



**United Nations
Economic Commission
for Africa**



**Organization of
African Unity**

Africa and the Multilateral Trading System Doha and Beyond

**High-Level Brainstorming Meeting for African
Trade Negotiators Preparatory to the Fourth WTO
Ministerial Conference**

An Issues Paper

**Jointly organized by the Economic Commission
for Africa (ECA) and the Organization of African
Unity (OAU)**

**In collaboration with the United Nations Conference on
Trade and Development (UNCTAD), African Economic
Research Consortium (AERC) and the World Trade
Organization (WTO)**

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26-29 June 2001
United Nations Conference Centre
Addis Ababa, Ethiopia



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I. Background

The overriding challenge today for most African countries is how to achieve sustainable development and poverty reduction in a global economy characterized by rapid globalisation and liberalisation.

Although many regions of the world have benefited from the opening up of the global economy, many acknowledge that few African countries have gained from this development. Africa remains at the peripheral of the global economy and trade.

2. As the largest number of Least Developed Countries (LDCs) are in Africa, the greatest challenge of the United Nations System and the international community is promoting sustainable medium-to-long term growth in Africa, with poverty reduction. According to UNDP, almost 80 percent of countries with low human development indicators are in Africa, as reflected in high population growth rates, low incomes, low literacy rates, and low life expectancy. Africans account for one out of every four poor persons in the world, and four of every ten Africans live in conditions of absolute poverty. Recent positive developments in a number of African countries, in terms of higher growth rates and per capita incomes, are clearly inadequate to effectively address the challenge of poverty reduction, which is embedded in the grossly uneven distribution of the benefits of economic growth between Africa's sub-regions, economic sectors, and segments of population.

3. Africa is the weakest partner in international interdependence, which testifies to the enormity of the tasks at hand to re-position the continent into the mainstream of international economic interaction and development. These tasks should be undertaken collectively with our development partners and in great faith. No matter how formidable and urgent these challenges are, no country or continent can afford isolationist policies and survive in the current environment. Africa, like any other region, has accepted the necessity of adapting to this new environment. In this respect, the continent has no other choice but to persevere with economic and trade reforms in order to benefit from the forces of globalization and technological advances. Success depends on the goodwill and support of development partners and the extent to which the international community is able to create an equitable, rules-based multilateral trading system.

4. Market access opportunities provided by the Africa Growth and Opportunity Act of the United States of America and the recent initiative of the European Union to provide duty-free and quota-free market access to products of poorest countries, are indeed vivid some examples of efforts by the international community to try and effectively integrate developing countries in the global trading system and world economy. The challenges of integrating African countries in the global economy and trading system are both a medium and long-term issue, due to the

complexity of the issues involved. The Addis Ababa High-level Brainstorming Meeting will provide a forum for African trade negotiators to revisit many of the issues surrounding the participation of African countries in the global economy and the multilateral trading system, in

II. The Objective and Purpose of the High-Level Brainstorming Meeting

preparation for the Doha WTO Ministerial Conference.

The objective of the High-Level Brainstorming Meeting of African Trade Negotiators is to provide a forum for Geneva-based African trade negotiators and their counterparts from the capitals as well as African researchers in order to discuss and deliberate on issues of major concern to African countries in the multilateral trading system and the World Trade Organisation (WTO). The meeting will also provide an opportunity to share views on modalities of assisting African countries in their preparations for the Fourth WTO Ministerial Conference to be held in Doha in November of this year.

6. The meeting will also discuss the issues pertaining to the ongoing mandated negotiations on trade in agriculture, trade in services as well as negotiations on trade-related intellectual property rights (TRIPS), implementation issues, sanitary and phytosanitary measures, technical barriers to trade as well as other issues.

7. Discussions on the "new issues", which include trade and investment, trade and environment, trade and competition policy and transparency in government procurement have continued within the Working Groups established by the Singapore Ministerial Declaration. Consensus among WTO members as to whether these issues should form part of the agenda for the Doha Ministerial Conference or of a new Round of multilateral trade negotiations is still lacking. However, a number of countries, including some African countries are urging for their inclusion in both the next Ministerial Conference and any possible new Round. The Addis Ababa meeting would, therefore, need to revisit these issues and provide the key elements of an African position.

8. Negotiations among members of the WTO are continuing as to whether the Doha WTO Ministerial Conference should launch a new Round of multilateral trade negotiations. The General Council of the WTO has yet to reach consensus on this issue. Nonetheless, African countries need to be prepared in the event that a new Round is launched at that Ministerial Conference.

9. A more important task of the meeting will be to draw up a "positive

negotiating agenda" for African countries on the various issues to be discussed at the next WTO Ministerial Conference and when a new Round is launched. Such an agenda would need to be informed by recent events and negotiations in the WTO as well as positions taken by African countries prior to Seattle.

III. Major Topics for Discussion

A. Market Access

Market access issues continue to preoccupy many African countries as we approach the Doha WTO Ministerial Conference. Indeed some notable efforts have been made by the Director General of the World Trade Organisation and some developed countries, such as the European Union, to provide greater market access for products of African countries, especially LDCs. Nonetheless, much more needs to be done, as many exports from African countries still face a barrage of non-tariff barriers such as sanitary and phytosanitary measures, safeguards and health standards.

(i) Pre-Seattle African Countries' Perspective on Market Access

11. The basic position of many African countries on market access prior to the Seattle WTO Ministerial Conference can be summarised briefly as follows:

- ◆ Seek reductions in tariffs, tariff peaks and tariff escalation by developed countries;
- ◆ Operationalize the provisions for Special and Differential Treatment (S&D) for developing countries in various Uruguay Round Agreements;
- ◆ Seek for duty free and quota-free market access for Least Developed Countries (LDCs);
- ◆ Negotiate for reduction and/or elimination of certain non-tariff barriers to exports of African countries, such as sanitary and phytosanitary measures, technical barriers to trade and use of safeguard measures by developed countries.

(ii) Issues for Discussion

12. Progress in dealing effectively with market access issues is critical and pivotal for confidence building of the multilateral trading system as well as for reaching agreement on the new round. The issues of reduction of tariffs, tariff peaks and tariff escalation would need to be addressed as well as consolidation of tariffs. Furthermore, issues of removal of non-tariff barriers, such as sanitary and phytosanitary measures, excessive safeguards and anti-dumping activity, to exports of developing countries would also need to be addressed. The need to support capacity building in developing countries to take advantage of new market opportunities would also need to be covered. The Addis Ababa meeting will offer African countries an opportunity to share views on proposals being discussed for reducing tariff and non-tariff barriers to trade, especially primary products as well as reducing tariff peaks and tariff escalation.

B. Implementation Issues

13. The discussions regarding rules and implementation of WTO Agreements have focused on interpretation of the WTO Agreements and the extent to which member states have implemented WTO Agreements. Many developing countries have concerns about lack of implementation by developed countries of commitments made in the WTO Agreements, especially as regards "special and differential treatment"; use of anti-dumping and safeguard measures as well as sanitary and phytosanitary measures; interpretation of WTO Agreements; and provision of technical assistance.

