



22 November 2005

Roundtable on Benchmarking Development for Hong Kong and Beyond - Conclusions

The Southern and Eastern African Trade, Information and Negotiations Institute, (SEATINI) together with the (Institute for Global Dialogue IGD) held a roundtable on Development Benchmarks for Hong Kong and Beyond. The meeting ran as a side event to the African Union 2nd extra ordinary Session on Commodities and preparations for the WTO Hong Kong Ministerial Conference on 21st November 2005 in Arusha, Tanzania. The Roundtable discussed development aspects of the Doha Work Programme, assessing the development perspectives as defined by developing countries and also outlining developmental criteria and priorities for success in Hong Kong and beyond. Below is a statement of conclusions by the meeting, which was attended by African Ambassadors and officials based in Geneva, trade officials from capitals, intergovernmental organisations, parliamentarians as well as civil society organisations.

The World Trade Organisation (WTO) Doha Work Programme (DWP) promises to place the needs and interests of developing countries at the centre of these negotiations. African countries have articulated their needs and interests through detailed and well argued proposals in each area of negotiations. For our countries, these proposals constitute the development dimension of the Doha Round and progress on these proposals must be the yardstick to measure the success of the 6th WTO Ministerial Conference and of the Doha Round as a whole. During the proceedings and discussions, there was broad agreement that in order for the Doha Work Programme to succeed, it must live up to its development claim and promises. This report articulates the **indicators of success** for the assessment of the outcomes of these negotiations and specific recommendations. Substance must take precedence over form and development must prevail over market access considerations.

- 1) The Doha Ministerial Declaration lays down three benchmarks to assess the development dimension in the negotiations and their outcomes. These are:
 - a) enhanced market access for developing countries;
 - b) balanced rules that provide developing countries the policy space to pursue development policies most suited to their levels of development and needs; and
 - c) capacity building programmes.

- 2) We have identified clear and measurable indicators that should be used to assess whether the progress under each of the three benchmarks fulfils the Doha development promise.
- a) **Enhanced market access** for African countries will conform to their development needs if the following conditions are met:
- i) The enhanced market access for African countries in each area (i.e., agriculture, non-agricultural market access i.e. NAMA and services) is **in addition** to the current market access available to them in developed country markets. This requires that:
 - (1) the **size of total market access should increase** instead of a mere redistribution of the existing market access opportunities so that all African countries individually gain enhanced market access; and
 - (2) the **“new” market access is not a mere repackaging of the existing opportunities** currently available to groups of African countries outside of the WTO (e.g. under Africa Growth and Opportunity Act - AGOA - of the US or the Everything But Arms – EBA - of the EU).
 - ii) The enhanced market access is **stable and predictable**, i.e., bound in the WTO schedules of countries.
 - iii) The **enhanced market access is real**. This requires that:
 - (1) the enhanced market access is in the products, sectors and modes **of interest to African countries**, including those that offer prospects for value-addition (e.g. through elimination of tariff escalation);
 - (2) is accompanied by **elimination of the non-tariff barriers** (NTBs) including simplification of the rules of origin; and
 - (3) **matches the supply capacity** of African countries and hence is accompanied by need-based and demand-driven capacity building programmes when needed.
 - iv) The enhanced market access is **based on the concept of non-reciprocity** or at least substantially less than full reciprocity and hence the net market access gains to developing countries should be substantially more than the gains to developed countries.
 - v) African countries' **access to their own domestic and regional markets is not eroded**.
- b) The Doha commitment to balanced rules will be fulfilled only if all the WTO rules ensure adequate and effective policy space for African countries that is measured through the following indicators:
- i) All the existing WTO rules and agreements are examined to affirm, clarify, and **increase the policy space** options of developing

countries, including through immediate and positive action on the Implementation-Related Issues and Concerns raised by developing countries.

