

Update on the WTO

Briefing to Portfolio Committee on Trade and Industry

Presentation by
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Outline of Presentation

- Global context
- Doha Development Agenda (DDA)
- Key issues
- Africa and ACP Positions
- MC11
- SA Position



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International Context

- Backlash against trade liberalisation and globalization.
- Main form to date various forms of populism- but growing call for greater inclusivity.
- Increase in protectionism in developed world: while tariffs remain low, countries are increasingly using other types of barriers to restrict trade.
- Unraveling of regional trade agreements: Brexit and Trans Pacific Partnership (TPP).
- 4th industrial revolution .
- Importance of regional integration in Africa.



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SA Policy Context

- SA Government's broad national development strategy aims to accelerate growth along a path that generates sustainable development and decent jobs to address apartheid legacies.
- Elaborated in the National Development Plan and New Growth Path.
- National Industrial Policy Framework (NIPF) and Industrial Policy Action Plan (IPAP) are central components of this strategy and seek to encourage and upgrade value-added, labour-absorbing industrial production.



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Multilateralism

- In the context of international trade, multilateralism was initially embodied in the General Agreement on Tariffs and Trade (GATT).
- Then came the World Trade Organisation (WTO).
- The aim of the WTO is to create a prosperous and integrated global trading market.
- It took more than five years before launching a new round of multilateral negotiations, the Doha Development Agenda (DDA), in 2001.
- DDA proclaimed that the “needs and interest of developing countries” would be placed “at the heart of the work programme”.
- The Doha Round requires all countries to negotiate market opening in agriculture, NAMA and Services.
- DDA launched after the Uruguay Round which lasted from 1986 to 1994.
- The Uruguay Round was fundamental as SA was notified as a developed country under the apartheid government – taking significant tariff cuts.
- This reduced bound rates and the „water“ between bound and applied rates - SA therefore accepted much higher commitments compared to bigger Developing Countries like India and Brazil.



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DDA

- The Doha Ministerial Declaration
 - recognised that the majority of WTO members are developing countries;
 - placed “their needs and interests at the heart of the Work Programme adopted in the Declaration”;
 - Members “shall continue to make positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development” and
 - that “enhanced market access, balanced rules, and well targeted sustainably financed technical assistance and capacity building programmes have important roles to play.”
- A development round requires removing distortions in international trade rules that inhibit export growth of developing countries.
- While the DDA covers a wide spectrum of issues, agriculture remains key as trade distortions in agriculture are most pronounced and stifle the developmental prospects in the sector where many developing countries have the greatest potential for export growth.



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WTO

- The 11th Ministerial Conference (MC11) to be held in December 2017 in Argentina.
- Period of considerable uncertainty in trade policy, including a widening backlash against trade agreements and globalization.
- Trump Administration low level of engagement.
- Divergences on the mandate of the development agenda in the DDA.
- Strong push for “cherry-picking” - strong push for launching of negotiations on e-commerce rules at MC11
- On e-commerce South Africa, and Africa, have advance a position that it is premature to consider negotiations of trade rules on e-commerce.
- While it is clear that e-commerce is developing rapidly across the globe, that development is highly uneven and e-commerce is extremely concentrated amongst a few countries. This underscores the persistence and depth of the digital divide that relates to infrastructure, finance, technology, industry, skills and income.

Africa Position

- **Principles**

- developmental objectives and principles of the DDA, including special and differential treatment and less than full reciprocity remain key;
- development package must remain at the core of any negotiating outcome;
- prioritize and conclude all unresolved issues in the DDA.

- **Agriculture**

- Eliminate trade distorting domestic support that constrain Africa's full potential in agricultural production and trade.
- Permanent Solution for Public Stockholding which should include new programs.
- Special Safeguard Mechanism to respond to volatility in global agricultural commodity markets

- **Cotton**

- Eliminate all trade distorting policies affecting the sector and fast track the resolution expeditiously by MC11.

Africa Position

- **Fisheries subsidies**

- Calls for a multilateral agreement to discipline certain forms of subsidies that contribute to overfishing and overcapacity as agreed in goal 14.6 of the 2030 Agenda

- **Special and Differential Treatment (S&D)**

- S&D shall be an integral part of all WTO agreements and future multilateral outcomes and shall be embodied, in the schedules and in the rules and disciplines, so as to enable developing countries to address their development needs in line with Africa's industrial development priorities and Agenda 2063;

- **Services**

- Reaffirm the flexibilities for developing countries as inscribed in the GATS, Annex C of the Hong Kong Ministerial Declaration and the LDC Modalities.
- any outcome on GATS Article VI.4 disciplines on domestic regulation does not involve implementation of new and/or onerous administrative requirements or requirements that intrude into the domestic-policy making processes



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Africa Position

- **LDCs**
 - priority attention to be accorded to LDC issues, including showing maximum flexibility to African LDCs undergoing accession.
- **Trade-Related Aspects of Intellectual Property Rights (TRIPS)**
 - amend the TRIPs Agreement to ease access to affordable medicines, introduce requirements for disclosure, prior informed consent and benefit sharing in respect of traditional knowledge so that the TRIPS Agreement and the Convention of Biological Diversity are mutually reinforcing.
- **Trade Facilitation Agreement (TFA)**
 - call for the expansion of its scope to include both soft and hard infrastructure projects to facilitate full implementation of the Agreement.
- **Aid for trade**
 - underline the importance of Aid for Trade initiatives in trade-related capacity-building, overcoming supply-side constraints, infrastructure development, and facilitating integration of developing economies, in particular LDCs in regional and global trade.