14. There are a wide range of issues that have come to be known as "implementation issues". Some of them are a result of the way in which certain provisions of the Uruguay Round Agreements were implemented, compliance with the letter of the rules, but little consideration for the spirit of the obligations undertaken. The Agreement on Textiles and Clothing is an example where on strictly legal grounds, countries are implementing the Agreement, while no real liberalisation is taking place.

15. In a number of other areas the Uruguay Round Agreements have also proven less attractive and useful to developing countries. The Agreement on Subsidies permits countries to support certain developmental activities. However, many developing countries now realise that there is little scope for their governments to make use of incentives provided in the Agreement for public policy purposes. What is allowed in the Agreement is subsidies widely used by richer countries. Imbalances, shortcomings and inadequacies can also be found in connection with other existing provisions of WTO Agreements. For example, for anti-

dumping provisions, both developed and developing countries feel equally dissatisfied.

16. The so-called "implementation issues" in many cases go far beyond implementation as such. There are some topics that call for "*interpretation*" of the WTO Agreements, while others call for a review and "*rebalancing*" of the exercise, i.e. renegotiation of some elements of the Agreements. The level of frustration with the present state of affairs is particularly high with regards to liberalisation of trade in agriculture.

17. While the Uruguay Round Agreements were seen as the first step towards bringing agriculture under the same rules and disciplines as other products, the fact is that little, if any, progress has been made to liberalise trade in agricultural products. As regards implementation of provisions of the WTO Agreements on "special and differential treatment", it is acknowledged that there has been little progress in this respect, both in terms of content and form. Most of the provisions on the Agreements have been in the form of "best endeavours" and, therefore, countries have not been obligated to implement them.

18. Most members of the WTO acknowledge that there is need to make progress on implementation issues. Some WTO Members are of the view that the concept of "special and differential treatment" as used currently is without form and content and is applied mainly as an instrument for developing countries to comply with WTO Agreements. The S&D as a concept of market access has disappeared and, therefore, there is need to reposition this concept as an instrument to assist developing countries in attaining their developmental goals, in the framework of the global trading system. Some are of the view that what developing countries need is not "special and differential treatment", but rather market access to be able to compete in markets of developed countries. Developing countries are also calling for discussions to take place on issues of extension of "transitional periods" for certain WTO Agreements.

19. Much progress has been made in the WTO to deal with implementation issues, but there is growing recognition that further efforts relating to past agreements require new negotiations. As well as the built-in-agenda of agriculture and services, a new WTO round must have implementation issues. Certain WTO Agreements would invariably need to be reviewed and opened for further negotiations in order to reduce imbalances. The TRIPS Agreement is a case in point. Developing countries are of the view that they must continue to receive increased technical assistance, especially LDCs, in order to ease the burden of implementing new agreements as well as take opportunities generated by trade liberalisation.

(i) Issues for Discussion

20. As regards "rules of the WTO and implementation issues", the debate has focused on what are the key weaknesses in the implementation of the WTO Agreements and how can they be remedied; what is the assessment on the implementation of the special and differential treatment provisions of the WTO Agreements; should the best "endeavour" undertakings of developed countries be translated into firmer commitments, especially in areas such as technical assistance, adjustment finance and transfer of technology; what are the lessons from the review of the dispute settlement mechanism; and what should be the role of the independent advisory service to assist developing countries in the WTO legal proceedings.

21. A more productive approach to the discussions in this area, as suggested by some countries in the WTO African Group, would be to separate the issues into three clusters. Firstly are those issues on implementation which can be resolved through discussions in the WTO prior to the Doha WTO Ministerial Conference (Pre-Doha Issues). The second Group would be issues which would require discussions during the Doha Ministerial Conference and some form of decisions by the Conference for their implementation (the Doha Issues). Final cluster would comprise of issues that will require further negotiations after Doha and would need some guidelines provided by the Doha WTO Ministerial Conference (Post-Doha Issues). The Addis Ababa Meeting would need to discuss the clustering of such issues in order to assist the process to move forward.

C. Agriculture Trade Negotiations

22. Agriculture is an important and dominant sector in Africa, accounting for a large proportion of GDP, employment and export earnings, in most African countries. Accordingly, Africa should stand firm on these negotiations and in this respect, it is imperative that the continent be "proactive" in its approach to the negotiations. Some countries have described Article 20 of the Agreement on Agriculture as focusing mainly on "three issues": export subsidies, domestic support, and market access. Others believe that the mandate of Article 20 also includes other issues such as non-trade concerns and special and differential treatment for developing countries as separate issues.

(i) Pre-Seattle African Countries' Perspective on Negotiations on Trade in Agriculture

23. African countries approached the Seattle WTO Ministerial Conference with very clear aspirations on the negotiations on trade in agriculture. Prior to Seattle the broad elements of the negotiating strategy of African countries can be summarised as follows:

- ◆ Seek for granting of duty-free and quota-free market access to all

- their agricultural products, including those in processed form that are exported by Least Developed Countries (LDCs);
- ◆ Seek exemption of all LDCs, including those acceding to the WTO, from undertaking commitments on domestic support and export subsidies;
 - ◆ Seek concrete operational and contractual commitment from developed countries on the Marrakech Ministerial Decision on measures concerning possible negative effects of the agricultural reform programme on LDCs and net-food-importing countries;
 - ◆ Seek total elimination of export subsidies by developed countries within a given period, while giving due consideration on the impact on net-food importing countries;
 - ◆ Negotiate for some flexibility in the use and extent of *de minimis* support allowed to developing countries, while requesting developed countries to reduce domestic support to their agriculture;
 - ◆ Seek to ensure that negotiations on agriculture gave due importance to food security;
 - ◆ Ensure that the multifunctionality and the role of agriculture in African countries is fully reflected in the negotiations;
 - ◆ Call on all members of the WTO to adhere to international standards, guidelines and recommendations when adopting sanitary and phytosanitary measures and technical barriers to trade and also ensure that developing countries are included in the decision-making process for establishing such standards;
 - ◆ Seek for "special and differential treatment" provisions for LDCs to be an integral part of the multilateral trade negotiations.

(ii) Issues for Discussion

24. The meeting in Addis Ababa will need to revisit these elements in the context of recent developments and the negotiations on trade in agriculture currently taking place in the WTO, and more specifically the "Committee on Agriculture" of the General Council of the WTO. More specifically, the discussions at this meeting would need to focus on:

Tariffs:

While a broad agreement exists among members of the WTO that tariffs need to be cut from their high bound levels, there is lack of consensus on the magnitude of the reduction and the formula to be applied to reduce tariffs. Some countries, such as Switzerland, would prefer a "formula approach" while others would prefer a "product-by-product approach".

Tariff Peaks:

Tariff peaks were prior to the Tokyo Agreement defined as "import duties" which are in excess of 15 percent of the value of the product. In the discussions within the WTO, members have agreed

that something should be done to reduce tariff peaks. However, consensus has proved illusive as to how to achieve that goal. Some countries are proposing for a "sectoral approach" while others urge that this should be complimented with a "horizontal approach" by product and by country.