- ii) **No additional constraints on the domestic policy making** choices of developing countries are placed through new or revised rules during the Doha Round. This means that any new rules that are negotiated are strictly limited to trade only. Moreover, the new rules related to trade must not be binding on or enforceable against developing countries through the WTO dispute settlement mechanism.
- iii) **Flexibility is provided to African countries** in undertaking market access commitments when these commitments have policy space implications, e.g. tariff reductions in NAMA and services liberalization under GATS.
- iv) All **policy space flexibilities** for developing countries in the existing **and new rules are effective and meaningful**. This requires that:
 - (1) all policy space provisions, including the special and differential treatment (S&DT) provisions, have **legal certainty**, i.e. they provide protection from the WTO dispute settlement challenge to developing countries exercising such options; and
 - (2) the policy space flexibilities for developing countries must be such that they **can be used** within their existing levels of development and domestic capacities.
- v) **Policy space flexibilities are linked** to the levels of development and **not to arbitrary transition periods**.
- c) African countries need capacity building assistance. This capacity building assistance will contribute to their trading capacities and development when the following conditions are met:
 - i) Capacity building programmes are **predictable, secure and long term**; e.g., possibly through binding commitments in the WTO.
 - ii) Capacity building programmes **are adequate** by ensuring that the committed resources are substantial and based on the provision of additional resources and **not a reshuffling of the existing aid** portfolios.
 - iii) Capacity building programmes are **needs-based and demand-driven**. This requires that there are no explicit or implicit

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conditions attached whether related to trade policy or any other area.

- iv) Capacity building programmes target the **relevant** human, technical, financial and institutional needs in the most appropriate form. For example, transfer of technology can be more suited to take advantage of certain market access opportunities.
- 3) African countries must reiterate that the Doha Ministerial Declaration does not envisage any trade-offs between and amongst the three benchmarks. Hence African countries rightly demand that meaningful progress be made on each of the three and in the line with the indicators outlined here. Only this will entitle the current negotiations to be appropriately termed as the "Doha Development Agenda."
- 4) African countries should build strategic and tactical alliances with their partners, both in the developed and developing world, to achieve this objective before, during, and after the Hong Kong Ministerial Conference. This will require a fully transparent and participatory process that allows African countries to be equal partners in the negotiations. Only such a process can lead to acceptable outcomes and ensure an effective development dimension.

More Specifically...

The following constitute a summary of elements that need to be fulfilled through the Hong Kong Ministerial and its follow up process:

5) Implementation and SDT Issues

- a) Genuine progress in finding solutions to Implementation Issues and the proposals on S&DT as a whole (and not just on a few of them that are not commercially important).

6) Agriculture

- a) Genuine progress in ending the dumping (below production cost) of products to developing countries and sufficient allowance for developing countries to defend their food sovereignty, rural development and farmers' livelihood security.
- b) This requires:
 - i) eliminating all direct and indirect export subsidies by a credible date, absolutely no later than 2010;
 - ii) substantially reducing the levels of allowed (bound) and applied (actual) trade distorting subsidies in developed countries;
 - iii) disciplines to prevent box shifting;

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- iv) disciplines on the green box in developed countries to ensure the subsidies in it are genuinely non trade distorting;
- v) allowing developing countries to maintain their current level of *de minimis* domestic support;
- vi) expanding the criteria of the use of green box subsidies for developing countries;
- vii) not to impose further liberalization of tariffs in developing countries, especially since protection in the North is likely to continue; at the most, developing countries should not be asked to reduce tariffs more than they did during the Uruguay Round;
- viii) establishing strong regimes of Special Products and Special Safeguard Mechanism for the use of developing countries.
- ix) Export and domestic subsidies relating to cotton should be eliminated as soon as possible, and a compensation fund should be established to compensate for losses of cotton producers, in line with the schedule proposed by the African Union ministers and the Africa Group.

7) Non Agricultural Market Access (NAMA)

- a) There are serious concerns that the July 2004 framework for NAMA contains several elements that will erode the present development flexibilities in General Agreement on Tariffs and Trade (GATT), which would require developing countries to drastically reduce their tariffs, affecting domestic industries and leading to deindustrialization. A genuine development package on the other hand would allow for the:
 - i) retention of flexibilities enabling developing countries to choose the rate of liberalization in various products and sub-sectors,
 - ii) scope of binding, and the tariff levels at which unbound tariff lines are to be bound.
- b) The proposals by developed countries which include:
 - i) a simple Swiss formula with low coefficient;
 - ii) the treatment of unbound tariffs; and
 - iii) very narrow flexibilities (the use of which are also tied to conditions)
 would violate these principles.
- c) A development-oriented NAMA package should instead:
 - i) Allow developing countries to reduce their tariffs gradually, with different reduction rates for different products;
 - ii) propose a reduction target to be set on an average basis (as during the Uruguay Round) rather than using the same rate for all products, as one size does not fit all.
- d) Developing countries, while increasing their tariff bindings, should be allowed to choose the rates at which the tariffs are to be bound, and these should not be subjected to a tariff reduction formula.

