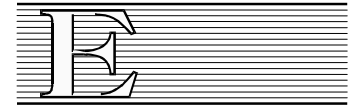




UNITED NATIONS

ECONOMIC COMMISSION FOR AFRICA



Distr.: GENERAL

E/ECA/CTRCI/6/9
30 August 2009

Original: English

Sixth Session of Committee on Trade,
Regional Cooperation and Integration

13-15 October 2009
Addis Ababa, Ethiopia

**Update on the International Trade Negotiations
and Enhancing Africa's Participation in the WTO
Negotiation Process: Towards a Critical Appraisal
of the Potential Development Benefits of the Doha
Development Agenda¹**

¹ This paper has been drafted with inputs from the various *Economic Reports on Africa (2007, 2008, and 2009)* and has also benefited from background work undertaken by a UNECA Consultant.

Enhancing Africa's Participation in the WTO Negotiation Process: Towards a Critical Appraisal of the Potential Development Benefits of the Doha Development Agenda

Rationale for a Development Round

It is widely believed by development policy analysts that openness to trade has brought economic benefits to a broad range of countries over the years, including many in the developing world. The Doha Round sought to reinforce this belief as well as improving the role of trade as an engine of development in a more open, more transparent, more equitable rule-based global trading system that would be sensitive to the challenges of its poorer members. The Doha Round came in the immediate wake of the adoption in 2000 – by world leaders – of the United Nations Millennium Development Goals. The UN MDGs recognized the collective responsibility of world leaders in laying the foundations of a more peaceful, prosperous and just world. In so doing, world leaders pledged greater cooperation to address global economic challenges of which trade was a primary part. This culminated in the new Doha Development round whose conclusion would be considered as part and parcel of delivering on the Millennium Development Goals.

With the conclusion of the historic Uruguay Round in 1994, and the subsequent creation of the World Trade Organization (WTO) as the only rule based multilateral trade body, it was envisaged that the development and economic growth objectives of developing and least developed countries would ultimately be realized. However, there has been wide ranging debate on achievements of the Uruguay Round Agreement and its successor, the World Trade Organisation. For some developing and least developed countries the WTO/Uruguay Round trade agreements over-committed poor countries to make significant reforms of their domestic laws to comply with trade rules that were improperly understood. Moreover implementation of these rules proved rather costly – a fact that was exacerbated by the failure of developed countries to meet their commitment to developing countries to provide financial support to help them comply with the provisions of the WTO provision. As such the new rules based trading system to which developing countries had pegged much hope proved to be more of encumbrance to their development than an engine of growth.

The issues that were particularly important to developing countries such as: access to affordable food and medicines, stable markets for their commodities, as well as stronger mechanisms to address the development concerns of the poor countries (including guaranteeing market access through the preservation of trade preferences accorded to developing countries by developed countries) were not adequately addressed. As far as developed countries are concerned the WTO has led to an extraordinary expansion of world trade, mainly attributed to the dramatic fall in tariff levels – in addition to the elimination of quantitative barriers such as quotas, licences and the reduction of technical specifications. This notwithstanding Sub-Sahara's Africa share of the global trade has been declining. The global trade share of the region is now only less than 2% - comprising mainly commodity exports whose global price trends show volatility and until recently were in perpetual decline.

To address the imbalance in the WTO Agreements, developing and least developed countries managed to secure the reopening of the Uruguay Round Agreements through a Ministerial Declaration (Doha Round mandate) on implementation and related issues and concerns. The needs and interests of developing countries in WTO are at the heart of the Doha Development Agenda and if successful, will enable poor countries to secure a greater share in

the growth of world trade. In the run up to Doha Ministerial conference, especially following the collapse of the 3rd WTO Ministerial conference at Seattle, the implementation of technical standards such as SPS, TBT, and TRIPS were given high priority by many developing countries. The Doha Ministerial declaration therefore largely focused on implementation issues. Of particular note is the decision to extend – to certain small developing countries, exemptions from immediately having to phase out certain types of subsidies through granting a longer phase out period for certain types of subsidies.

Others issues under the Doha Round which developing countries view as development related include: Special and Deferential Treatment (S&D), technical assistance and capacity building, better assurances of access for developing countries' export's to developed countries' market, limiting developed countries' ability to distort global markets for products of export interest to developing countries through such means as: prohibition of export subsidies; balanced rules; protection of developing countries in the market access negotiations under agriculture and NAMA and the transfer of technology.

