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**STATE OF PLAY IN THE DDA NEGOTIATIONS  
AND AREAS OF INTEREST TO LDCs**

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*a c i v i l s o c i e t y t h i n k - t a n k*

# STATE OF PLAY IN THE DDA NEGOTIATIONS AND AREAS OF INTEREST TO LDCs

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## **INTRODUCTION**

Since Cancun, not much has happened to make us, the LDCs, feel that the Doha Round will be crowned with success. We are worried because we have been talking for about two years now and progress has been too slow. It is not clear how we shall succeed in resolving the many issues that are still contentious in the remaining two months before the WTO Ministerial scheduled to be held in Hong Kong, China, in December this year. The state of play, as at September 2005, is given below and a brief summary, reflecting my thought, is given in the concluding paragraphs.

### **1. SPECIAL AND DIFFERENTIAL TREATMENT**

There are 88 proposals for Special and Differential Treatment (SDT), most proposals coming from the LDC and Africa Groups. An attempt was made to get an “early harvest” on 28 proposals going into Cancun but this failed, for a number of reasons. Subsequently, it was agreed to deal with the Agreement Specific Proposals and priority was given to 5 LDC Proposals from a list of the remaining 23 Proposals from Categories I and III, as put forth in a fax message of the Chair of the CTDSS dated 16<sup>th</sup> March 2005. These five SDT proposals have been discussed in the Special Session of the Committee on Trade and Development (CTDSS) and we are facing an up-hill battle getting a consensus even on these five proposals.

It is in all our interests to get a successful conclusion of the Doha Development Agenda and, as such, to have a successful Ministerial Conference in Hong Kong. However, we also need to avoid a situation in which we see a “watering down” of proposals we consider to be of particular importance to our development efforts in the name of reaching a compromise. The aim of the negotiations is, therefore, to reach a compromise with our partners without having to capitulate on issues of paramount importance to our economic development.

In terms of the five proposals the LDC Group is advancing through the CTDSS, the following is my assessment of what progress has been made:

#### ***Proposal 23 (Understanding in Respect of Waivers of Obligations under the GATT 1994)***

The intent of the proposal is to allow waivers to be provided to LDCs by avoiding the rather complex system outlined in the Understanding in Respect of Waivers of Obligations under the Marrakesh Agreement. The opposition to this proposal has been from a group of Latin American countries. They are not willing to consider new measures, which provide preferential market access for LDCs if this will have a negative effect on their exports.

This group of Latin American developing countries believe that preference schemes such as EBA are already providing unfair market access advantages to LDCs and they do not want to see any extension of preference schemes which they believe will have a negative impact on their export potential. They, therefore, want to include a clause in

the LDC proposal to ensure that a waiver will not be granted unless it takes in the interests of other developing countries or, in a more extreme case, which has a negative effect on another country.

The argument of the LDCs is that even if the effect is negative, it will be a very small negative effect. In addition, there will be no circumstance where a particular country is not affected by such an arrangement. Therefore, effectively, this would entail that such agreements will not pass. If the LDC Group accept the language proposed by the Latin American group it will make the whole proposal null and void and not worth pursuing. Discussions are on-going in the CTDS on compromise language and we are hopeful that a compromise can be reached in the next few weeks.

***Proposal 36 (Decisions on Measures in Favour of LDCs) –***

This proposal requests *bound duty-free and quota-free market access* for LDCs, an easing up on rules of origin and additional technical and financial assistance. The Livingstone Declaration requests a *binding commitment* to duty-free, quota-free market access for all LDCs. However, there are both technical and political problems to overcome if the LDCs are to achieve full implementation of this proposal.

For instance, the EU believes that, under its Everything-but-Arms scheme it has already provided a binding commitment to duty free quota free market access for all LDCs for all products, except three. The US has indicated that it does not feel able to provide more than AGOA, which falls far short of the LDC demands. Our offensive position has been to achieve improved market access through demanding a binding commitment for duty free quota free market access for all LDCs for all products.