Tariff Rate Quotas:

A consensus exists among members of the WTO that there is need to improve the administration and transparency of tariff rate quotas. In this respect, countries have been requested to submit proposals on how to improve this system. Furthermore, some members of the WTO, including African countries are asking for tariff quotas to be expanded for the benefit of developing countries. There is need to add content to this request in terms of specific proposals.

Special Safeguard Measures:

There is no consensus among members of the WTO on the issue of special safeguard measures. Some countries would like to retain this instrument, while others, especially developing countries, would like the instrument removed from WTO Agreements. African countries would need to build some form of common elements, since even here there are divergent views.

Export Subsidies:

Most developing countries are urging for export subsidies by developed countries to be eliminated and/or substantially and progressively reduced. They are also requesting for action to be taken towards the development of agreed disciplines to govern the provision of export credits, export credit guarantees and insurance programmes. Developing countries are also calling for the provision given in Article 9.4 to be continued and strengthened. There is, therefore, need to review these suggestions. The issues of how food aid should be treated as well as dumping of excess food and its impact on agricultural production in developing countries has also featured prominently. A better definition of what constitutes export subsidies is also needed.

Domestic Support Measures:

The major concern for African countries is the big imbalance among members of the WTO on the use of domestic support measures. Although some concensus appears to be emerging of the need to reduce in developed countries, domestic support to agriculture, there is still no agreement as to how this should be achieved. Many developing countries are calling for the elimina-

tion of such support, while others are calling for substantial and progressive reduction of trade and production distorting domestic support measures. Some developing countries, including those in Africa, are calling for the basic and policy-specific criteria for "Green Box" to be tightened to ensure no, or at most minimal, distorting effects on trade and production.

Furthermore, developing countries are calling for a review of the Agreement on Trade in Agriculture in order to increase flexibility in the use by developing countries of the *de minimis* measures; to allow developing countries with zero AMS to provide such support if required under development programmes; and make "non-actionable" input and investment subsidies made available to low-income farmers and resource poor farmers. Developing countries are also calling for expansion of the S&D treatment in the area of domestic support in order to allow developing countries to provide support to small-scale and subsistence farmers, for rural poverty alleviation, food security and product diversification.

Everything on domestic support measures is open for discussion. Some of the issues include criteria for domestic support measures to be included in the "Green Box" and its implications on the "Blue Box" and "Amber Box"; whether domestic support should be "decapled" from production and from prices; and what should be the elements of the "Blue Box" and "Amber Box".

The meeting in Addis Ababa will need to revisit the debate on this issue with a view to better informing African countries on the evolving issues.

Special and Differential Treatment (S&D)

Developing countries are calling for S&D to be made an integral part of the multilateral trade negotiations. In this respect, some countries are proposing that S&D should be considered under each of the negotiating pillars of the Agreement on Trade in Agriculture. Other countries are of the view that this issue is critical for effective participation of developing countries in trade in agriculture and should therefore be dealt with separately. The meeting in Addis Ababa may wish to deliberate on this aspect.

Proposals for enhancing the S&D provisions have included creation of an inter-agency revolving fund for LDCs and NFIDCs to ameliorate the negative impact of implementation of the agricultural reform programme on their economies; regular monitoring and evaluation of the impact of these reforms on LDCs and NFIDCs; establish a mechanism to ensure that food aid does not negatively impact on domestic production; and provision of technical and financial assistance.

D. Trade in Services

25. Article XIX of the General Agreement on Trade in Services (GATS) provides the mandate for the current negotiations on trade in services. These negotiations were mandated to start five years after entry into force of the GATS. The aim of the negotiations was stated as "to achieve progressively higher level of liberalization in trade in services". The main features of Article XIX can be summarised as : the need to give due respect for national policy objectives in trade in services; cognisance of the level of development of member countries, both overall as well as in individual sectors; the need for appropriate flexibility in order to allow individual countries to open up fewer sectors and liberalising fewer sectors; the importance of attaching market access conditions aimed at achieving the objectives of Article IV of GATS, and the need to establish "negotiating guidelines (Article XIX:3)" for further negotiations on trade in services.

26. Members of the WTO adopted on 28 March 2001 guidelines for negotiations on trade in services. According to the guidelines, there will be no prior exclusion of any service sector or mode of supply. However, special attention will be paid to sectors and modes of supply of export interest to developing countries. Key points to note in the guidelines are: the starting-point for the negotiations; the main method of negotiations; flexibility for developing countries; treatment of autonomous liberalisation; and continuation of the assessment of services trade. Also noteworthy is reference to the size of economies and the needs of small-and-medium scale enterprises (SMEs) of developing countries in the guidelines. The guidelines also refer to provision of technical assistance: review of progress in implementation of Article IV of GATS; due consideration of small service suppliers of developing countries; and evaluation of the outcomes of the negotiations.

27. Negotiations on trade in services within the WTO have been progressing rapidly within the Committee on Trade in Services, parallel with those on trade in agriculture. These negotiations have continued during 2001 under an agreed schedule. A number of countries have made committees in various sub-sectors on trade in services and most of these have been from developed countries. Some developing countries have also made commitments, mainly to try and attract foreign direct investment, especially in tourism and financial services.

28. Under the current negotiations on trade in services, countries are allowed to decide on the content and pace of liberalisation of trade in services. There is no automaticity as regards sequencing and content of liberalisation of trade in services at the country level. The number of sectors in trade in services that a country wishes to commit for liberalisation is not prescribed. Nonetheless, countries are required to provide a schedule of commitments, even if they commit only one sector.

29. The commitments currently submitted by some fifty members of the WTO (accounting the EU as one country) have focused mainly on tourism, business services, financial services, telecommunications, health services, education, and accountancy. Accordingly, very few commitments have been received on the remaining major clusters (16 in total) of trade in services. The total number of sub-sectors on which countries can make commitments is nearly one hundred and sixty (160).

(i) Pre-Seattle African Countries' Perspective on Trade in Services

30. The pre-Seattle position of African countries on trade in services may be summarised as follows:

- ◆ Retaining the special and differential treatment measures already accorded to Least Developed Countries (LDCs);
- ◆ Incorporating S&D measures in the development of new rules, particularly on the built-in agenda such as subsidies, emergency safeguard measures and government procurement;
- ◆ Identify restrictions incorporated in the schedules of commitments of other WTO members (particularly developed countries) and negotiate their removal;
- ◆ Submit country schedules that contain transitional limitations designed to ensure the smooth integration of African countries in the global system;
- ◆ Negotiate specific commitments in strategic sectors/sub-sectors in accordance with GATS provisions;
- ◆ Identify specific sub-sectors where Africa has comparative advantage;
- ◆ Undertake systematic studies to identify emerging opportunities for African countries; and
- ◆ Negotiate for technical assistance programmes that should cover other areas such as infrastructural development, training of personnel and capacity building.