The conclusion of the Doha Development Agenda envisages a scenario which will ensure that developing countries secure a bigger share of growth in the world trade that would take cognizance of their level of development – and hence positively impacting on their aspirations for rural development, food security and the achievement of Millennium Development Goals (MDGs). Further to this, developing countries wanted to preserve the policy space that would permit them to retain, adapt and evolve the kinds of idiosyncratic governmental measures that have proven useful for the developmental aspirations of the U.S, Western Europe, and the emerging economies' of South East Asia.

The Doha negotiations has as one of its key objectives addressing “the needs and interests of developing and least developed countries” by securing for them “a share in the growth of world trade” that is commensurate with the efforts which they are making for economic development. It seeks to achieve these objectives by: providing to them trade enhanced market access; developing “balanced rules”; adopting programmes for “sustained financial assistance”; and for capacity building.

Principle Elements of the DDA

The success of the Doha Round, especially in the eyes of the developing countries, particularly from Africa will be gauged on the extent to which the final modalities and associated agreements adhere to the main principle elements of the DDA. As it were, the principle elements of the DDA are single undertaking; transparency and inclusiveness; and special and differential treatment. Under the principle of single undertaking all items under negotiations are considered as an indivisible package to ensure that there are no opportunities for countries or groups of countries to pick and choose among agreements or to opt out of particular obligations. Transparency and inclusiveness is aimed at ensuring that WTO Councils and committees are open² to all Members, and that all countries have access to the same information.

The principle of special and differential treatment promised much, particularly to the African countries. The principle was and is expected to take into account the particular situations of developing countries and should help to level the playing field by providing flexibility on some of the rules. For instance, developing countries are allowed longer periods in which to implement

² In spite of the principle of transparency and inclusiveness, some processes remain, for instance the processes of “concentric circles” – the famous Room E and Green Room meetings which aim at facilitating convergence among key players.

certain agreements. Some industrialized countries take the position that an ambitious market access agreement could further the goal of development. This position has worried some developing countries, who feel that the focus of the Doha Round has somehow shifted from development, as the DDA mandate suggests, to market access. In the case of African countries, while they have held the position of the need for high ambition on the part of the developed countries in particular, they are keen to take advantage of the special and differential treatment so that they can be able to ring-fence domestic policies aimed at broader developmental goals.

These principles would be critical to the assessment of the Doha development round. They continue to be the benchmarks that have guided the critical assessment of the Doha Round process including interrogation of the current texts, especially in agriculture and NAMA. Consequently, in the context of enhancing African countries participation in the process, including by taking early stock of the modalities, some of the key questions guided by the three principles are: how fair are the draft modalities and their potential outcomes. Has the process been fair and inclusive and are the various concerns, especially for the developing and least developed countries taken into consideration. To what extent have the African positions been reflected in the various agreements reached to date? Given the current state of play, are the concerns that the current procedures might have left the developing countries at a disadvantage with the developed countries resisting fundamental reforms in the multilateral trading system which would have increased openness and transparency of negotiations credible? The Doha Round modalities are also to be assessed on whether their scope allowed the focus to be on what is relevant to developing countries such as market access and development-friendliness and if collective action is possible.

Where are we with the negotiations in areas of interest to Africa?

Before reviewing the state of some the modalities and the negotiations progress so far, it is important to highlight the key positions³ that African countries continue to hold. African countries remain committed to the Doha Round and see it as means to opening up markets for their products. They consider agriculture as the key engine of the Doha Round that will determine overall ambition in the negotiations. Therefore, modalities developed for agriculture should fully address adequately issues of concern to African countries. For instance, sensitive products should not impede the level of ambition in the market access and there should be a sufficient number of special products that are permissible in a flexible manner for developing countries. Furthermore, Africa's position remains that the SSM should be simple, effective and operational and should not be capped on Uruguay Round bound levels. Besides, the SSM should be a permanent feature of agreement on agriculture. And concerned with adjustment costs to formerly preference-dependent economies, African countries are of the view that there should be a trade-based solution for long-standing preferences and implementation of the principle of special and differential treatment for the development-oriented preference schemes. They also seek a multilateral solution to the challenges of commodity dependence. They further advocate minimal flexibilities for developed countries to ensure there is ambition in the domestic support pillar reduction cuts.

