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AFRICA AND DEVELOPMENT

PROPOSAL BY THE AFRICAN GROUP¹

The following submission, dated 4 December 2017, is being circulated to the General Council, the Trade Negotiations Committee (TNC) and all negotiating bodies reporting to the TNC, by the African Group.

1 INTRODUCTION

1.1. Development is essential; and development is a human right². With high levels of unemployment, inequality and poverty, Africa is acutely aware of the challenges of inclusivity. We are working to address this including through policies that advance structural transformation, and industrialisation, diversify and upgrade production, move up the value chain and create new, decent jobs for our citizens. Africa is engaged in a developmental regional and continental agenda that combines market integration with industrial cooperation and infrastructure development for inclusive growth.

1.2. The African Group is therefore very sensitive to whether multilateral rules support or constrain our efforts³. It is critical for the WTO not only to be seen on paper and in the media, as promoting development, but that concrete efforts, deliverables, and implementation of decisions, ensure inclusive multilateralism that supports development. In this regard, we wish to recognise and reaffirm the central importance of the development dimension in every aspect of the Doha Work Programme, and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the WTO.

1.3. Recognising that substantial work still remains to be done on development in the WTO, and in view of the emerging perspectives on the future of multilateralism, in particular in the WTO, the African Group shares some reflections on our vision for a prosperous Africa based on inclusive growth and sustainable development in the WTO.

2 BUILDING THE AFRICA WE WANT

2.1. Africa's struggle for economic freedom is traced back to a painful historical experience beginning in 1884-85, i.e. the internationalisation of decision-making. From colonization and a legacy of profound economic, political and social fragmentation, which continued even after independence returned to most parts of Africa in the 1950s and 1960s, to the IMF and World Bank Structural Adjustment Programmes championing free market development economics.

2.2. In pursuing our development agenda, Africa's vision is informed by the African Union's Agenda 2063: The Africa We Want. It places at the centre of our development agenda, the

¹ This submission is without prejudice to the position of Nigeria.

² UN Declaration on the Right to Development, 1986

³ WT/L/1004

eradication of poverty through social and economic transformation of the continent. We aspire, through the structural transformation, economic diversification and industrialisation of Africa, to create shared growth, decent jobs and economic opportunities for all our people.

2.3. In 1964, Africa's share in world trade in goods was a staggering 6%. However, between 2009-2016, Africa's share in world exports dropped from 3.1% to 2.2% in goods and from 2.4% to 2.0% in services. In 2016, Africa's share was 3.7% in agriculture; 0.8% in manufactured products and; 8.2% in fuel. 54% of the population in 46 African countries is still living in poverty. Out of the 420 million youth, one-third are unemployed and discouraged, another third are vulnerably employed, and only one in six is in wage employment. While 10 to 12 million youth enter the workforce each year, only 3.1 million jobs are created.

2.4. The end of the commodity price cycle has negatively impacted the current accounts and financial markets, which may have a deep impact on future competitiveness enhancing investments. Over the past two years, the aggregate macroeconomic environment of Africa has worsened due to higher debt, higher public deficit and lower savings. According to the UNIDO report to the G20 Working Group on Industrialisation in Africa and Least Developed Countries of 2016, Africa's MVA accounted for just 1.6% of the global total in 2014 and its growth has lagged far behind that of other regions since 1990. There are technology and knowledge deficits in many developing countries. According to the Africa competitiveness report, productivity has grown less in Africa than it has in more advanced economies. Currently only one African country is merely transitioning to the innovation-driven stage and the rest is left behind.

2.5. The United Nations Economic Commission for Africa predicts that by transforming Africa's mineral export by just 5 percent before export, it can create 5 million jobs a year.

2.6. A number of studies have shown that the main reason why developing countries, especially LDCs have not been able to participate effectively in the Multilateral Trading System is mainly because they are lagging behind in terms of industrialisation, in particular the production of value added and competitive manufacturing products. It is therefore important to note that governments have a duty to make strategic and targeted interventions in key sectors of the economy without fear of infringing on their WTO commitments or being sued under the DSU.