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Dynamics on the different issues



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Domestic Support (DR)

- Rev.4* Tiered Formula
 - OTDS: Total of bound AMS, de minimis & blue box
 - Less, 80%, 70% or 55% for developed members
 - Less 36.6% for developing members with AMS.
- EU, Brazil & others
 - Reduce Trade Distorting Domestic Support to below a Percentage [x] of the Value of Production (VoP), Includes AMS and de minimis with special arrangements for blue box
- India & China
 - Developed members to eliminate AMS entitlements
- Argentina
 - New proposal: Cap AMS & de minimis (3 options), reduce over 3 to 5 years
- **Possible Outcome:** Difficult to envisage an outcome due to diverging views

Fisheries subsidies

- Fisheries subsidies lead to unsustainable fishing practices and overexploitation of fish stocks;
 - Through SDG 14.6 the international community has committed to:
 - Eliminate all forms of subsidies contributing to Illegal, unreported and unregulated (IUU) fishing;
 - prohibit harmful subsidies that promote overcapacity and overfishing; and
 - Committed not to introduce any new such subsidies
- Convergence exists to address subsidies on IUU fishing activities but some countries like the US insisting on addressing subsidies that enable overfishing.



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Public Stockholding

- Promotes food security by ensuring that expenditure under PSH by Developing & Least Developed Members will not be accounted for under the AMS
- Bali Ministerial (2013): Interim Solution for existing programs under certain conditions and a Permanent solution to be found at MC11.
- EU, Brazil and Others
 - Based on interim solution: existing programs with certain conditions, specific crops, upper limit (e.g. 10% of VoP) & specific notification requirements. Special provisions for new programs.
 - Highly controversial proposal as it changes the nature of the Green Box and the AoA and has potential to derail MC11 convergence.
- SA Position: Supports and emphasizes need for effective safeguards to ensure products under PSH programs are not exported; that the programs can be used by other developing countries seeking to strengthen food security objectives; and
- Possible outcome by MC: Likely to be agreed if there is no linkage to Domestic Support.

Domestic Regulations

- Objective is to develop „necessary“ disciplines to ensure licensing, qualification and technical standards and procedures are not an unnecessary barrier to trade.
 - Disciplines must ensure that requirements:
 - Based on objective and transparent criteria
 - No more burdensome to ensure quality service
 - Licensing procedures not in of themselves a restriction on the supply of the service.
 - SA is not a demandeur in DR - Do not see DR as separate from the rest of Doha negotiations
 - SA has an excellent system of administrative law and already has transparent system - proposed disciplines could have unforeseen negative consequences such as WTO DSB deciding on whether an SA law is „necessary“.
- Possible outcomes in MC 11: Agreement on the Disciplines or Harvesting specific provisions i.e. Transparency or Agreeing to post MC11 work programme or No outcome



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E-commerce

- Definition: *the term 'electronic commerce' is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means*
- No mandate to negotiate only discussion.
- MC10 agreed to Reinvigorate discussions and reaffirmed the moratorium on duties on digital products.
- Many proposals covering liberalisation, efficiency, consumer protection, cyber-security and development dimension of e-commerce, however no convergence.
- SA Position: priority should be the development aspects to be discussed within the current Work Programme.
- Possible outcomes in MC 11: No likely outcomes but there may be a push for a creation of a dedicate forum in the WTO to discuss e-commerce and a post MC11 work programme.



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Special and Differential Treatment (S&D)

- Paragraph 44 of the Doha Ministerial Decision mandated WTO Members to strengthen S&D provisions - Developing countries have encountered strong opposition from developed countries.
- SA supports G90 Proposal that include:
 - WTO rules to be more flexible to promote industrialisation.
 - reasonable time to comment on a SPS/TBT measure introduced by a developed member should be 180 days, developing countries be given no less than 12 months for compliance with the measure, including provision of assistance to comply.
 - re-introduce non-actionable subsidies covered by Article 8 of the SCM Agreement that expired in 1999 to support regional growth, R&D, diversification and development of environmentally sound production.
 - accord meaningful access to products of export interest to developing countries in developed country markets
 - Technology transfer to operationalize TRIPS Article 66.2



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Investment Facilitation (IF)

- Proposal involve new administrative burdens in respect to publication of information, how regulations are developed.
- Outcome on this matter could be binding, subject to multilateral oversight and dispute settlement (DS).
- Proponents offer no clear definition of IF, including the precise scope of disciplines proposed.
- Some proposals aims to narrow the right to regulate and reflect some provisions in investment treaties.
- SA position: Proposals go beyond facilitation and begin to intrude into national policy, regulations and procedures.
- Outcomes for MC11: It is difficult to see this issue obtaining consensus at MC11 but proponents may take in directly to the Ministerial Conference for a decision.



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Conclusion

- **SA Position:**

- Preserve the multilateral trading system but that supports development more decisively
- Continue to advocate for progress on the outstanding Doha issues.
- Any package agreed must have clear developmental character and content and should ensure trade supports inclusive growth.
- Focus in e-commerce should be on cooperation, addressing the digital divide and exploring options for promoting digital industrial policy. The most we could agree to is a roll-over of the current e-commerce Work Programme and temporary moratorium on customs duties on electronic transmissions.
- We will need to calibrate expectations realistically - the best outcome for MC11, in the current context, may be simply to preserve the status quo in the WTO.