African countries are also faced with the challenge of ensuring that the phase-out of the export subsidies is realised by 2013. Similarly, agricultural reforms through the export competition area should now undermine access to food for NFIDCs and LDCs. And on the

³ Africa's positions and concerns with respect to Doha Round negotiations are contained in the Addis Ababa Declarations of (20 March 2009), (3 April 2008) and of (15-16 January 2007); the Nairobi Ministerial Declaration (12-14 April 2006); the Arusha Development Benchmarks (21-24 November 2005); the Cairo Road Map on the Doha Work Programme (5-9 June 2005) and the Kigali Consensus (27-28 May 2004).

important issue of cotton, the main position that the African countries continue to defend is to have an agreement that is compliant to the Hong Kong Declaration in all aspects of the cotton initiative.

As already pointed out the African countries continue to demand that the NAMA modalities reflect their development concerns and do not lead to de-industrialisation and are guided by less than full reciprocity. Yet, they should also avoid preference erosion.

While agriculture and NAMA are the areas that promise the main challenges for Africa in the negotiations, positions have been articulated clearly in other clusters including: services, trade facilitation, LDCs, special and differential treatment, rules, trade and environment, TRIPs, dispute settlement, Aid for Trade and accession issues.

Despite continuing disagreements between the negotiating parties, there is a view that the negotiations have already achieved some clear advances, and it may be time to harvest. This remains a controversial point since the gains must be assessed against the original expectations and ambitions. This section details negotiations results so far in some specific areas that are of special interest to African nations and the key question is how far they reflect the positions that have so far been so well articulated by the African countries.

a) Agriculture

Agriculture is a sector of key interest for African countries, especially in the perspective of poverty reduction and diversification policies. Agriculture is probably the most contentious of issues in the negotiations. Nevertheless, the negotiations had seen some advances that conformed to African wishes.

The main achievements under agriculture include first and foremost the decision to abolish all export subsidies by 2013 and by the end of 2006 for cotton exporters. However, the setbacks in the negotiations have meant the non-realisation of the suppression of cotton export subsidies at the agreed date of end 2006. Disciplines in food-aid and States Trading Enterprises should also contribute to fairer markets in agriculture.

In terms of market access, the negotiations have established a tiered formula with four bands resulting in steeper cuts for higher tariffs. The tiered reduction formula is still the main approach for cutting tariffs. As already agreed upon since 2007, products will be categorized by the height of the starting point and those in higher bands will be subject to deeper cuts. This would at least meet Africa's demand for improved market access through elimination of tariff peaks. The latest draft text has replaced most ranges of possibilities with single numbers that are roughly mid points of the previous range. Developing countries will be expected to apply cuts of 2/3 of those required for developed countries.

At this stage of the negotiations, developed countries will be subject to a minimum average cut of 54%, taking into account also deviations from the formula, while developing countries will be able to stay under a 36% maximum average cut. A number of small and vulnerable economies (SVEs) will be subject to a maximum average cut of 24% that will be applied on a discretionary basis without using the tiered formula. LDCs will not be required to make any tariff reduction. There had also been talks of tariff cappings.

UNECA research has shown that African countries overall would benefit more from an ambitious reduction in tariffs. Moreover, LDCs are also not committed to reducing tariffs. This

will allow most African countries to preserve substantial policy space in agriculture, also a clear objective of the African group.

The principles of sensitive products, alongside special products and special safeguard mechanisms had also been agreed to, despite large disagreement on actual figures. Developing countries -including African ones- had strongly argued in favour of special products and special safeguard mechanisms that would be reserved to developing countries and allow special treatment for goods that have a role in rural development and livelihood of rural communities.

More specifically on the sensitive products issue, when it comes to agricultural tariff reductions, the general tiered formula will not apply to all products. Some flexibilities are granted for specific products that are politically sensitive. Developed countries are eligible to designate 4-6 per cent of their product lines as sensitive or 6-8% if 30% of their products are in the top band. Developing countries will be able to designate as sensitive 1/3 more of the agreed developed countries tariff lines. Countries will be able to deviate from the application of the full effect of the tiered formula by 1/3, 1/2 or 2/3.

In order to balance the reduced effect of the formula, mandatory tariff quotas expansions are expected in relation to the abovementioned deviations. The introduction of sensitive products for developed countries has been a key issue of negotiations. On the one hand, there has been a feeling that such products exclusion would be used to limit market access ambition. But on the other side of the argument, it has been stated that on the contrary, sensitive products would allow developed countries to be more ambitious in the non-excluded sectors. Studies at UNECA have showed that even minimum percentages of tariff exclusions through sensitive products would limit the economic and social benefits expected from ambitious tariff cuts.