(ii) Issues for Discussion

31. The key issues that arise include the following: what is the state of preparedness of African countries for the negotiation on trade in services; what are the strategies Africa has evolved so far for these negotiations; can Africa continue to maintain common group positions in these negotiations?

32. African countries face a number of challenges in the negotiations on trade in services which will need to be addressed and these include:

- ◆ The need to identify areas of interest and priority for African countries in trade in services;
- ◆ The need to address seriously the questions of assessment of trade in services as well as the treatment of "autonomous liberalisation";
- ◆ The need to come forth with proposals capable of ensuring full implementation of Article IV provisions of the GATS, the movement of natural persons;
- ◆ The need to understand the implications of the various negotiation approaches now subsumed in disguised forms in the proposals of developed countries, such as model, formula, cluster approaches being suggested;
- ◆ The need to properly understand the implications of the "positive and Negative List" approaches to the negotiation of specific commitments;
- ◆ The need to critically examine proposals of developed countries in order to identify and ensure that the modes of supply being targeted are those of interest to developing countries; and
- ◆ The need to develop, as and when necessary, sub-regional and regional approaches to negotiations on trade in services.

33. The focus of African countries in the negotiations on trade in services could be on a number of issues, including the following:

- ◆ The need to insist on staying with the spirit and letter of the Negotiation Guidelines, which have been described as development friendly;
- ◆ For the negotiations to continue to be guided as well by the provisions of Article of XIX of GATS, particularly the approach to gradualism in the process of liberalisation;
- ◆ To insist on due respect for national policy objectives and individual level of development and full recognition of flexibility for developing countries, for opening fewer sectors and liberalising fewer types of transactions;
- ◆ To insist on effecting full implementation of Article IV provisions of GATS, and especially of movement of natural persons, by lowering entry and other barriers which are deemed to be trade distorting;
- ◆ To insist on developed countries making commitments in those modes of supply and sectors, which are of export interest to developing countries; and
- ◆ To ensure that the right to regulate the services sector is not in any way undermined.

34. On the negotiations in trade in services, it is important for African countries that although countries are not required to make commitments, not doing so may have negative impact on FDI. Nonetheless,

countries need to understand the issues under stake. Issues of contention include: classification issues of tourism ; commercial presence; anti-competitive practices of foreign suppliers, and market access issues, and special and differential treatment (Article IV of GATS); and Article IV Of GATS and the TRIMS Agreement on transfer of technology to developing countries. African countries can become suppliers of certain services, such as health services (South Africa and Egypt for example), accountancy services as India does, construction services as well as education services. However, Africa's greatest potential is in the expansion of the tourism industry.

E. Reviews of WTO Agreements

Trade-Related Intellectual Property Rights (TRIPS)

35. The Council on Intellectual Property Rights (TRIPS) has since the Seattle WTO Ministerial Conference continued its work and held a number of formal and informal meetings to move forward discussions on TRIPS. The discussions in the Council have focused mainly on: notifications and notification procedures; review of national laws and regulations; review of implementation of Article 70.8 and 70.9 of the TRIPS Agreement; review of implementation of Article 66.2 of the Agreement ; other implementation issues raised in the Council, relevant developments elsewhere in the WTO in the context of the TRIPS Agreement; and technical cooperation. The discussions have also focused on review of the application of the provisions of the section on "geographical indications" and Article 24.2; implementation of Article 24.1; implementation of Article 23.4; review of provisions of Article 27.3 (b); review of the Agreement under Article 71.1; non-violation complaints; trade facilitation as it relates to the TRIPS Agreement; and electronic commerce.

36. As regards "review of national laws and regulations", the council periodically undertakes such reviews in order to determine the extent to which national laws and regulations of Member States conform with the provisions of the TRIPS Agreement. Accordingly, the TRIPS Council has continued its review of national laws and regulations, in accordance with the "Schedule for the Consideration of National Implementing Legislation in 1996/1997" adopted at its meeting in November 1995. The procedures originally agreed at its Meeting in May 1996 in respect of the review of legislation in the area of copyright and related rights have been applied to subsequent reviews, with necessary modification.

37. These reviews have focused on a number of areas including trademarks; geographical indications and industrial designs; legislation in the area of patents; lay-out designs (topographies) of integrated circuits; protection of undisclosed information; control of anti-competitive practices in contractual licenses; and enforcement of the TRIPS Agreement.

38. On 1 January 2000, the transitional periods of Article 65.2 and 65.3 expired and obligations entered into effect for a large number of Members who had been availing themselves of these general transitional periods. Following informal consultations, it was agreed that the reviews of these Members' national implementing legislation would take place in 2000 and 2001 and would concern all areas of intellectual property at the same time, but that otherwise the procedures as employed in such reviews by the council so far would be used.

39. As regards implementation of Article 66.2 of the TRIPS Agreement", this Article requires developed country Members to provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging "transfer of technology" to least-developed country Members in order to enable them to create a sound and viable technological base. The discussions in the Council have centered on the type of incentive measures that have been employed by developed country Members in order to transfer technology to LDCs. A proposal was submitted to the Council by Zambia relating to Special and Differential treatment in respect of technology transfer to LDCs.

40. As regards review of Article 27.3 (b), Members were requested to provide information on how "protection of plant varieties" is treated in national laws. Views have been expressed within the Council on the present provisions of Article 27.3 (b), including their relation to the protection and use of biodiversity, and on possible changes to these provisions that might be considered.

41. The Council for TRIPS has also been considering "review of the implementation of Article 71.1 of the TRIPS Agreement". The Article requires the Council for TRIPS to review the implementation of the Agreement after the end of the five-year transition period provided for in Article 65.2 of the Agreement. The Council has discussed modalities of how it should approach this general review of the implementation of the TRIPS Agreement and has received numerous papers and suggestions from Member States on the matter. The Council agreed on a target date prior to the Council's meeting of April 2001 for the submission of suggestions, both on the approach that it should take to the review and the specific issues that delegations would wish discussed.

42. The general position of African countries on intellectual property rights prior to the Seattle WTO Ministerial Conference could be summarised as follows:

- ◆ For the work of the TRIPS Council to be staggered and sequenced, so that developing countries with meagre resources could participate effectively;
- ◆ For the moratorium on application of "non-violation" remedy on disputes under the TRIPS Agreement to be maintained in-

- definitely until Members agree by consensus that sufficient experience has been gained within the scope and modalities;
- ◆ For the transitional period to be extended in order to allow countries sufficient time to address the difficulties encountered with the TRIPS Agreement ;
 - ◆ Regular, full review of the implementation of the provision of Article 6.2 is needed;
 - ◆ Clarification and review of the substantive provisions of Article 27.3(b) on protection of plant varieties is needed, especially as to why the option of exclusion of patentability of plants and animals does not extend to "micro-organisms", and why the patentability of "essentially biological processes" does not also extend to "micro-biological processes";
 - ◆ After the sentence on plant variety protection in Article 27.3(b), a footnote should be inserted stating that any *sui generis* law for plant variety protection should provide for protection of the innovation of "indigenous and local farming communities" in developing countries, continuation of traditional farming practices, and prevention of anti-competitive rights or practices which will threaten the food sovereignty of people in developing countries;
 - ◆ Negotiations under Article 23.4 should be extended to other categories and the scope of the multilateral system of notification and registration of geographical indications should be expanded to other products recognisable by their geographical origins;
 - ◆ Negotiations should safeguard the right of the holders of traditional knowledge to share in the benefits arising from any related innovation; and
 - ◆ Restriction on production of essential drugs should be removed, so as to make them available and affordable at reasonable prices.

