Lamy plans to hoodwink Africans with empty "development" aid and promises

Saturday 10 December 2005, by KWA Aileen (Date first published: 7 December 2005).

(GENEVA - 7 December) The Hong Kong Ministerial will be choreographed in order to heighten the likelihood that the "masses" on the inside - the African Group, Africa, Caribbean and Pacific (ACP) and least developed countries (LDCs), that is the G90 — do not stage a revolt. (1)

In order to avoid this, and to ensure that the G90 acquiesces to a package that will be disastrous for them, the sequencing of issues brought forward for negotiations is important. This was discussed by the G4+2 (US, EU, India and Brazil, Japan and Australia) last weekend (3/4 December). Lamy and the powerful countries running the show have decided to make a mountain out of an empty "development package" in an attempt to hoodwink African and Caribbean ministers into a conciliatory mood. This will be at the forefront of discussions and the closed "green room" consultations which will already begin on 12 December in Hong Kong.

Only when the G90 has been appeased will there be an intensification of the real negotiations (especially the most contentious issue, services). In any case, the G90 will be sidelined in the real negotiations since these will take place with only very limited participation from them. (2)

The game plan is that agriculture and non-agricultural market access (NAMA) - since they are supposedly less contentious — will also be discussed at the beginning of the Ministerial.

If all goes as planned and Brazil is appeased by what is brought to the table in agriculture, the services issue (Annex C of the draft text) - which in Geneva has been opposed by the majority - will be brought out of the closet on 14 October. There will then be a "gentleman's agreement" with Brazil not to reopen Annex C in the "green room" and for Brazil to swallow Annex C pretty much in its entirety. India, thinking itself a developed country, is already right behind Annex C.

Whilst the main negotiations are taking place, the WTO Secretariat has devised ridiculous questions to keep the other Ministers busy over empty talk, and to distract them from the main negotiations. (See Annex 1 for Agriculture and NAMA questions)

EXPECT AGGRESSIVE MEDIA SPIN ON "DEVELOPMENT"

Civil society and developing country delegates should therefore expect plenty of "spin" on the "development" package from EU Commissioner Peter Mandelson, the WTO's Pascal Lamy and also US trade representative Rob Portman. What is more disconcerting is that India and Brazil are likely to be echoing the same messages.

In reality, the package is an empty one, in comparison to the concrete commitments being asked of the ACP / G90 and LDC countries - to open up their agriculture, services and industrial markets.

The "development package" includes aid for trade and the five LDC special and differential treatment (S&D) provisions, of which the issue of bound duty free and quota free is the main item still to be decided in Hong Kong (Annex F of the draft declaration), the "TRIPS and Health" decision (of Monday 5 December) and the extension of the transition period for implementation of the intellectual property agreement (TRIPS) for LDCs for 7.5 years (already agreed to in Geneva).

There are no gains here for the LDCs. In fact, making permanent the "TRIPS and Health" decision was a gain for the US and EU since it locked in a solution that has already been pronounced to be unworkable and commercially unviable by the generic drug industry in India.

The text on aid for trade (paragraph 51) does not make any concrete promises except for the General Council "to convene a meeting before July 2006" to "consider" this. Even more fundamentally problematic is the reference in the text that aid for trade should be conditioned upon countries' acceptance of implementing WTO agreements. If bilateral partners were really genuine about providing aid to increase LDC's supply capacity, they would not be forcing them to liberalise concurrently. Aid to increase supply capacity necessarily means that LDCs - the majority of which are in Africa — must be given sufficient time to gain competitiveness before they are asked to liberalise. Since this is not the case, the aid is unlikely to achieve the stated results and is little more than a bribe to keep the LDCs in line.

On aid for trade, the Africans are wiser now, having seen what happened to the promises of money that were made to the cotton countries (Burkino Faso, Chad, Mali and Benin). As one delegate from West Africa commented, "Until now, there is no money transferred to us." There has been no movement on trade rules. On the development front, apart from seminars and workshops, nothing concrete has materialized. Even the money offered has been so paltry as to be insulting. Recently, the US offered $7 million in total to five countries - Benin, Mali, Burkino Faso, Chad and Senegal. The West Africans are unimpressed. "This is nothing compared to what we lose because of the depressed prices. We still need to change the trade rules and we want that delivered in Hong Kong," comments the delegate from West Africa.

DANGERS LURKING IN NAMA AND AGRICULTURE TEXT

The US, EC and Lamy have played down the Hong Kong Ministerial. In reality, however, their ambitions of gaining access to the developing world have not been lowered: rather, they have cleverly lowered the guard of the developing world as they notched up their ambitions through the draft Ministerial text.

The 1 December revision contains significant changes from the 26 November text. These changes were introduced in the green room meetings prior to the General Council meeting of 2 December. In many ways, the few paragraphs that were added in agriculture and in NAMA are more dangerous than "full modalities". With "full modalities" in agriculture, the developed countries would have had to negotiate Special Products (SP) and the Special Safeguard Mechanism (SSM) developing countries have been pushing hard for. Similarly, in NAMA, the Swiss-type formula (proposed by the Caribbean group) and other flexibilities would have had to be negotiated.