Special products are another achievement from an African perspective and therefore very important element of the modalities for the African countries, given the rationale and objectives of seeking the designation of special products. It is generally recognized that developing countries should be entitled to self-designate a special products list guided by food security, livelihood security and rural development indicators. Presently the percentage of tariff lines open to self-designation are between 10-18 per cent, 6 per cent of which should be entirely excluded from any cuts.

There are other issues in the market access pillar of critical important to African countries. One main one is the special safeguard mechanism. Unfortunately, so far there has been no consensus, especially on the triggers and remedies. Tariff escalation is another important issue for African countries as their exports are greatly hampered, but even here there has been no progress on how to deal with the matter. Commodities-dependent African countries are affected most by the tariff escalation, in which case the negotiations on commodities and the tariff escalation issue are related. Other issues include: tariff simplification, special agricultural safeguards, tropical and diversification products, and preference erosion, among few others.

Progresses had also been achieved on domestic subsidies. The OTDS is the combined total of the amber box, *de minimis*, and the blue box. There are two crucial issues here of relevance to African countries. The first one has been the definition of the starting point from which the cuts would be made for those countries providing the support. The base period have an implication on the impact of the final OTDS on the international markets. The second issue was the level of the cut. A tiered formula has already been agreed with three bands, and the negotiations have been focusing on the level of cuts. For most of 2008, the tiered formula for

OTDS cuts was still being negotiated and the level of cuts falling under each band has been narrowed down to single figures from the 2007 percentage ranges.

The choice of a tiered formula has been retained for domestic subsidies, both for the blue box and the Aggregate Measures of Support (AMS). This would translate into higher reduction of the subsidies in countries where they are higher. In the Amber box, the EU still remains in the top tier and is expected to cut its support by 70 per cent, while the US and Japan fall in the middle tier with a minimum cut of 60 per cent. All other countries fall in the bottom tier and shall apply cuts of 45 per cent. Further disciplines would have been introduced on *de minimis* subsidies. A substantial reduction of domestic support measures in the North would also match most African countries' long-term interests.

On the positive side, there also has been an agreement on the definition of the base period to calculate the starting point of the cuts. Developing members will be allowed to choose between 1995-2000 and 1995-2004, while developed members will only use data from the 1995-2000 period. To capture the element of special and differential treatment, implementation periods in the draft proposals are 3 years longer for developing members. As agreed in previous stages, net-food importing countries will be exempted from any tariff cuts and also developing members that do not have any support measure. All other developing countries with Amber Box commitments will be expected to apply 2/3 of the required OTDS formula reduction. Developing countries that do not have AMS will not apply any cuts. This is where several African countries lie. But where developing countries have AMS commitments, the proposals are for them to cut by two-thirds the developed countries rate. Net food importing developing countries including many from Africa will not be expected to have any cuts.

The special and differential treatment principle will allow developing countries with AMS below US\$ 100 million to be exempted from any reductions. For the other developing members, the special and differential treatment foreseen is to reduce support by 2/3 of the rate for band 1 that is a 30 per cent reduction. As in the case of the OTDS modalities, developing members will enjoy an additional 3 years of implementation period with no obligation on a 25 per cent initial cut.

As at end 2008 draft modalities, the proposal remains to cut the current support measures allowed under the *de minimis* i.e. 5 per cent and 10 per cent for developed countries and developing countries respectively, among the latter some African countries. The modalities propose that *de minimis* support should be reduced by 50 per cent to 2.5 per cent for developed members and by 2/3 of the 50 per cent rate for developing countries to 6.7 per cent. As in previous drafts, net-food importing developing countries and countries that use the 10 per cent *de minimis* to support subsistence and resource-poor farmers will be exempted from any cuts.

An important and also interesting development since 2007 has been the creation of a new blue box for direct payments. The new blue box provides an adjustment mechanism for those countries without production limits at the moment. No further developments have taken place. The overall limit is unchanged at 2.5 per cent of the value of agricultural production for the base period. The developing countries are allowed a 5 per cent cap. Flexibilities will allow support to exceed the developing countries blue box limits of 5 per cent in case equivalent reductions are made in the Amber Box for the same product.

Provisions on the green box have been amended to allow for more development programs by developing countries, while tightening criteria for developed countries. Concerns on the green box programs being genuinely "green" have been taken into consideration.