43. The objectives of the TRIPS Agreement are stated as:

"Protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations".

44. The WTO's Agreement on Trade-Related Intellectual Property Rights attempts to strike a balance between the long term objective of providing incentives for future inventions and creation, and the short term social objective of providing incentives for future inventions and creation, and the short term objective of allowing people to use existing inventions and creations. The TRIPS Agreement provides flexibility for govern-

ments to fine tune the protection granted in order to meet social goals. For patents, it allows governments to make exceptions to patent holders' rights, such as in national emergencies, anti-competitive practices, or if the right-holder does not supply the invention, provided certain conditions are fulfilled.

45. However as the recent case against The Republic of South Africa by 39 international drug companies in order to stop the country from importing or producing cheaper generic copies of the essential patented drugs has demonstrated, interpretation and implementation of the TRIPS Agreement has proved complex and complicated. The challenge in this case is "how to reach an appropriate balance between sharing the high costs associated with research and development activities and, at the same time, sharing the results of these activities, in terms of access to new drugs to treat the diseases prevalent in different countries". The central issue in the discussions on the TRIPS Agreement is how to achieve a balance of rights and obligations between producers of technological knowledge (research and development) and users of such knowledge.

46. The basic issues currently under discussion in the TRIPS Agreement may, therefore, be summarised as follows:

F. New Trade Issues (Singapore Issues)

47. Although "non-trade issues", such as trade and investment, trade and competition policy, trade and the environment, and trade and labour standards as well as trade facilitation are important issues, there is still lack of consensus among WTO members as to whether they should constitute elements of an agenda for a new round of multilateral trade negotiations. The erroneous impression that has arisen is that new WTO rules in these areas are seen solely in the interest of industrialised countries, mainly because discussions have focused on a narrow range of issues in these areas. For example on "trade and the environment", the focus has been on precautionary principle, on labelling issues, and on the compatibility of multilateral environmental agreements and the WTO rules.

(i) Trade and Investment

48. On "*trade and investment*" the importance of being able to attract foreign direct investment and of the need for rules to govern investment practices is acknowledged by most countries, including developing countries. However, it is not still clear whether a multilateral investment agreement would provide a better framework for promoting FDI than already existing bilateral, regional and other agreements. Some countries are of the view that this issue should be included on the agenda for the next round, while others are against.

49. The Working Group on Trade and Investment (WGTI) has continued its work, pursuant to the mandate given in paragraph 20 of the Singapore Ministerial Decision and to General Council's subsequent decisions. Its work has focused mainly on :

- ◆ Implications of the relationship between trade and investment for development and economic growth and more specifically on:
 - (i) The relationship between FDI and the transfer of technology to host countries;
 - (ii) General discussion on issues requiring further study in the Working Group
- ◆ The economic relationship between trade and investment
- ◆ Stocktaking and analysis of existing international instruments and activities regarding trade and investment, and more specifically:
 - (i) WTO provisions on matters related to investment;
 - (ii) Bilateral, regional, plurilateral and multilateral agreements and initiatives and their implications for trade and investment flows

50. The work of the Working Group continues, but no consensus has yet emerged among members of the WTO as to whether to initiate negotiations on a "multilateral investment agreement". The OECD countries had made some progress in trying to agree on a multilateral investment agreement (MIA). However, these efforts became stalled because of disagreements among the OECD countries, and more specifically objections by France.

(a) *Pre-Seattle Position of African Countries*

51. Prior to the Seattle WTO Ministerial Conference, most African countries, were of the view that if negotiations on a multilateral investment agreement were to be initiated, the following elements would constitute the starting-point of Africa's negotiating positions:

- ◆ Development dimensions of FDI would need to be taken into full account in the Agreement;
- ◆ Portfolio investment should not be included in the Agreement because of its volatility;
- ◆ Full use of the WTO provisions, including phasing, transitional periods, limitations to cross regulation, and the positive list approach of GATS; and
- ◆ Linkage as much as possible on the investment issues with

TRIMS and other investment-related agreements.

52. African countries also called on the Working Group to continue its work and to include in such work issues of:

- (i) Balance of rights and obligations of investors;
- (ii) More equitable distribution of investment flows to less developed and least developed countries;
- (iii) Negative effects of foreign investments;
- (iv) Movement of natural persons; and
- (v) Transfer of technology and results of the Research and Development (R&D) associated with FDI.

53. A number of African countries had very strong views on the issues of trade and investment. Kenya for example was of the opinion that investment matters should be negotiated under the premises of the TRIMS Agreement.

(b) Issues for Discussion

54. It is not clear at this stage as to whether the issue of "trade and investment" will feature at the Doha WTO Ministerial Conference. Furthermore, if a new Round of multilateral trade negotiations were launched at the Conference, it also not clear whether the issue would feature on the agenda.

55. As the negotiations progress, the discussions have focused on the following key issues;

- (i) Definition of investment
- (ii) Pre-establishment rules;
- (iii) Post establishment rules;
- (iv) Transparency;
- (v) Performance requirements;
- (vi) Dispute settlement;
- (vii) Development dimension;
- (viii) Investment protection;
- (ix) Investment incentives;
- (x) Investors obligations; and
- (xi) Relationship with other international agreements

56. African countries need to be proactive. It is essential that African countries revisit the issue to determine as to whether their positions have changed since Seattle. Some African countries have indicated that they would agree to include the issue on the agenda for the next Round of trade negotiations. To what extent does this change the general position of other African countries.

(ii) Trade and Competition Policy

57. On "trade and Competition policy", many countries cite the need for promoting effective competition in international trade and guarding against anti-competitive and monopolistic practices as well as the elimination of hardcore cartels. Domestic competition law cannot deal effectively with international cartels and issues of overlapping jurisdiction between countries. A multilateral agreement would be in a position to deal with such issues. However, agreement is still lacking as to whether a multilateral competition agreement within the framework of the WTO should be established. Some countries are of the view that there is a "public good" for pushing for a multilateral competition policy agreement.