Instead, the majors are trying to get agreement on the core issues of importance to them in both agriculture and NAMA, without addressing concretely the breadth of flexibilities demanded by developing countries. Paragraph 5 of the main Ministerial draft text refers to "some convergence" in domestic supports (i.e. accepting the US and EU "offers" which will not cut into existing levels of domestic supports), and Paragraph 13 states that "there is a working hypothesis to use a Swiss Formula for these negotiations". If these items are endorsed in Hong Kong, developing countries would have given away their negotiating leverage without any assurance that their issues, post-Hong Kong, would be dealt with to any satisfactory degree.

Furthermore, paragraph 5 is dangerous for the cotton countries unless they definitely get clear commitment on an early harvest (i.e. an early resolution separate from the main agriculture modalities) to eliminate supports in cotton. The US has said repeatedly that any domestic support cuts in cotton will only take place through the main agriculture modalities. If this is so, agreeing to "some convergence" in paragraph 5 also means that we have agreed to zero cuts in supports in cotton. (3)

Cotton is only one item where Africa is affected by dumping. The other products include from rice, to wheat, diary, beef, maize and soya.

SERVICES: FIREWORKS AHEAD ON ANNEX C

Due to the EU's move to completely change the structure of the GATS negotiations (through Annex C of the draft), the services negotiations are panning out to be the most contentious in Hong Kong.

On Friday 2 December, due to the insistence of African delegates and Venezuela, the General Council introduced brackets in paragraph 21 on services in the main draft declaration referring to Annex C. The Africa Group had tried to have the entire paragraph 21 bracketed, but the EU threatened that if they did so, they would bracket paragraphs 19 and 20 on GATS flexibilities. (In fact, these paragraphs do not go beyond the existing GAT agreement, nor the LDC modalities, so it would have been a good trade off to bracket all of them.) The result agreed upon - brackets in Paragraph 21 covering Annex C - is as follows:

"21. We are determined to intensify the negotiations in accordance with the above principles [and the Objectives, Approaches and Timelines set out in Annex C to this document] with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries."

This means that the entire Annex C will be up for negotiations in Hong Kong. There is already an alternative text for Annex C mooted by ASEAN (Association of South East Asian Nations) and the ACP group plus Venezuela - an alliance of about 70-80 countries. In this alternative text, they have

- watered down paragraph 1 of Annex C on modal targets (pushed by India which wants negotiations on Mode 1 - outsourcing, and Mode 4 - movement of natural persons)
- deleted paragraph 2 on sectoral negotiations
- deleted the bulk of paragraph 7 on plurilateral negotiations (which is an entry point for sectoral negotiations) and
- deleted in paragraph 4b reference to "a possible framework for government procurement".

It is now out in the open that the majors (including India) want sectoral negotiations to commence post Hong Kong (along the lines of basic telecoms and financial services in 1997). This is clear in a time schedule that Japan brought to the green room last week (see attached Annex 2 below). Brazil, keen to maintain its alliance with India, is not a demandeur, but is unlikely to stage any strong opposition. If sectoral negotiations are agreed to in Hong Kong, we can expect negotiations in about 15 sectors, including energy, telecoms, finance, computer, legal, construction, transport, postal, distribution, logistics, maritime, audiovisuals, environmental services, tourism and mode 4.

Sectoral negotiations (Annex C) is all about liberalizing domestic regulation to allow foreign companies the same rights as local ones, that is, instituting pro-liberalisation investment and competition rules. Annex C paragraph 4b on government procurement aims to open up market access in government procurement - and in reality is only one step away from the "transparency in government procurement" which the EU pushed for in Cancun. Through Annex C, the three Singapore Issues will be brought back into the negotiations - through the back door.

There will be a hard fight in Hong Kong over this Annex. The EC already has its strategy all worked out in response to developing countries' anticipated fight to dilute Annex C:

EC has threatened that it will bring back numerical targets,(4) strengthen the language on mode 3 (commercial presence) in para.1 of Annex C, and strengthen the language on plurilateral negotiations in para 7 (to include the words "sectoral negotiations" and "critical mass"). They may even introduce this strengthened language in the main text itself. (5)

The other idea that has been floated by the EC, if Annex C is not as ambitious as it would like, is to accept Annex C till the next stocktaking session where Members would be able to re-open the Annex for negotiations (eg. a TNC meeting with Ministers in March).

Negotiations on Annex C could derail the entire Ministerial, as did the Singapore issues. But the fight will be up to Africa and ASEAN. In this regard, India has failed the developing world, and Brazil, keen to protect its alliance with India and to seal a deal on agriculture, is similarly of no help.