Transparency, monitoring and surveillance will be part of a general revision for monitoring and surveillance to avoid misuse.

The negotiation on the special safeguard SSM has emerged as probably the most difficult point of the latest rounds of talks. The proposal of July 2008 was rejected because agreement could not be reached on triggers and remedies. Major developing nations proposed easier triggers and heavier remedies to temporarily protect their producers from import surges and price falls, but some developed countries argued against what they said could lead to a frivolous and frequent use of the SSM, which should be allowed in extreme situations only.

The Cotton-4 countries proposal and its motivation remain widely accepted. The intention to cut trade-distorting domestic support for cotton by more than the rest of the sector remains unmodified. With regard to the shaping of the cotton trade framework, modalities not agreed upon in previous rounds did not find any positive solution in the July 2008 Geneva round and talks are still in a deadlock. The blue box support for cotton is proposed to be capped at 1/3 of what would be the normal product-specific limit.

Unlike the domestic support and the market access pillars, there has been substantial convergence in the export competition pillar. In deed, since July 2006⁴, there has been much agreement on most issues and over the last year, there haven't been any changes other than conversion of what has been agreed into legal text. The issues under this pillar include: export subsidy elimination commitments; export credits, export credit guarantees or insurance programmes; agricultural exporting state trading enterprises; international food aid; and cotton. What is worth highlighting is that developed countries have committed to eliminate their remaining export subsidies by the end of 2013. This will be on the basis of budgetary outlay commitments being reduced by 50 per cent by end 2010 with the remaining budgetary outlay commitments being eliminated in equal annual instalments so that all forms of export subsidies are eliminated by the end of 2013 (WTO, 2007a). The section concerned with the export-related subsidies has been up-graded substantially in its modalities and provisions to ensure that such programs operate on a self-financing basis and on standard commercial terms.

b) **NAMA**

Negotiations on non-agricultural market access (NAMA) have also made some progress. The most significant contribution to the NAMA negotiations was paragraph 24 of the Hong Kong Ministerial Declaration⁵, which instructs negotiators to ensure that there is “a comparably high level of ambition in market access for agriculture and NAMA,” and added that this ambition “is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.” This responded to two key developing country concerns. The first is their view that the negotiations must narrow the gap in market access for agricultural and industrial products, therefore requiring greater effort in reducing agricultural tariffs than those for industrial goods. In contrast, most industrialized countries, have repeatedly said that unless developing countries move ambitiously on NAMA and services, this would affect progress in agriculture. An important fact to this point in the development of NAMA modalities is the exemption of many African countries, and the LDCs from any tariff reductions.

⁴ See *Draft Possible Modalities on Agriculture*, WTO, TN/AG/W/3, 12 July 2006.

⁵ The Ministerial declaration is available on the following website:

http://www.wto.org/english/thewto_e/minist_e/min05_e/final_text_e.htm

The negotiations have so far retained a Swiss tariff reductions formula, entailing reductions more important for the highest tariffs combined with a harmonization effect. Although some WTO members do actually have some reservations over particular issues, the majority of countries could agree on the current elements and modalities proposed. However this convergence is conditional on agreement on a number of issues at stake in the agricultural negotiations. The simple Swiss formula remains the main tool for cutting tariffs and currently it entails three ranges of coefficients for developing countries, instead of a single one, with each range of coefficient linked to specific flexibilities. LDCs, SVEs and 12 developing countries will enjoy zero tariff reductions or more favorable special flexibilities in exchange of an increase in the number of tariff rates bindings.

S&D treatment for developing countries is also reflected through another provision of the Hong Kong Declaration: the paragraph 8 flexibilities, which would enable developing countries to either shield a proportion of tariffs from the effect of the formula, or would alternatively allow them to opt for a less-than formula reduction of tariffs for a larger number of their tariffs.

In NAMA, only those developing countries with more than 35% of bound tariff lines have to apply the formula, which is only the case of eight African developing countries⁶. Other countries would have to increase their binding.

UNECA studies also tend to show that while an overly ambitious liberalisation scenario in NAMA could lead to gains in welfare for Africa, there would also be a risk of de-industrialisation for the continent and specialisation in agricultural productions. Apart from a few important products that are still protected by high tariffs in developed countries, the potential gains in terms of depth of tariff reductions appear to be greater in other developing markets.