58. The Working Group on Trade and Competition Policy (WGTCP) has continued its work, pursuant to the mandate given in paragraph 20 of the Singapore Ministerial Decision and to General Council's subsequent decisions. The discussions in the Working Group on Trade and Competition Policy have focused a number of issues, including the following:

- ◆ The core principles of competition law and policy;
- ◆ Modalities of cooperation among countries, including designation of a "national focal point";
- ◆ Specific measures to support competition regimes in developing countries;
- ◆ Prohibition of hardcore cartels;
- ◆ The problem of overlapping and the lack of harmonised procedures for the review of mergers with international implications;
- ◆ The application of the WTO principles of transparency and non-discrimination to national competition regimes;

- ◆ The need for sharing of information and experiences with respect to national competition laws and enforcement policies and practices;
- ◆ Actions to facilitate the coordination of enforcement policies and initiatives, including voluntary notifications, and;
- ◆ The provision of technical assistance to developing countries

59. The Working Group continued its work during most of 2000 and based such work on the study of issues raised by member states relating to the interaction between trade and competition policy. The Working Group continued to ensure that the development dimension and the relationship with investment were fully taken into account in the discussions.

60. A consensus has yet to emerge in the Working Group on a number of important issues. These include agreement on how issues of competition policy should be mainstreamed in the multilateral trade agree-

ments, whether the issue of trade and competition policy should be on the agenda of the next Round of multilateral trade negotiations; whether the issue of competition policy cannot be dealt with adequately within the framework of existing GATT and WTO Agreements, such as TRIMS and TRIPS, and to what extent do bilateral, regional and/or plurilateral agreements address some of the issues of trade and competition policy.

(a) Pre-Seattle Positions of African Countries

61. Prior to the Seattle WTO Ministerial Conference, most African countries, were of the view that negotiations on a multilateral agreement on trade and competition policy should not be on the agenda for the next Round of multilateral trade negotiations, in view of the absence of Competition Law in many of their countries and the complexity of implementing competition policy measures.

62. African countries were of the opinion that competition policy issues are an integral part of other aspects of the WTO Agreements, such as anti-dumping, customs valuation, and trade facilitation, among others. Elements of these should first be reformed and implemented before an effective agreement on competition policy can be reached. In reforming these agreements, it is necessary to consider Special and Differential Treatment of weaker and more vulnerable members of the WTO; mainstream competition policy in current agreements and postpone negotiations on a specific agreement; and ensure that strong provisions are included in the Agreement, if it becomes inevitable, on research and development and on technical assistance and capacity-building.

63. In summary, prior to the Seattle WTO Ministerial Conference, the view of the majority of African countries was not in favour of new negotiations on trade and competition policy, but rather :

- ◆ Continuation of the educative, exploratory and analytical process of the Working Group,
- ◆ Rendering of assistance to developing countries to participate more effectively in the work of the Working Group;
- ◆ Establishment of a special technical assistance programme on competition policy;
- ◆ Strengthening and assisting those countries with existing legislation and agencies;
- ◆ Elaboration of practical approaches to institutional development and capacity-building;
- ◆ Promotion of competition policy and related laws and WTO disciplines in the context of international coherence initiatives;
- ◆ Control of restrictive business practices, particularly those restricting competition, limiting access to markets or fostering monopolistic tendencies;

- ◆ Non-inclusion of competition policy in the multilateral trading system because it could stifle enterprise development in developing countries; and
- ◆ Protection of African economies vis-à-vis restrictive trade practices and the role of multinational corporations in the economy.

(b) Issues for Discussion

64. The position of a number of developing countries in the Working Group on Trade and Competition Policy has been guided by a general belief that Competition Law and Policy should broadly focus on anti-competitive behaviour in three main areas; abuse of dominance in the market; mergers resulting in monopolies or unfair competition; and other anti-competitive policies, such as price fixing or geographical allocation of markets. Accordingly the major concerns of developing countries have tended to focus on such issues as:

- ◆ The relationship between competition policy and economic development;
- ◆ The special challenges facing competition agencies in developing countries;
- ◆ Pros and cons of possible new modalities of cooperation in competition policy at the multilateral level;
- ◆ The nature of a possible multilateral framework on competition policy;
- ◆ Practices that had a detrimental effects across the markets of several countries, such as international cartels, anti-competitive mergers, and abuse of dominant position;
- ◆ Practices that affect market access for imports; and
- ◆ Practices that have a differential impact on domestic markets of countries, such as where a merger has a benign effect in one market, but detrimental knock-on effects in another market.

65. It is still unclear at this stage as to whether the issue of trade and competition policy will feature prominently at the Qatar WTO Ministerial Conference or as and when a new Round of multilateral trade negotiations is launched. Notwithstanding, a number of basic issues still remain valid for many African countries and include the following:

- ◆ Most African countries do not have in place Competition Law and Policy, except for a few countries;
- ◆ Most countries lack the capacity to enforce competition law and policy;
- ◆ The interrelationship between competition policy and economic development is a complex one;
- ◆ The modalities for introducing anti-competitive policies in

- "dualistic economies", most of which African economies are, becomes even more complicated and complex,
- ◆ The need to identify the content and form of technical assistance to be provided to developing countries in order to introduce and implement competition law and policy becomes an imperative.

(iii) Trade and the Environment

66. On "trade and the environment", the concern of many developing countries is the risk of environmental standards being misused for the protection of national markets. Developing countries acknowledged that while developed countries cannot dispense and neglect consumer protection, nonetheless, there is need to make sure that standards and labelling rules are designed in an appropriate and transparent manner and take account of developing countries' special interests. There is also need to give increased support to developing countries in strengthening relevant institutions and capacities.

67. The Committee on Trade and Environment (CTE) has continued its analysis of its work as mandated in the Marrakech Ministerial Decision on Trade and Environment. The discussions on the CTE have been on a range of issues focusing primarily on the themes of market access and the linkages between multilateral environment and trade agendas. The range of discussions have included;

- ◆ Consultations with Multilateral Environmental Agencies ;
- ◆ The relationship between the WTO and multilateral environment agreements (MEAs);
- ◆ The export of domestically prohibited goods;
- ◆ Protection of biodiversity and traditional knowledge;
- ◆ The relationship between the convention on Biological Diversity and the TRIPS Agreement;
- ◆ The precautionary principle
- ◆ Integrated assessment of trade-related policies;
- ◆ Fisheries subsidies; and
- ◆ Energy subsidies

68. The Committee has over the years been considering an abundance of literature on trade and the environment and has consulted extensively multilateral environment agreements, such as Convention on Biological Diversity, Montreal Protocol on Substances that Deplete the Ozone Layer; UN Framework Convention on Climatic Change, etc.

(a) Pre-Seattle Positions of African Countries

69. Prior to the Seattle WTO Ministerial Conference, most African coun-

tries, while appreciating the importance of environmental protection, were of the view that the interrelationship between trade, environment and development is a complex and complicated one. They were of the opinion that mainstreaming trade and environment into the various WTO Agreements involves risks and accordingly were of the view that:

- ◆ An imbalance exists between the subjects of trade and environment as proposed for new multilateral trade negotiations by some developed countries;
- ◆ Inclusion of trade and environmental issues in the negotiating agenda of the WTO could result in sidelining other issues of importance to Africa;
- ◆ Further studies should be undertaken on aspects of an environmental impact assessment on African countries of the WTO Agreements.; and
- ◆ Negotiations on trade and the environment should not be initiated at this stage

(b) Issues for Discussion

70. It is not clear at this stage as to whether the issue of "trade and environment" will feature at the Fourth WTO Ministerial Conference as a normal issue for discussion or as a "*substantive*" issue for negotiations if a "*new*" Round of multilateral trade negotiations is launched. For African countries to be proactive, it is imperative that they understand what is currently being discussed in the Committee on Trade and Investment as well as the positions being tendered by developed countries and other developing regions.