2.7. In order to achieve this, African countries would need some accommodation in the WTO to take measures necessary for industrialisation and development. Much like how developed countries benefitted from the absence of rules, and then created new rules that constrained developing countries, particularly in the early stages of development.

3 DEVELOPMENT

3.1. We express with deep concern and regret that the commitment by all Members to fulfilling the object, spirit and intent of the Doha Development Agenda is being seriously undermined. The discourse on new issues such as Electronic Commerce, Investment Facilitation, And Micro, Small and Medium Enterprises (MSMEs) has overshadowed the development agenda since the Tenth Ministerial Conference in the current Doha Round negotiations. Several developed Members have also adopted a stiff rejectionist approach to any negotiations on development with respect to the paragraph 44 mandate in the Doha Ministerial Declaration, with the view to foster structural transformation, diversification and industrialisation in line with the African Union's Agenda 2063: the Africa We Want. Some Members hold that these proposals cannot obtain multilateral consensus in time for concrete deliverables at MC11.

3.2. At the same time, however, many of these Members are pursuing a number of deliverables, some without prior agreement or a mandate, that we would qualify as anti-development, and which unacceptably narrow the space our Members use and need for policies and regulations that support our development objectives. In Domestic Regulation for example, these Members are pushing for rules that would erode our right to regulate, intrude into our domestic policy-making processes, and hinder the regulatory capacity and policy space for development-driven regulations by Africa; promote regulatory capture and control; and limit the sovereign function of our elected parliamentary representatives in discharging their sovereign function of legislating. The inherent contradiction by some of these Members are untenable, and point to the need for Members to have an honest appraisal that can deliver on the commitment to the DDA.

3.3. Of particular relevance in the development discourse, is the concept of Special and Differential Treatment (S&DT), which was introduced in recognition of the development aspirations and socio-economic challenges faced by the broad constituency of developing and least developed countries (LDCs) of the WTO. It ought to be recalled that Ministers sought, through the establishment of the WTO, to ensure that developing countries – and especially the least developed among them – secure a share in the growth of international trade commensurate with the needs of their economic development.

3.4. In other words, the ultimate aim was not to promote free trade just for the sake of it, but rather to foster economic development by improving inter alia market access conditions and the terms of trade in a manner that would steadily raise their living standards and eradicate poverty. There was wide acceptance that developing countries and LDCs can deviate from the general *quid pro quo* rules of the multilateral trading system.

3.5. Yet some Members continue to question and undermine the relevance and legitimacy of our issues despite having benefitted from a system that supported their development and industrial rite of passage. There is a total disconnect between: the clear commitment to development by Ministers; and the stiff rejection by some Members on delivering on it.

3.6. Increasingly, the WTO is being looked at as an organisation that does not respond to the specific needs and concerns of its Members, in particular to effectively addressing the challenges to economic development in Africa, despite the most recent commitment by Ministers in Paragraph 5 of the Nairobi Ministerial Declaration. This then leads us to the following reflections:

- How does the WTO intend to deliver on its commitment to development?
- Who is the WTO intended to serve if it cannot address the specific development needs of the majority of its Members?
- What does the WTO intend to promote, beyond simply rule-making?

3.7. It ought to be recalled that S&DT provisions were already negotiated in the adoption of existing agreements. They were included as part of the settlements negotiated and arrived at with the clear understanding that the balance they had aimed to achieve was necessary and constituted the benefits for developing countries and LDCs within the meaning of the WTO Agreement. This entitled developing countries and LDCs to legitimate expectations that these obligations relating to S&DT would be faithfully implemented and complied with. Our partners however seem to be backsliding on this understanding.

3.8. Despite the foregoing, it is perplexing that some Members are advocating for new multilateral rules on E-commerce, Investment Facilitation and MSMEs. We have already undertaken enough rules so far. The multilateral rules as they are, are constraining our domestic policy space and ability to industrialise. Before the GATT came into being, industrialised Members benefited from the absence of rules, through the utilisation of policy space. They then closed this space through GATT Agreements notably by prohibiting the use of local content requirements; industrial subsidies; infant industry protection, among others. In other words, the policy instruments they used during their development process were denied to late-comers through the GATT Agreements. This is what we qualified in the Committee on Trade and Development in Special Session (CTD-SS) discussions as 'kicking away the development ladder'.

