chairmen/WTO secretariat’s version of developments both on the substance and on the procedures that have guided the Geneva negotiations so far.

Present indications are that the Chairmen of the General Council and of the Trade Negotiations Committee will, between them and with the blessings of the Quad countries, define the basis for decisions to be taken at Cancun on a take it or leave it basis. As Shefali Sharma points out in her analysis of the negotiating process in Geneva, a ‘reverse consensus’ practice will most likely apply, meaning that any amendment/s to the ‘clean’ text/s submitted by the Chairmen will have to command consensus. This device suggests that the views expressed by African and LDCs Ministers will in all likelihood be ignored with impunity, as they were in Doha.

In Tetteh Homeku’s report on the outcome of the Mauritius meeting this month, it is clear that the African Ministers have reaffirmed their long standing opposition

to starting negotiations on the four Singapore issues, noting that “WTO members do not have a common understanding on how the Singapore issues should be dealt with procedurally and substantively”. This has not, however, prevented the EU, Japan, the US and Canada, among others, from setting the ambitious target of starting negotiations on these issues, post-Cancun. Japan, for example, is reported to have proposed a fast track approach to deal with the Singapore issues, asserting that the clarification and study process is over and WTO members should now take decisions for the launch of the negotiations. By proposing ‘procedural modalities’-a device already adopted by the EU in its earlier submission, it is planning to circumvent the deadlock that exists on each of the Singapore issues. For example, although deep divisions were evident at the final meeting of the Working Group dealing with the question of Transparency in Government Procurement (one of the Singapore issues), and at which no agreement could be reached, the EU went on record to suggest that “Members are on the verge of a decision on modalities for these negotiations”. In response, India suggested, “we are far from that”.

Consultations that are expected before the submission of a final report of the work so far will probably be undertaken within small groups and at which the vast majority of developing countries are unlikely to be involved. The outcome of these consultations in Geneva and at the unrepresentative and widely condemned mini-Ministerials (such as the one recently convened by Egypt) will set the stage for a secretariat / Chairman driven report for Cancun endorsing a unilateral approach on Singapore issues.

It was agreed in Doha that decisions to launch negotiations on Singapore issues would have to be taken on the basis of an explicit consensus. The Chairman of the Doha meeting had gone on to suggest that “*for a decision to be taken at the Fifth session of the Ministerial Conference, my understanding is that, at that session, a decision would indeed need to be taken by*

explicit consensus, before negotiations on trade and investment and trade and competition policy, transparency in government procurement, and trade facilitation could proceed". He went on to state that that " this would give each member the right to take a position on modalities that would prevent negotiations from proceeding after the fifth session of the Ministerial Conference until that member is prepared to join an explicit consensus."

The foregoing notwithstanding, EU and Japan now insist that the Fifth ministerial meeting is now ready to take a decision on modalities and that the new issues are parts of a single undertaking. This approach suggests that no progress will be possible on any of the issues of concern to developing countries, in the absence of concessions by them to agree to launch negotiations on the Singapore issues.

How are developing countries to respond to this? Given the clear message that the African and the LDCs Ministers have conveyed on these issue, will they be able to withstand pressures at Cancun to agree, under the fabricated ruse of a consensus in Geneva on modalities, to a 'compromise'? This remains to be seen but the omens are not propitious.

Recent statements by a number of developed country spokesmen at the Informal Heads of Delegations meeting in Geneva suggest that African and other developing countries will be asked to make concessions on Singapore issues in 'exchange' for the 'compromises' and 'concessions' by developed countries in the areas of agriculture, TRIPS and public health and on implementation. In particular, the representative of New Zealand has suggested that progress at Cancun on agriculture will be facilitated if developing countries were to be more flexible on the Singapore issues. Aside from the fact that there is no basis for a trade off between agriculture (which is part of the WTOs corpus of legally binding obligations) and Singapore issues (which do not have a status in the WTO other than in the non-binding study and

clarification mode), Singapore issues do not as yet command any consensus regarding their inclusion in the Doha negotiations without an explicit consensus, a matter to be decided upon at the Cancun Ministerial meeting.

The foregoing suggests that most Ministers will arrive in Cancun none the wiser for all the briefings, brainstorming, capacity-building and sensitising meetings that they may have been exposed to over the last several months. This is especially true of small countries with limited presence in Geneva. Against this, what are their options in Cancun? If they are able to draw lessons from the coup de grace delivered in Doha, they may succeed in giving greater credibility to their Ministerial decisions, strengthen the resolve of other developing countries and help start the process of making WTO more accountable and development-friendly.

- First, they must reject all attempts in Geneva to transmit the so-called Chairmen's text/s to Cancun without the texts fully reflecting their views expressed including those at their recent meetings, in Dhaka and Mauritius. At Cancun, they must be prepared to reject all manoeuvres to involve unrepresentative 'Friends of Chairman', 'Facilitators' and other similar devices to circumvent the majority of WTOs membership in the decision-making process.
- Secondly, they must co-ordinate their views and positions more closely with like-minded developing countries on issues of common concern, notably as regards progress on implementation and Special and differential measures, on a fundamental reform of agriculture, on TRIPS and Public Health, on a standstill on further market opening and on further commitments on services.
- Thirdly, they must insist on adequate time for regional meetings. These meetings should form the basis for decisions: any effort to circumvent the African and the LDCs Group or involve a selected few from their

ranks in green room type of consultations must be rejected. Indeed, they must make clear that any agreement coming out of such a process is not acceptable to the Groups.

- Fourthly, any attempt to impose a single undertaking devise must be rejected: single undertaking refers to the start and end of the negotiations and even then, it applies only on the basis of satisfactory conduct and balanced outcome of the negotiations. This can be fully determined only at the end of the negotiations, in 2004.
- Fifthly, they must not be sidetracked by promises of technical assistance and capacity building.
- Finally, they must be prepared to walk away from the negotiations, as in Seattle, if the processes replicate Doha and Geneva and if the outcome does

not meet and address their development concerns.

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