Numerous simulations, among those carried out in ECA, further underline that Africa would take advantage of the process of liberalization if there was special and differential treatment (S&D) and not necessarily equal reciprocity. Indeed, the dimension of the S&D has to constitute an essential component of a tariff structure favorable to the industrial development of Africa. This new tariff structure should also facilitate the improvement of the integration of the African countries in the world trade while accelerating the process of diversification of the African economies and the construction of their competitiveness (Ben Hammouda et al. 2006). Finally, it should boost the process of industrial development of the continent by assuring the African industries a certain protection and by allowing a bigger opening of the developed countries markets (Ben Hammouda et al. 2007).

c) Special and differential treatment

The pro-development agenda of the Doha Round has different dimensions. These include special and differential treatment, enhanced market access, balanced rules, policy space and flexibilities. The ability of the Round to ensure that the multilateral system strengthens the development dimensions for the benefit of the developing countries has been a major issue for African countries in the negotiations. African countries have in particular been advocating for special and differential treatments to be mainstreamed in all aspects of the negotiations in order to enable them achieve their legitimate development goals. Special and differential treatment relates to preferential provisions in the final agreement in favour of developing countries and

⁶ These eight countries are Botswana, Egypt, Morocco, Namibia, South Africa, Swaziland and Tunisia

LDCs, the two categories where African countries lie. For instance, through special and differential treatment in agriculture negotiations, African countries are looking for modalities that would allow them pursue agricultural policies that support development, poverty reduction strategies, food security and rural livelihood concerns. Special and differential treatment underpins the quest in the Doha Round for the full operationalisation of the principle of proportionality in the modalities, which while taking into account the existing tariff structure of the African countries would help strengthen development dimensions of the Doha Round. Special and differential treatment also mean that with respect to the industrial tariffs, the modalities aimed at reducing or eliminating tariff peaks, high tariffs, and tariff escalation, should at the same time allow autonomy to enable African countries pursue industrial policy, in line with their development strategies and also allow them to be able to initiate and deepen diversification processes of their economies.

d) Other issues

While the focus in the discussion above has been on agriculture, NAMA and the special and differential treatment concerns, African countries have also shown interest in outcomes of other issues under negotiations. In services, negotiations had been programmed by the so-called “in-built agenda” as stipulated by paragraph 1 of Article XIX of GATS. Negotiations on services therefore resumed on January 2000, before the Doha Ministerial Conference. Noteworthy for African and other developing countries, Article XIX-2 of GATS makes special and differentiated treatment an explicit element of the GATS negotiations. Therefore developing countries are only expected to undertake commitments in trade in services liberalisation that are compatible with their development levels⁷. Negotiations are following a request and offer approach. Deadlines for submissions have been missed, since March 2003 69 offers have been made and 30 of them have been subsequently revisited⁸. These offers cover both sectoral and horizontal/multisectoral proposals. Similarly to negotiations on agriculture and NAMA – and of importance to many African countries - LDCs are not expected to undertake new commitments in services in the current Round. For other African countries, negotiations in services represent both opportunities and challenges. Trade in services has increased significantly worldwide and African countries do have some potential comparative advantages in some services sectors (e.g. tourism, but also labour intensive sectors covered by Mode 4). Moreover, the international provision of business support and infrastructure services in sectors such as insurance, banking, consulting can greatly reduce the cost of doing business and increase competitiveness in developing countries. On the other hand liberalisation often has to be planned and sequenced carefully and requires the development of an appropriate regulatory framework African countries have continued to emphasise that there is no “one size fits all” in international trade in services and the negotiations in services liberalisation cover a very large number and variety of industries. For developing countries, and in particular African ones, the progress in the negotiations — as highlighted by the small number of offers — is hindered by the lack of capacity to analyse negotiating interests in services. Capacities in managing liberalisation in services as well as developing the supply capacities need also support in African countries. It is suggested by several observers (for example Sauvé, 2006) that Aid for Trade programmes should be targeted at enhancing the capacities of African countries to respond to such challenges.

⁷ GATS Art XIX-2: “*The process of liberalisation shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalising fewer types of transactions, progressively extending market access in line with their development situation [...]*”.

⁸ 7 African countries have made proposals: Egypt, Gabon, Kenya, Mauritius, Morocco, South Africa and Tunisia

Talks on trade facilitation had also progressed significantly in the recent past. A consensus had been reached that linked the application of some obligations in developing countries to systematic provision of technical assistance to do so. It is worthy highlighting here that the WTO has always dealt with issues related to trade facilitation, and WTO rules include a variety of provisions that aim to enhance transparency and set minimum procedural standards. Among them are GATT Articles V, VIII and X, which deal with freedom of transit for goods, fees and formalities connected with importation and exportation, and publication and administration of trade regulations. As part of the Doha work Programme, the General Council decided by explicit consensus to commence Trade Facilitation negotiations on the basis of clearly defined modalities.

