

# AFRICA'S NEGOTIATING OBJECTIVES FOR THE FOURTH MINISTERIAL CONFERENCE OF THE WTO

The Fourth Ordinary Session of the OAU/AEC Ministers of Trade Committee on Trade, Customs and Immigration was held in Abuja, Nigeria from 22-23 September 2001. The Ministerial segment was preceded by the meeting of Experts, held from 19 - 22 September 2001. These meetings considered among other issues, coordination among African countries in their preparations for the Fourth WTO Ministerial Conference to be held in Doha, Qatar, from 9 -13 November 2001. They agreed on some common negotiating objectives, which are provided hereunder. This document should be read in conjunction with the Abuja Ministerial Declaration.

## A. Implementation Issues and Mandated Reviews

1. African countries continue to be constrained by limited technical and institutional capacities to fully adapt their national laws and fulfil their obligations as required and take full advantage of the provisions of the multilateral trade agreements. Further, progress in resolving implementation concerns in the Uruguay Round Agreements has been slow.

2. The meeting of the WTO General Council of 15 December 2000, reaffirmed that "the General Council shall address the outstanding implementation-related issues and concerns, including those set out in paragraphs 21 and 22 of the revised Draft Ministerial Text dated 19 October 1999 (Job (99)/5868/Rev.1), as well as any other implementation-related issues raised by members, as envisaged in the Decision of 3 May 2000 and the work programme agreed on 22 June 2000, with a view to completing the process no later than the Fourth Session of the Ministerial Conference".

3. Against this background, and in line with the Statement adopted at the Second Ordinary Session of the OAU/AEC Ministers of Trade in Algiers in September 1999, and reiterated at their Third Ordinary Session in Cairo, in September 2000, the following actions need to be taken by the General Council no later than the Fourth WTO Ministerial Conference with respect to Implementation issues and Mandated Reviews:

- a. A re-evaluation of the efficacy, adequacy and sufficiency of the concept of transitional periods in a number of WTO Agreements, particularly in TRIPS and TRIMs, taking into account the resource and implementation capacity constraints facing African countries;
- b. Review of Annex VII of the Agreement on Subsidies and Countervailing Measures (SCM) to take into account specificities and development needs of a number of African countries;
- c. The operationalisation of the Marrakech Ministerial Decision Concerning the Possible Negative Effects of the Reform Programme on Least Developed Countries (LDCs) and the Net-Food Importing Developing Countries (NFIDCs);
- d. The granting of the waiver request for the ACP/EU Partnership Agreement;

- e. Action towards the realisation of technology transfer objectives as envisaged in Articles 7, 8 and 66.2 of the TRIPS Agreement; and other relevant provisions of the WTO Agreements;
- f. Confirmation of the common understanding that the TRIPS Agreement allows Members to take all the necessary measures to provide access to medicines at affordable prices and promote public health and nutrition;
- g. An understanding that the review of the TRIPS Agreement under Article 71.1 shall examine to what extent the objectives set out therein have been fulfilled, taking into account the review of Article 27.3 (b) (patenting of life forms, traditional knowledge and biological resources);
- h. Reaffirmation that the provisions of Article 5.3 of the TRIMs Agreement recognizes the trade, development, and financial needs of developing countries and noting that the Article 9 review shall entail, inter alia, an examination of the effects of this Agreement on the development prospects of developing countries;
- i. Completion of the work programme on the harmonization of non-preferential rules of origin;
- j. Further action towards implementation of the Marrakech Declaration on Achieving Greater Coherence in Global Economic Policy-Making;
- k. WTO and other international organisations to continue and increase technical and capacity building assistance activities through the Integrated Framework (IF) and the strengthening and expansion to more African countries of the Joint Integrated Technical Assistance Programme for Selected Least Developed and Other African Countries (JITAP);
- l. Resolution of outstanding Implementation issues in the light of the 15th December 2000 General Council Decision; and
- m. Developing countries should be allowed to use minimal values essential for application of the Agreement on Customs Valuation.

4. Ministers will review the progress concerning Implementation issues in Doha and take appropriate decision in this regard.