3.9. It will be recalled that, contrary to popular belief, this is exactly why the Doha Development Agenda was launched with development outcomes and aspirations at the centre for the purpose of redressing the systemic and historic imbalances inherited from GATT/WTO Agreements. Yet, the view that new e-commerce, investment facilitation and MSMEs rules will be good for developing countries has been highly contested. Which is why, it is imperative to question the logic of these new rules. If developing countries cannot find relief in the current mandates and rules in a Multilateral Trading System that is intended to serve all its Members, then what would be the rationale for adopting new rules, especially if they are meant to further marginalise poor economies? Any new rules would simply entrench existing imbalances and further constrain the ability of our governments to implement industrial policy and catch-up.

3.10. Developed countries are suggesting that the new approach to development is through the provision of time-limited transition periods. Africa's experience in the Uruguay Round shows that the transition periods do not work or at best are not an end in, and of themselves. Developing countries - the economy of which can only support low standards of living and are in the early stages of development, have returned to the WTO numerous times to seek extensions of the same, such as in the TRIPS Council under Article 66.1 of the TRIPS Agreement; and now in the CTD SS for the TRIMS Agreement and ASCM, etcetera. under the mandate in Paragraph 44 of the Doha Ministerial Declaration.

3.11. It is therefore unacceptable for some developed country Members to treat the development aspects of the work of this Organisation to conceptual and theoretical discussions at the Ministerial Conference, while on the other hand seeking to extract multilateral disciplines, including on new issues in areas of specific interest to them.

3.12. Towards that end therefore, the emphatic remarks we have all heard from one Member who has signaled a blanket rejection to any discussion or movement on work on Development, should apply horizontally on all issues, and not only on the core development-related work of the WTO, of which the African Group has an offensive interest.

4 WAY FORWARD

4.1. In view of the recent developments in the WTO on a so-called reform agenda and potential withering away of the centrality of development in the work of the WTO, the African Group proposes the following:

- The WTO respond to the call by its founding fathers in the Marrakesh Agreement to continue to make positive efforts designed to ensure that developing countries, and especially LDCs among them, secure a share in the growth in international trade commensurate with the needs of their economic development.
- The G-90 S&DT proposal will be accorded the same treatment as all other potential deliverables at the MC11. A meeting of the CTD-SS will be convened to consider the draft Ministerial text.
- To reaffirm that the provisions for S&DT remain an integral part of existing and future WTO Agreements.
- To instruct the CTD-SS to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, at the next Ministerial Conference.

4.2. In the event that any discussion or dedicated session is convened to deliberate on the topic of 'Development' at the MC11, it will not be limited to only the mandate of the CTD-SS. Many developed Members have raised important concerns about their conceptual difficulties with development. We would therefore propose a horizontal, holistic Ministerial dialogue on 'inclusive multilateralism for sustained growth and development'. In these uncertain times, with the widespread backlash against the disruptions caused by trade, globalisation and technological change, initiating such a dialogue could be most valuable. The terms of reference for such a discussion should not be limited to S&DT only, but it shall consider the wider nexus between: trade and development. This discussion should be convened at a time that all Ministers can participate, and not compete for scheduling with other negotiating bodies. Questions to frame this discussion include:

- How can we use trade policy instruments to promote structural transformation, industrialisation and sustainable economic growth for developing countries and LDCs?
- How can we ensure that S&DT in the WTO is applied in a manner that is effective in addressing the problems of those who need it?
- How have the current rules contributed to, or constrained development for developing countries and LDCs?

- How would the rules being proposed in all areas where there are diametrical divergences contribute towards the development, and integration of developing countries and LDCs into the multilateral trading system?
- What is the nexus between domestic regulation and trade? What is the relationship between the right to regulate and the interlinkages between regulations and broader domestic economic imperatives?

4.3. With a view to exploring options for more constructive work post-MC11 that meets our developmental objectives, Members should conduct an audit of all existing rules to see how, and where WTO rules have contributed to the development, or otherwise of Africa.