The Trade Facilitation Negotiating Group had made considerable progress before WTO negotiations were suspended in July 2006. Several proposals had been tabled towards meeting the negotiation objectives. However, addressing the issues of technical assistance and capacity building as well as special and differential treatment was a major challenge in the negotiations. It is unanimously acknowledged that technical assistance and capacity building (TA/CB) for trade facilitation should respond to specific needs of WTO member countries. However, the specific TA/CB issues to be addressed within the WTO framework remain unclear. In that regard, it is generally agreed that self-assessments at national level on trade facilitation needs is critically important for African countries because this would facilitate engagement with the donor community. A number of tools, including those developed by WTO and the World Customs Organisation (WCO) have been proposed for conducting national assessments. National Trade Facilitation Committees that exist in some African countries provide the appropriate forum to work on the assessments.

It also emerged during the negotiations that access to available resources from the donor community for capacity building remains a challenge to African countries because existing procedures are complex. To address this problem, African countries have continuously stressed the need for a simplified template for requesting technical assistance and capacity building from donors. In terms of the scope of negotiations, African countries have reiterated the broad scope of trade facilitation, and argued that, in addition to activities aimed at improving customs efficiency, considerable efforts have to be made in other areas such as transit transport management. This is especially important for the continent's 15 landlocked countries.

Regarding the possible structure for a Trade Facilitation Agreement, there has been the notion of a "trade facilitation ladder" that would define levels of facilitation to which countries would commit themselves. The philosophy behind this notion is that all WTO members would be required to sign-up to the lowest level of standards, with those countries that are most able, implementing a far higher level of facilitation. It is envisaged that the negotiators would define the number of steps in the ladder and their content. Finally, there is convergence on the view that there should be an additional facilitative procedure to resolve disputes arising from trade facilitation commitments. Taking recourse to the Dispute Settlement Procedures should be the last resort.

On rules for regional integration, a decision of the Negotiating Group on Rules established a transparency mechanism for regional trade agreements (RTAs). This decision applies to all RTAs provisionally and will be replaced by a permanent mechanism upon the completion of the Doha Round. The discussions on establishing criteria for actual WTO compatibility of RTAs have however not progressed significantly. Unfortunately, African countries have not realised their objective under the rules negotiations that would have allowed introducing development dimensions to the EPA negotiations.

One of the most noteworthy achievements of the Round so far for Africa has probably been the proposition to grant LDCs duty free-quota free market access to developed countries and developing countries in a position to do so⁹. This proposition had been championed by the EU. Unfortunately other developed countries, and in particular the US, insisted in watering it down to apply it to only 97% of all products, which would allow for the exclusion of key products such as some textile and apparel. This decision could still carry interesting consequences for African LDCs as one of the criticisms often addressed to preferential schemes such as the EBA is that they lack the legal security conferred by a commitment in the WTO.

Finally, the inclusion of Aid for Trade talks on the agenda of the Round was another significant advance. Aid for Trade was not part of the single undertaking and the progress on this issue has been independent from the rest of the Round. For African countries, the scope and objectives of the Aid for Trade are in line to their position and can therefore be considered as an important achievement. The introduction of Aid for Trade under WTO auspices also allows for more transparency and coherence on this issue through the Global Reviews. It is also hoped that the initiative will facilitate increasing the resources available for aid for Trade, as the second Global Review statistics indicated. There is great scope for Aid for Trade to facilitate trade negotiations through the reinforcing of African negotiating capacities. Aid for Trade could also contribute to develop the African capacities to outline concrete modalities for meaningful special and differential treatments in a range of areas of negotiations.

What are the possible benefits for Africa given the approximation of final modalities?