71. The Addis Ababa meeting would need to consider and discuss a number of key issues on trade and the environment, and more importantly:

- ◆ The effects of environmental measures on market access;
- ◆ The transparency of trade measures used for environmental purposes;
- ◆ The relationship between dispute settlement mechanisms in the multilateral trading system and those in multilateral environmental agreements (MEAs)
- ◆ The export of domestically prohibited goods;
- ◆ Protection of biodiversity and traditional knowledge;
- ◆ The relationship between the convention on Biological Diversity and the TRIPS Agreement;
- ◆ The precautionary principle
- ◆ Integrated assessment of trade-related policies;
- ◆ Fisheries subsidies; and
- ◆ Energy subsidies

72. A proactive approach will be needed to ensure that African countries remain prepared. The call by African countries for further studies to be undertaken on aspects of an environmental impact assessment on African countries of the WTO Agreements still remains valid.

(iv) Transparency in Government Procurement in the Framework of the WTO

73. The Working Group on Transparency in Government Procurement established by a Decision at the WTO Ministerial Conference held in December 1996 in Singapore continued its mandated work to undertake studies on transparency in government procurement practices, taking into account national policies and to try and develop elements for inclusion in an appropriate Agreement on Transparency in Government Procurement.

74. The work of the Committee has accordingly focused on definition and scope of government procurement; procurement methods; publication of information on national legislation and procedures; information on procurement opportunities, tendering and qualification procedures; time-awards; domestic review procedures; other matters related to transparency; information to be provided to other governments; WTO dispute settlement procedures; and technical cooperation and special and differential treatment for developing countries.

(a) Pre-Seattle Positions of African Countries on Transparency in Government Procurement

75. The general position of African countries on this issue prior to the Seattle WTO Ministerial Conference was

- ◆ The need for negotiating a balanced agreement should there be consensus to go ahead with negotiations for an Agreement;
- ◆ Recognition of progress achieved in Africa in the area of governance, accountability and transparency;
- ◆ The need for special treatment for African countries;
- ◆ A clear position on the issue of corruption as a bad practice to be combated, both by developed and developing countries;
- ◆ The need for reviews, at the country level, of African countries government procurement procedures and practices;
- ◆ The need to identify inconsistencies between the WTO Plilateral Agreement On Government Procurement, and country and multilateral arrangements;
- ◆ The need for more studies and exploratory work

(b) Issues for Discussion

76. A number of issues arise for discussion at the Addis Ababa Meeting and they include:

- ◆ Should the issue be included in the agenda for the Fourth WTO Ministerial Conference and a new Round, what is the general position of African countries?
- ◆ Should African countries adopt a positive dispensation to the creation of a Multilateral Agreement on Transparency in Government Procurement and what should be the main elements of such an agreement?
- ◆ What elements of governance should be included in such an agreement?
- ◆ What scope will exist for governments to continue to provide special treatment for domestic suppliers to government services?
- ◆ What modes of enforcement will be included in the Agreement?

(G) Electronic Commerce

77. Electronic commerce is broadly defined as *"the production, distribution, marketing, sale or delivery of goods and services by electronic means"*. Electronic commerce (E-Commerce) falls within the scope of electronic orders for products to be delivered physically, which come under the General Agreement on Tariffs and Trade (GATT); electronic deliveries of services, which come under the General Agreement on Trade in Services (GATS); and intellectual property rights and commitments, which fall under Trade-Related Intellectual Property (TRIPS). As E-Commerce involves cross-cutting issues that straddle various agreements, some countries have pointed out to the need for an overarching guide, in the form of an Understanding within the WTI, on interpretation and application of electronic commerce in relation to existing GATT, GATS and TRIPS commitments. The discussions on E-Commerce have tended to center on the following aspects: definition and classification of digitized products; market-commerce with existing GATT, GATS and TRIPS commitments, and relationship to existing basic telecommunications and tariff commitments (custom duties).

(i) Pre-Seattle African Countries' Perspective on Electronic Commerce

78. Although few African countries had prior to Seattle developed the capacity to effectively participate in e-commerce, nonetheless, there were agreements reached among African countries on how to approach

the discussions that were to be held in Seattle and included the following:

- ◆ The need for African countries to closely follow all the negotiations and to identify trade-related aspects of e-commerce that have a special interest to African countries;
- ◆ The need to identify existing WTO Agreements that require adjustments to accommodate for conducting business via e-commerce;
- ◆ Seek to identify the longer-term development of a common African position on e-commerce. This would need to assess the impact of e-commerce on market-access commitments, custom duties and revenue, taxation and financial services;
- ◆ Examine the economic and development implications of e-commerce; and
- ◆ Examine the impact of non-tariff electronic transactions and the so-called "tariff-treatment for information technology".

(ii) Issues for Discussion

79. It is acknowledged that success and active participation in e-commerce depends heavily on the availability of adequate infrastructure and skills at the level of small and medium enterprises. Accordingly, concerted efforts are needed to improve Africa's capacity to participate in e-commerce. The ECA "African Information Society Initiative (AISI)", which is an active framework to develop African information and communications infrastructure is a step in the right direction. The General Council of the WTO has discussed on several occasions during its regular Council Meetings, developments in electronic commerce. At its meeting in mid. December 2000, the council noted that :

- ◆ Not enough time had passed since their last meeting in July 2000 to permit the subsidiary bodies to substantially deepen the work they had done on electronic commerce;
- ◆ The work in the subsidiary bodies had demonstrated that electronic commerce fell within the scope of existing WTO Agreements and therefore there may be no need for new WTO rules to govern e-commerce;
- ◆ There were some areas that had been identified as needing clarification as to how current rules should be applied in certain circumstances;
- ◆ Members had all become aware through this exercise of the tremendous potential of e-commerce and the Internet to contribute to infrastructure capacity building and market access, particularly of developing countries;
- ◆ Members were proposing for the establishment of an "Ad Hoc Task Force" within the WTO to deal with issues of e-commerce.

H. WTO Accession Issues

80. The discussions within the World Trade Organization on the process of accession to the WTO have centered mainly on the following aspects: the procedures laid down for the accessions under Article XII; the transparency and pace of the accession process; whether the fact finding stage overburdened applicants, particularly smaller economies; the terms and conditions of accession, in particular the availability of special and differential treatment, including transition periods; how the special needs and capacities of least developed applicants for accession are addressed; the provision and coordination of technical assistance to acceding governments; and the relationship between accessions and the new trade negotiations.