## B. Least Developed Countries (LDCs)

5. The full and effective participation of LDCs in the Multilateral Trading System can contribute to creating an atmosphere of trust and confidence in the system among its weakest members and thereby enhance the credibility of the WTO rules-based trading system. The resolution of issues of concern to LDCs, the majority of which are in Africa, is critical for the Multilateral Trading System. In this context, the LDCs Development Agenda adopted by the LDCs Ministerial Meeting in Zanzibar should be taken into account.

6. In this regard, the policies and measures contained in the Plan of Action for Least Developed Countries for the Decade 2001-2010, that was adopted at the LDC III Conference held at Brussels in May 2001, and reaffirmed at the Least Developed Countries Trade Ministers' Meeting in Zanzibar in July 2001, remain valid. In particular, the following issues require attention:

a) On Market Access, the recent initiatives by the EU and the US on Everything But Arms (EBA), and the African Growth and Opportunity Act (AGOA), respectively, are welcomed. However, these are autonomous initiatives. The utilisation by the countries concerned could be improved by providing bound, duty-free, quota-free market access for all products, with flexible rules of origin. Moreover, it is also important to address adequately supply-side constraints in order to expand productive capacity and competitiveness to take advantage of market access opportunities. Development partners and agencies, such as the World Bank and UNDP, with the resources and mandates to provide this support are called upon to do so;

b) Regarding standard-setting and quality control, the provision of technical and financial assistance is required to meet the demands of compliance. In this regard, Article 9 of the Sanitary and Phytosanitary (SPS) Agreement and Articles 11 and 12 of the Trade Barriers to Trade (TBT) Agreement should be transformed into binding commitments;

c) The Integrated Framework (IF) remains a viable mandate for delivering co-ordinated trade and trade-related technical assistance to LDCs and mainstreaming of trade policies. The IF requires adequate funding and greater transparency in its implementation, including the basis for selecting beneficiary countries;

d) On accession of LDCs, the following measures adopted under Commitment 5 at the LDC III Conference should provide the WTO with guidance on this matter:

- ensuring that the accession process is less onerous and tailored to their specific economic conditions, inter alia, by streamlining WTO procedural requirements;
- providing for automatic eligibility of all acceding LDCs for all provisions on Special and Differential Treatment measures in existing WTO agreements;
- in view of LDCs' special economic situation and their development, financial and trade needs, WTO members should exercise restraint, in seeking concessions in the negotiations on market access for goods and services in keeping with the letter and spirit of the provisions of the Ministerial Decision on Measures in Favour of the Least Developed Countries;
- seeking from LDCs in the accession stage only commitments that are commensurate with their level of development, and not higher than those undertaken by LDCs that are already members of the WTO, including transitional periods mandated by the WTO Agreements, starting from the date of accession;

- continuing to provide adequate and predictable assistance to LDCs for their accession process, including technical, financial or other forms of assistance; and
- accelerating the process for LDCs that are acceding to the WTO by providing a special and fast accession track.

### C. Mandated Negotiations on Agriculture

7. The WTO African Group has made a comprehensive submission during the first phase of the Agriculture negotiations outlining the main concerns of African countries (i.e. document G/AG/NG/W/142 of 23 March 2001) supplemented by submissions of individual countries. The submission of the WTO African Group is an integral part of this document.

8. Ministers would like to reiterate the following:

- a) The African Group has been guided by the objectives of the continuation of the reform process contained in the preamble and in Article 20 of the Agreement on Agriculture (AoA);
- b) The preamble of the AoA states that the objective of the reform of Trade in Agriculture should aim at providing "for substantial progressive reductions in agricultural support and protection sustained over a period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets";
- c) Of critical importance to the African Group are provisions which identify non-trade concerns; Special and Differential (S & D) Treatment; Least Developed Countries (LDCs) and Net Food Importing Developing Countries (NFIDCs) concerns; and the establishment of a fair and market-oriented agricultural trading system, which must be the guiding principles of the reform process. The specific concerns of small island and land-locked developing countries should be substantially addressed;
- d) S & D treatment is a horizontal issue cutting across market access, export competition and domestic support to compensate for structural and economic inequalities between developing and developed countries in terms of their share of world trade, access to technology and financing as well as infrastructure. An operational and binding S & D treatment is therefore vital;
- e) Given the conditions of agriculture in Africa, the reform should:
  - Strengthen the rules and disciplines governing trade in agriculture to promote development;
  - Ensure that trade liberalisation takes into account non-trade concerns such as food security, sustainable rural development and poverty alleviation;

- Ensure commercially viable market access for all agricultural products originating in developing countries including those at the higher end of the processing chain;
- Level the playing field in the international trading system, taking into account different structural constraints among countries.

f) Within the framework of the Agreement on Agriculture, Article 9 and Article 10 of the SPS Agreement and Article 11 and Article 12 of the TBT Agreement should be made mandatory.