In our view, the strong positions maintained by the US, the EC and others, on the question of bound DFQF market access suggest that we have a long uphill battle. It would, therefore, be necessary for our Group to explore best possible alternatives that would still attain our intended objectives.

***Proposal 38 (Decisions on Measures in Favour of LDCs) –***

No WTO Member has a problem with this proposal, mainly because this text does not add any value to what has already been agreed in the WTO and simply reaffirms existing commitments.

***Proposal 84 (Agreement on TRIMs)***

Most of the LDCs' developed partners have problems with the LDCs' proposals on TRIMs and have shown a lack of political will in agreeing on a compromise that would be of benefit to LDCs. The current proposal being considered has been diluted from the initial proposal to exempt LDCs from the whole TRIMs Agreement, to exemption from a few articles of TRIMs, to maintaining measures that deviate temporarily from LDCs' obligations under TRIMs.

Developed countries want to see a number of elements in the LDC TRIMs proposal. These include: a renewed commitment to comply with the TRIMs Agreement; a new opportunity to notify existing measures inconsistent with the TRIMs Agreement (as you are aware existing TRIMs should have been notified by 2002 and thereafter phased out, however some LDCs have not done so); a specified transition period (i.e. LDCs could be allowed to maintain existing TRIMs for a limited transition period); a mechanism to request duly motivated waivers for new TRIMs; and a safeguard on

possible effects on other Members. These issues remain under discussion and would require timely guidance from our superiors.

***Proposal 88 (Decision on Measures in Favour of LDCs – paragraph 1)***

The original intention of this proposal was to have a blanket waiver from any provision of any WTO Agreement that is prejudicial to any LDC's individual development, financial or trade needs or administrative and institutional capacity. All other WTO Members have problems with providing a blanket waiver. The argument is that, if LDCs don't want to implement WTO Agreements they should not have signed them in the first place. The discussion is, therefore, about what language can be used to restrict this proposal while, at the same time, making it meaningful and adding value to the existing waiver provision.

## **2. RULES AND REGIONAL TRADE ARRANGEMENTS**

The Negotiating Group on Rules have been considering proposals from various countries that aim to modify Article XXIV of GATT on Regional Trade Arrangements (RTAs). The proposal from Australia suggests a modification of Article XXIV such that on entry into force of a RTA, duties must be eliminated on at least 70 percent of all tariff lines and precisely 10 years after entry into force of the agreement.

It further proposes that binding commitments in the agreement must indicate that duties will be eliminated on at least 95 percent of all tariff lines at the six-digit level. This proposal has obvious and serious implications for RTAs in developing countries, and LDCs will need to actively participate in the Negotiating Group on Rules to protect their interests.

## **3. TRADE RELATED INTELLECTUAL PROPERTY RIGHTS (TRIPS)**

The LDC Group has expressed no strong preferences on the wording of the proposed permanent amendment to replace the waiver but has stressed that what is important to the LDCs is that we have easy and cheap access to HIV/AIDS, Malaria and Tuberculosis drugs.

We are also requesting technical and financial assistance to allow us to create an adequate regulatory and enabling environment to take advantage of the TRIPs agreement. The European Union has made a proposal on language to be used in the TRIPs amendment and has requested support for this proposal from the LDC Group and the Africa Group.

As you all may know, the transition period for LDCs to fully comply with the TRIPs Agreement expires at the end of this year. In view of the fact a number of our countries are still in the process of amending legislation on intellectual property, our Group intends to submit to the next Council for TRIPs Session (scheduled for 25-26 October 2005) a request for an extension of the transition period.

## **4. COTTON**

The LDC Group continues to stress that the cotton sector is a vital to the livelihoods of millions in many of our countries and should therefore be addressed ambitiously, expeditiously and specifically in the negotiations on Agriculture.

The EU has made a formal proposal to 'front load' those parts of an agriculture deal that would apply to cotton. This could include binding cotton tariffs at zero, eliminating export subsidies and substantially reducing distorting domestic supports, right from the first day that the results of the current negotiations are implemented.