- e) There should be adequate flexibilities for developing countries in terms of exemptions from binding and from the application of any tariff reduction formula. The present draft flexibilities in the July Framework are too narrow; countries should be able to use all the three options (instead of only one option), their use should not be restricted to a percentage of total imports; and the figures in brackets should be increased.

8) Services

The major development objectives of the GATS should be operationalised to:

- a) strengthen the domestic services capacity in developing countries, and
- b) increase the participation and share of developing countries in global services trade.
- c) The present flexibilities in GATS and the Services Negotiating Guidelines and Procedures (2001) must be maintained if these objectives have any chance to be fulfilled. Therefore:
 - i) Developing countries should be allowed to fully make use of the present flexibilities, including the positive list approach and the bilateral request-offer system. The proposed complementary approaches, especially quantitative and qualitative benchmarking, should not be introduced. Any sectoral and plurilateral initiatives should be strictly voluntary in nature and any developing country must be able to choose whether to take part.
 - ii) The right of individual developing countries to regulate their services sectors must be preserved. This includes regulation of the entry, extent of and conditions for foreign participation, and establishing national priorities for provision and development of social services, and other sensitive sectors including finance, telecommunications, utilities and distribution.
 - iii) In development of rules, priority must be given to establishing an effective emergency safeguard mechanism. The right of governments to regulate government procurement, including preferential treatment for local service providers, must be maintained.
 - iv) There should be significant improvement by developed countries in their commitments in sectors and modes of delivery of interest to developing countries. Obstacles to the participation of developing

countries' service providers in the developed countries' markets (such as anti-competitive practices) should be removed.

9) Trade Related Intellectual Property Rights (TRIPS)

The flexibilities available to developing countries should be preserved and expanded.

a) TRIPS and public health:

A permanent solution on the issue of supply of affordable medicines to countries with no or insufficient manufacturing capacity should be established that ensures easy use of the system without unnecessary cumbersome procedures that may form obstacles to its implementation.

b) TRIPS, life forms and biodiversity:

The proposals by the Africa Group and LDC Group to amend Article 27.3b so that life forms be prohibited should be adopted. A system should also be established to require disclosure of source of origin and evidence of benefit sharing arrangements in relation to applications for patenting of genetic and biological resources and traditional knowledge.

- c) The exemption for LDCs to implement the TRIPS Agreement should be extended for at least 15 years, after the expiry of the transition period at the end of 2005, as requested by the LDC Group.
- d) Technology transfer to developing countries, under the TRIPS provisions, should be effectively operationalised.

10) Least Developed Countries (LDCs)

The LDCs should be exempt from tariff reduction requirements in agriculture and NAMA, and they should also not be required to make offers in services. The LDC-related SDT proposals should be resolved as soon as possible in a way that is meaningful for the LDCs. The market access demands of LDCs, including bound duty and quota free access to developed countries, should be adopted. The request for extension of transition period to implement the TRIPS agreement should also be agreed to.

11) Financial and Technical Assistance

Developing countries require financial and technical assistance to increase their supply and development capacity and to meet their obligations. The present quantity of assistance is very inadequate, and many of the programmes are designed by donors and their institutions and thus do not meet the needs of the recipient countries. The quantity and quality of assistance should increase significantly. The programmes should be demand-

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driven and designed and managed by the recipient countries. Assistance must be provided, designed and operationalised for the purpose of assisting the recipient countries according to their needs and interests, and not to serve the purposes and interests of the donor countries and institutions.

Conclusion

The above is a minimum package that comprises the development ambitions for the Round. It should be made clear that the present Doha Work Programme is a Development Round that is aimed at serving the needs and interests of developing countries. It is not a Market Access Round that aims to open up the markets of developing countries for developed countries. The African countries and the developing countries generally therefore have a high level of ambition that the development aspects of the Round are fulfilled. Dilatory, unconstructive and obstructive conduct by the developed countries should not be allowed to dampen or weaken developing countries rights and ambitions confirmed in the Doha Work Programme. If the developed countries continue to undermine development, African countries should advance much more than this minimum agenda and should adopt more audacious proposals. The success of Hong Kong, its follow up process and eventually the Round, should be judged as to whether the development promise is fulfilled. The high level of ambition relating to these development aspects and the Development Package overall should be maintained.