A lot of empirical work has taken place since the Doha Round started and literature abounds estimating the potential gains from the Doha Round. It is therefore not the intention of this section to summarise these studies but an attempt is made to briefly highlight the stylised facts that have emerged from this work. The key fact that has emerged from the empirical work is that the potential gains from a final Doha deal will be unequally shared. Africa will receive the least share of the overall benefits expected from the Doha Round if one was to use the draft modalities of 2008 as the basis for approximating the final agreement. In brief, here is what can be concluded from the many studies undertaken by UNECA, World Bank, CEPII¹⁰ and other partners:

- (a) In a world where liberalisation takes place in goods only, the share of sub-Sahara Africa will be negligible with some estimates that it would be negative (that is a negative share of the global GDP gain).
- (b) If the services sector is included in the liberalisation, there would be an additional increase in the global benefits which is estimated as 20 per cent more per year on top of what could be derived from goods alone. However, the share of Africa would remain negligible and potentially negative compared to all other regions.
- (c) If sufficient investments to accompany reforms in the trade facilitation aimed at enabling trade is added to the goods and services liberalisation, the global gains from Doha trembles from what goods alone would derive. In the case of sub-Sahara Africa where impediments to trade are greatest, the potential benefits from Doha would reach US\$15 billion per year from the negative gains under liberalisation of goods and services alone.
- (d) In short, Africa will benefit from the Doha Round if the development dimension goes beyond the flexibilities in agriculture, NAMA; services etc. to include

⁹ Brazil has announced it is granting duty-free quota-free market access to LDCs.

¹⁰ The shares on potential benefits from the Doha Round are derived from Decreux Y. and L. Fontagne (2009), "Economic Impact of Potential Outcome of the DDA", CEPII, No. 2009.

investments in address trade constraints. That is to say, enhanced market access and development of balanced rules will not be enough. It will be necessary to go beyond that to adopt programmes for sustained financial assistance and also have strong capacity building.

What the assessment for draft Doha modalities then show is that there is need to do more to ensure that the original ambitions of Africa are obtained. The remainder of this paper highlights the need for enhanced participation of Africa in the WTO process.

How can Participation of Africa in the WTO Process be Further Enhanced?

African negotiating capacities, which had been a major issue in the past negotiations, have evolved in the recent past. Probably one of the most significant developments has been the evolution of the participation of African countries in the actual negotiations. In the past negotiations, including the Uruguay Round, African countries played a peripheral role in the negotiations. But in the current Doha Round, the African countries have not only engaged actively in the definition of the mandate for the negotiators, but have been active at every stage, as the negotiations have progressed. Unfortunately, this active participation has not translated to concrete results whereby African priorities are holistically addressed. This can be deduced from the discussion above that highlights the developments in the modalities vis-à-vis African countries positions. However, the engagement does serve to highlight the concerns of Africa and its desire to ensure that multilateralism benefits all, especially through operationalisation of special and differential treatment in every aspect.

The visible engagement of the African countries in the negotiations has been driven mainly by a more effective organization of their participation. The African Union Commission has led the political efforts and the coordination of the negotiations. This coordination has been able to maintain a strong solidarity between African countries despite the diversity of their development levels. The African Group in Geneva is able to participate in the negotiations from a common framework on all the key issues of interest to the African countries. Thus, the current common negotiating framework that the African countries are using to inform their positions has been developed under the coordination of the African Union and has been endorsed by the AU Assembly.

Another important development in the realm of trade negotiations has been the welcome coordinated support provided to African negotiators. Significant technical support by a lot of institutions has been provided to the political process spearheaded by the African Union. The ECA has for instance been playing a major role through its African Trade Policy Centre with the support of the Canada Fund for Africa. Other institutions¹¹ are also playing key roles on the technical support to the political process.

Yet the following key issues stand out and warrant further discussion:

- Why is it that African countries positions have not swayed the direction and pace of negotiations as those of US, EU, other developed and the advanced developing countries?

¹¹ These include but are not limited to WTO, UNDP, UNCTAD, ITC, AERC, CODESRIA, ILEAP and CSOs such as TWN, South Centre, and OXFAM.

- What are the constraints that African countries have faced leading to less than proportionate influence on the content of the draft modalities and what can be done at this stage to ensure that African positions influence the final deal?
- Developed countries have shown their adeptness to take advantage of new challenges to utilise multilateral rules to their advantage. How can Africa ensure that it is able to take advantage of the same challenges to its advantage? What can the African negotiators given the opportunities presented by the current crisis?
- Is there a case to rethink on the African priorities as reflected in the most recently stated position on the negotiations given the information available on how other countries are dealing with the challenges emanating from the global economic and financial crisis?
- Still on the question of priorities, given the limited share of global benefits for Africa from liberalisation of goods and services, should negotiating capital be expended on those elements aimed at tackling hardware of trade challenges?