The US outlined actions that it was taking to comply with the ruling in the cotton dispute. These include administrative changes to three agricultural export credit programmes and proposed legislation to alter these programmes and the "step 2" cotton programme.

However, the US has not made any concrete commitments to reducing Domestic Support and are linking any positive movement to the provision of substantial market access. We must ensure that the US and the EU deliver on these actions.

## **5. SERVICES**

The LDC Group has made a request on Mode 4 and this is being considered by other WTO Members. However, the US has indicated that they have difficulty in responding positively to some of the identified categories and proposed that LDCs consider some of these.

Regarding other service areas, the LDC Group has explained to both the US and the EU that LDCs, as a group, have recognised the importance of the service sectors in the growth of their economies. However, LDCs have not completed their baseline assessments of the service sectors and have not prepared GATS templates. This is ongoing in a number of countries and once the exercise has been completed, LDCs will be in a better position to participate more fully in the request and offer phase.

You may also be aware of the various proposals on "Complementary Approaches" that have been tabled by a number of developed countries and some developing countries. The proposals entail some level of commitment to liberalise the services sector for all Members, without exception, using a formula approach.

This is counter to the flexibilities of developing countries including LDCs, contained in the GATS provisions. It raises great concern to receive new and radical proposals at this late hour of the negotiations and we the LDCs have expressed our concerns and inability to go along with such proposals.

## **6. AID FOR TRADE**

The joint World Bank and IMF paper of 12<sup>th</sup> September 2005 entitled *Doha Development Agenda and Aid for Trade* describes Aid for Trade as comprising technical assistance, capacity building, institutional reform, investments in trade-related infrastructure and assistance to offset adjustment costs.

One outcome of the World Bank Spring Meetings of 2005 was a request from the Development Committee and the IMFC (International Monetary and Financial Committee) to the World Bank and IMF to develop proposals on Aid for Trade. Part of this process was a Geneva consultation process chaired by Ambassador Valentine Rugwabiza of Rwanda and Ambassador Mia Horn of Rantzein of Sweden.

The Geneva process recommended that increasing Aid for Trade could be done through enhancing the Integrated Framework, setting up a fund to finance priority activities identified in the Diagnostic Trade Integration Studies (DTIS) and a multilateral fund to address adjustment concerns.

Unfortunately, in their Aid for Trade paper of 12<sup>th</sup> September 2005, the World Bank and IMF only support enhancing the IF. In other words, the Bank and the Fund paper does not support the creation of multilateral funds to address adjustment concerns or to finance priority activities identified in the DTIS. They contend that these are not necessary and that other instruments exist to address these concerns.

LDCs have been urged to support the outcome of the Geneva process and to support the call for Aid for Trade to be a package of instruments so that it can be used to target the trade regime, but this initiative must not in any way entail accumulation of debt. The end result should be a commercial benefit or commercial opportunity for LDC producers.

## **7. CONCLUSION**

LDCs are determined that Hong Kong succeeds. We do not want another Cancun because it is not in our interest to fail. But then it must be understood that the Doha Development Round is about development. Development is about developing countries especially the LDCs. Since Cancun not much has happened in dealing with development issues, which should help accelerate development in developing countries especially LDCs. Instead we have witnessed the end of preferences and the requests that some countries are making for 'trade offs'. It is not possible to expect 'trade offs' to be made between developed countries and developing countries. Trade-offs are only possible between or among countries that are at the same level of development like the United States, EU and Japan. Unless these countries move substantially towards addressing issues of concern to developing countries, I am afraid we might witness another Cancun in Hong Kong.

In the past and even today, civil society like NGOs, and to be more specific like your, have done commendable work. You are with the people, whom some people may refer to as 'common people'. You know their sufferings and you know that with political will and commitment from those countries that are developed, a lot can be achieved. I would therefore urge you to continue with your wonderful work.

It is possible that with political will particularly from developed countries Hong Kong can make a turning point in favour of developing countries, especially the LDCs.