#### D. Mandated Negotiations on Trade in Services

9. The WTO African Group has contributed substantially to the first phase of the mandated negotiations on services including, inter alia, underscoring the critical issues of concern such as:

- the importance of maintaining the existing architecture of the GATS;
- support for request/offer as the main method of negotiations and retaining the positive list approach;
- emphasizing the effective implementation of GATS Articles IV and XIX. 2, concerning liberalization of market access in sectors and modes of supply of export interest to developing and least developed countries; and the need for greater liberalization of Mode 4 (Movement of Natural Persons), especially by developed countries, through the elimination of barriers to market access;
- providing credit for autonomous liberalisation, in services sectors undertaken by African countries;
- support for work in the rules-making area, especially on Emergency Safeguards Measures to be expedited;
- reserving the right of members to regulate the services sectors; and
- the revision of Articles VIII and IX of GATS in order to, in particular, take into account the concerns regarding the transfer of technology and technical know-how with regard to investments by multi-nationals.

#### E. Singapore and Other Issues.

10. In the area of Singapore and Other Issues, the following factors are of critical importance:

- African countries are not "demandeurs" of multilateral agreements on the issues concerned;

- African countries generally lack capacity for implementation of obligations in the area;
- Most African countries remain to be convinced of the potential of the proposed new multilateral Agreements to deliver tangible benefits to them;
- African countries are concerned over the added burden of obligations in the face of present Implementation challenges facing them; with a similar concern over the dangers of overloading the agenda of the WTO;
- African countries note that so far there appears to be no consensus among members of the WTO, to launch negotiations in these areas; and
- African countries recall that various working groups have been established to commence studies on the respective subjects and are yet to complete their work. This study process should continue.

12. In the light of the foregoing, it is particularly agreed that the educative work should continue in the Working Groups in respect of the following issues:

#### Trade and Investment

- The implications for development of a multilateral investment agreement have not been fully discussed nor understood;
- In the light of the above, all work in this area should focus in particular, on facilitating investment flows to African countries, while preserving the policy space and flexibility to pursue their national development objectives.

#### Transparency in Government Procurement

- African countries are generally prepared to examine issues relating to Transparency in Government Procurement but not Market Access; and
- The issues involved are complex; especially given that the implications of a multilateral framework on Transparency in Government Procurement on social and economic development, is yet to be fully comprehended.

#### Trade and Competition Policy

- Most African countries do not have the necessary legal and administrative infrastructure and pre-requisites to deal with competition policy.
- Furthermore, the inter-relationship between competition and economic development is a

complex one, which needs to be fully explored; and

- It is imperative that technical assistance should be provided for capacity building during the on-going educative process.

## Trade Facilitation

- The general assessment is that Trade Facilitation measures are necessary and beneficial to all countries. In this context, on-going work within and outside the WTO (e. g. rules of origin, customs valuation) should continue. Improved facilitation will require increased technical and financial assistance to narrow the technology and human resources gaps that exist between developed and developing countries.

## Core Labour Standards

- Core Labour Standards should remain under the purview of the ILO.

## Trade and Environment

- African countries fully support the on-going balanced work-programme of the WTO Committee on Trade and Environment while underscoring that environmental considerations should not be used for protectionist purposes; and
- Further, African countries recognize the importance of transfer of environmentally friendly technology to developing countries. It is essential that developed countries provide assistance in this area.

## Electronic Commerce

- Useful work has been undertaken in this area at the WTO. The current work programme should be pursued further and the educative process continued.

## Non-Agricultural Market Access

- The effective participation by African countries in negotiations in this area requires in-depth technical analysis to identify precisely the challenges and the opportunities involved in industrial tariff negotiations. UNCTAD, UNIDO and other relevant agencies are requested to continue their assistance and support to African countries in this area.
- Agreement to engage in industrial tariff negotiations is made conditional on completion of a study process which should include the effect of previous and any future tariff reductions on African countries' industries.