THE WAY FORWARD FOR AFRICA / CARIBBEAN, LDCS AND G90

For real development, Africa and the G90 has no alternative but to reject

1) Annex C, or replace it with their own alternative text that clearly does not lead to sectoral or modal negotiations. The current alternative text by ASEAN and ACP still mentions that plurilateral requests can be submitted. All references to the plurilateral negotiations should be deleted.

2) In the main Ministerial draft, reject paragraph 5 (agriculture) since there is no convergence on subsidies - certainly the cotton countries would disagree that there is convergence on domestic supports and export subsidies.

3) Stand firm in insisting on an early harvest in the elimination of export subsidies and domestic supports in cotton.

4) Delete paragraph 13 (NAMA) on the Swiss formula.

5) Insist that all special and differential treatment issues be dealt with as a package, rather than delivering five to LDCs and forgetting about the others which are of more critical value.

6) Aid for trade that is offered as loans should simply be rejected. Even if grants are offered, they cannot be conditioned upon countries' acceptance for an anti-development package in agriculture, services and NAMA. Such packages should be negotiated outside of the Ministerial so that they are clearly delinked from the WTO negotiations.

This agenda will derail the Ministerial because the US and EU simply will not agree to it. The EC is likely to prefer a failed Ministerial (where blame can be heaped on the developing countries for not wanting to move on services), than come of it without Annex C or strengthened services language in the main text. And it will be up to Africa to stand firm and to impress on the world's media their version of development. They will not be putting the multilateral trading system at risk. Quite the opposite. Insisting on fair rules and policy space is the only possible route to a real, cooperative and strengthened multilateral system.

ANNEX 1

AGRICULTURE

List of issues to be addressed in light of the Doha mandate and the July 2004 Framework:

1. What are the elements of the formulae for the reduction commitments in trade-distorting domestic support? And what are the disciplines that should complement the reduction commitments?

2. What are the elements of the formula for tariff reduction commitments and other elements to support it? And what are the flexibilities that should accompany the tariff reduction commitments?

3. What agreement is needed regarding parallelism in order to determine an end-date for elimination of all forms of export subsidies?

4. What are the elements necessary to deal with cotton ambitiously, expeditiously and specifically in all three pillars?

5. What are the elements of S&D necessary in all three pillars?

NAMA

List of issues to be addressed in light of the Doha mandate and the July 2004 Framework:

1. Can Ministers agree on all the elements needed to finalize the formula and other elements that support it?

2. Can Ministers resolve remaining differences about flexibilities?

3. On unbound tariffs, can Ministers agree that a mark up is the way forward?

ANNEX 2

A possible timeframe after the Hong Kong Ministerial (floated by Japan in 2-3 December Green Room meeting).

2006

February: Groups of Members submit plurilateral requests to other Members
CTS-SS (Council on Trade in Services—Special Session)
— take note of sectoral and modal plurilateral requests and the names of participating Members in each requested item

March: FIRST ROUND OF PLURILATERAL NEGOTIATIONS (plurilateral meetings of sectoral/modal experts)

April: CTS—SS (Council on Trade in Services—Special Session): stock taking of the progress in the negotiations

June: Second Round of Plurilateral Negotiations (plurilateral meetings of sectoral/modal experts)

End of June: CTS-SS: stock taking of the progress of negotiations

End of July: SUBMISSION OF REVISED OFFERS

September October: Further Negotiations

December: SUBMISSION OF FINAL DRAFT SCHEDULES OF COMMITMENTS

Ministerial Conference?

2007 Verification

NOTES

1. The General Council planned what it called a “choreography” ahead of the session adopting a permanent solution for TRIPS and Health (para 6 on imports of generic drugs) on Monday 5 December. Part of this choreography was that members who were not happy with making the 30 August 2003 Decision permanent, would not be allowed to speak.

2. In the Geneva based green room meetings, there were only 4 African delegations in the Green Room - Egypt for the African Group, Mauritius for the ACP, Zambia for LDCs and Benin for cotton. In contrast, there were 6-7 representatives each from Latin America and Asia.

3. The cotton countries have been angling for an early harvest. They want the elimination of export subsidies immediately, by 31 December 2005. 80% elimination of domestic supports in cotton by 31 December 2006, with complete elimination by 31 December 2008. If they do not get this at the Ministerial, “we already have our strategy”, said a cotton delegate. “We are not going to compromise. For us, this is about the lives of our farmers”. Their timetable does not appear in the draft Ministerial text. Only a tiny reference is made in paragraph 10 on cotton to an “early harvest”, but even this is in brackets.

4. The initial position by the African Group, to drop all the annexes from the draft text, including Annex C, had been shot down. The Africa Group then tried to have the entire paragraph 21 bracketed, but the EC threatened that if they did so, EC would bracket paragraphs 19 and 20 on GATS flexibilities. (In fact, these paragraphs do not go beyond the existing GAT agreement, nor the LDC modalities, so it would have been a good trade off to bracket all of them).

P.S.

* Published in “FOCUS: ON THE ROAD TO HONG KONG”, Number 4, December 2005, by Focus on the Global South.