81. A great deal of information is required of acceding countries and this places significant burden on acceding countries. Similarly, transition periods have been the subject of considerable discussion in accession Working Parties. Market access negotiations for an acceding country can also be a protracted exercise, as are bilateral negotiations on tariffs which are based on an offer by the applicant. Similarly, negotiations on agricultural supports and export subsidies, which now often take place largely on a plurilateral basis, can also be protracted and difficult.

82. Discussions on accession have also focused on the "terms of accession" and in this respect, developing countries have been calling for acceding governments not to be asked to undertake more stringent obligations than present WTO members (referred to as WTO-plus obligations) and for special and differential treatment to be granted to developing countries in their accession to the WTO. The importance of providing adequate transition periods for acceding countries has also been emphasized. As regards market-access negotiations for accession, a number of different criteria have been suggested for judging market-access commitments and include "commercially viable", "meaningful in trade terms", "meaningful", "fair" or "appropriate to the level of economic development of an applicant". WTO members appear to have settled for "meaningful market-access". Developing countries are also calling for membership to Plurilateral Agreements, such as Agreement on Government Procurement and Civil Aircraft Agreement, not to be made conditions for accession to the WTO. They are also calling for particular attention to be given to the accession of least developed countries, the idea of "Fast-track Accession". The suggestions are for the accession procedures applicable to LDCs to be simplified and accelerated. Concerns have been raised that since Marrakech (1994) no LDC country has acceded to the WTO.

(i) *Pre-Seattle African Countries' Perspective on Accession Issues*

83. Prior to the Seattle WTO Ministerial Conference, African countries expressed certain concerns about the WTO accession process. They were of the view that:

- ◆ Developing country and LDC status should be granted to acceding African countries at the first Working Party meeting of the WTO for each applicant and should be specifically referred to in the first Working Party Meeting;
- ◆ African countries should not be called upon to assume obligations or commitments that go beyond what is applicable to other developing WTO members;
- ◆ No commitments and obligations should be sought from acceding African countries which are not covered by multilateral trade agreements;
- ◆ Market access negotiations for acceding LDCs should be simplified by agreeing on minimal targets for them in industrial tariffs, agricultural tariffs and services;
- ◆ Special and differential treatment provisions should be automatically granted to acceding African LDCs, which calls for the establishment of a "fast-track" approach for their accession, lasting no more than one year from the date of submission of the trade memoranda, with a maximum of two Working Party Meetings, whichever is earlier, for completion of the accession process.

(ii) Issues for Discussion

84. African countries have been calling for the simplification of procedures for African countries seeking accession to WTO, especially ensuring that they are not overburdened with higher obligations than those of existing members. These issues remain unresolved to a certain extent. African countries will need to revisit the issue of accelerating the process of accession for African countries. It is worth noting that since 1994, there is no LDC that has been able to accede to the WTO.

85. The Addis Ababa Meeting will need to re-examine the main proposals made by African countries prior to the Seattle WTO Ministerial Conference and realign them accordingly on the basis of the discussions that have been taking place within the WTO and the accession experiences of new members of the WTO that have just acceded. African countries may wish to place for adoption of a Ministerial Decision at the Doha WTO Ministerial Conference on the "Fast-track Approach" for accession of LDCs to the WTO.

I. Developing a "Positive Negotiating Agenda" for African Countries

86. The General Council of the WTO has yet to agree on the agenda for

the Doha Ministerial Conference and the new round. Nonetheless, some broad elements appear to be emerging and include the following:

- ◆ Ministerial reviews on current issues
- ◆ Implementation Issues;
- ◆ Ongoing negotiations and reviews
- ◆ Agriculture trade;
- ◆ Trade in services; and
- ◆ WTO reviews
- ◆ Other elements of the WTO work programme
- ◆ Singapore issues
- ◆ Other new issues
- ◆ Organisation and management of the WTO work programme, and
- ◆ Technical cooperation and capacity building

87. Many countries, including most developing countries are of the view that the agenda of the next WTO Ministerial Conference and any new round would need to include market access issues and implementation issues as a starting-point. There is need to meet mutual interests of all negotiating members in the WTO and to attain a balanced outcome. Trade is a driving force that fuels economic growth and market access is critical for countries to benefit from globalisation. Accordingly, there is need to provide effective market access to products of developing countries in markets of industrialised countries. In this respect, all issues relating to market access would need to be addressed, including, tariffs, tariff peaks, tariff escalation, consolidation of tariffs, non-tariff barriers (anti-dumping, safeguard measures, and sanitary and phytosanitary measures).

88. On implementation issues, most members of the WTO are agreed that the imbalances of previously concluded Agreements would need to be addressed, as part of the confidence building process within the WTO. All aspects of disagreements among members of the WTO on certain Agreements, such as TRIPS, TRIMS, agriculture, trade in services, etc would need to be resolved. Some countries have indicated that there may be need to establish within the *WTO a standing procedure and process of regular reviews* on "implementation issues", as is the case with certain WTO Agreements.

89. On agriculture, many countries are of the view that negotiations would need to go beyond the requirements of Article 20 of the Agreement on Trade in Agriculture and cover other issues of concern raised by developing countries and others. Trade distorting measures such as export subsidies, domestic support measures, tariff peaks and tariff escalation would need to be addressed adequately.

90. On trade in services, "guidelines for negotiations" have been agreed upon in the WTO. Most members of the WTO agree on the importance of ensuring effective participation of developing countries in further nego-

tiations on trade in services as well as importance of providing technical and other assistance in order to remove supply constraints in developing countries and improve human capacities. Furthermore, calls are being made to assist developing countries to improve their infrastructural base in support of trade in services.

91. On non-trade issues, members of the WTO acknowledge that trade-plus issues are the most explosive and sensitive areas of negotiation for the Doha WTO Ministerial Conference and any new Round. They note the importance of investment in transfer of technology, FDI flows and transfer of managerial skills. Modalities for attracting investment have been discussed at various forum and within the WTO. Arguments for establishing a multilateral investment agreement have also been advanced. Similarly, countries have noted the need for promoting competition in international trade and for protecting the environment. However, as regards, inclusion of these issues in the Doha Ministerial Conference or the new round, some countries are of the view that there was need for further consultations within the WTO and in outside fora. Some countries are concerned that environment and labour standards could become avenues for trade protectionism in industrialised countries.

92. Countries also agree that further negotiations are needed on the content and form as well as implementation of the WTO provisions on "special and differential treatment" for developing countries as well as provisions regarding technical assistance in order to improve on the current provisions which are coached as "best endeavours".

93. A "positive negotiating agenda" for African countries would need to take into account all these developments. An important task of the Addis Ababa meeting will be to review the positive negotiating agenda for African countries which was adopted in Algeria prior to the Seattle WTO Ministerial Conference, with a view to realigning it with recent developments in the WTO and in changes in the negotiating stances of African countries. Many African countries have for example tabled proposals on negotiations on Agriculture which would need to enrich the "positive negotiating agenda for African countries.