

legal and technical trade experts undoubtedly make such assessments and related recommendations to the higher strategy levels of trade planning and broader economic policy-making. The (somewhat exaggerated) 'complexities' of trade issues and the 'extreme delicacy' of trade negotiations - and the dependence of politicians on the information of their technical experts - make the political judgments of these technical advisors particularly significant. Thus, in any discussion of South Africa's trade policies, these theoretical assumptions and political judgments need to be put on the table and critically interrogated.

### **1. 'Technical' 'trade' negotiations**

As all trade officials and negotiators know full well, trade negotiations are not simply technical/legal processes. They are certainly extremely complex combinations and interpretations of technical details and legal terms, together with the presentation and interpretation of trade and other economic data marshaled by both sides. And these are all deployed as skillful bargaining 'ammunition' within shifting negotiating tactics. But 'trade' negotiations are seldom, if ever, solely about straight commercial relations: the exchange of goods... the lowering of tariffs .... the 'opening of markets' etc. Trade negotiations are highly charged political processes, driven by broader

economic aims and national strategic interests.

- On the economic front, trade agreements are increasingly designed to include 'trade-related' matters such as investment terms, property guarantees and intellectual property rights, access to government procurement and to the privatisation of public assets, and many other crucial and even highly sensitive areas of all national economies.
- On the political front, developing country governments know to their chagrin how the more powerful governments employ not only financial and economic levers but also political power plays (and even psychological ploys), directly and indirectly, overtly and covertly, within and around the formal negotiations, including skillful media and public relations campaigns.

It is necessary to underscore these points in order to put term to any suggestions, by our side or others', that trade negotiations basically involve the tabling of the respective countries' views and proposals, and are somehow objective and diplomatic - if occasionally tense - discussions about mutually acceptable aims to secure fair outcomes and 'win-win scenarios' between so-

called trade 'partners' or, to put it more accurately, adversaries<sup>3</sup>. Even the purportedly 'mutually beneficial' relations and negotiations between relatively more cooperative partners - for example between South Africa and its fellow members in SACU and SADC - are shot through with demands and defenses, claims and counter-claims, self-serving positioning and self-justifying arguments. All 'trade' negotiations are highly charged political processes.

## **2. Trade negotiations within economic strategies**

Despite the necessity to be highly technically skilled and mentally agile, trade negotiators on the front line cannot conduct their engagements on the basis of mere tactical responses to immediate negotiating demands, or in terms of narrowly defined trade needs. To respond effectively to the strategic aims of trade 'partners', national trade negotiations and policies have to be located within a consciously worked out and comprehensive strategic trade framework. This, in turn, has to be based on assessments of the relative

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<sup>3</sup> As one European Commission trade negotiator said in an off-the-cuff remark to this writer during the extended EU-SA trade negotiations, "All this talk about partnership and cooperation is for the politicians. Trade negotiations are about interests. And let us be clear about this; we are all pursuing the maximum advantage for our respective countries".

weight or role of external trade in relation to each national economic sector and to the totality of broader national economic aims. Too often, in South Africa, narrowly conceived trade aims, the trade needs of specific sectors or even specific export interests are made the basis and drivers of this countries' trade strategies and negotiations, rather than being based on and driven by broader and clearly formulated sectoral and national industrial and developmental need and aims.

Trade policies have also to be made also on the basis of clear theoretical interrogation of the role of trade *per se*. The problem is that, at this historical juncture, the dominant notions about the nature and the role of trade are articulated within neo-liberal theory and promoted in the neo-liberal trade paradigm and through neo-liberal institutions, above all the WTO. And this paradigm (still) holds a dominant position in much South African economic policy formulation<sup>4</sup>, even though this theoretical model is rapidly losing credibility nationally and internationally under the impact of

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<sup>4</sup> And the centrality of trade and 'export-led growth' seems to be taken as a given; as the unquestioned framework even for the government's emerging Accelerated and Shared Growth Initiative (ASGI) - undoubtedly a subject for future discussion and engagement.

accumulated contrary evidence and effective national and international critiques, with the consequent erosion of the tenability of the claims about the 'trade-driven growth' model. Clearly, South Africa should also draw on - and contribute to - the important theoretical debates and paradigmatic challenges unfolding internationally<sup>5</sup>. SA's 'trade' strategies have to be formulated and located within a more innovative analysis of the respective and interactive roles, the relative weight, and the complex relationship of external trade to the development and diversification of internal productive capacities, and other urgent economic (employment creation) and social (poverty eradication) imperatives within this country. The fundamental question is whether external trade 'creates' or purportedly 'drives' economic development. Or whether the reality is that it is internal economic development and productive, technological, infrastructural and institutional capacities that make for effective external trade<sup>6</sup>. Under appropriate national conditions and (less

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<sup>5</sup> Within key UN agencies - above all UNCTAD, UNDP and the ILO - in academia and amongst trade, developmental and environmental NGOs. Discussed more fully in D.Keet "South-South Strategic Alternatives", AIDC (forthcoming).

<sup>6</sup> As one example, see Joseph Stiglitz, Prebisch Lecture at the UN Economic Commission for Latin America, Santiago de Chile, 26/08/2002.

prejudicial) international circumstances and 'rules', external trade can act as a stimulus to the improvement of internal production forces and related factors. But it is all these internal conditions and capacities that are primary and fundamental, both in themselves and as the basis of effective external trade. And external trade has also to be promoted in the context of, and to the degree that it is important or relevant to internal economic, social, environmental and cultural aims and needs. Trade has to be a means to other ends, not an aim and end in itself<sup>7</sup>.

### **3. Political judgments and choices**

However, the overall national policy framework within which the South African government should formulate and carry out its trade strategies cannot be based only on national economic policies and the above national/internal factors. South Africa's 'trade' and economic strategies are also, explicitly or implicitly, based on other broader economic international assessments and political judgments. On the one hand, strategic policy-making has to deal with the balance of political and economic forces within this country. But, in the context of South Africa's external trade relations, the positions adopted and the strategies pursued

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<sup>7</sup> UNDP, "Making Global Trade Work For People", 2003.

must be based also on consciously made, coherent and comprehensive assessments of the international balance of forces in the current historical conjuncture, about the state of the global economy, about the very nature of globalisation etc.

Until recently, government policy makers were prone to speak about the necessity to 'recognise the realities' of globalisation; the sub-text being that South Africa had 'realistically' to accommodate to this 'reality'. More recently, some high-level SA government spokespersons have begun, in some measure, to publicly question global theorists' claims about the unparalleled and unquestionable benefits of the integration of all countries and all economic sectors into one open global economy<sup>8</sup>. The economically uneven, socially and economically polarising and environmentally destructive effects of extensively unregulated corporate operations, and their global expansion and penetration into all economies and all economic and social sectors, are now producing fundamental challenges to - and even *de facto* national policy departures from - the currently dominant global paradigm and these

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<sup>8</sup> For example President Mbeki and Finance Minister Trevor Manuel in the context of their engagement with the UK's "Africa Commission" and in the build-up

global forces. South African internal trade strategy debates and policy formulations, and the government's international political role and interventions have to draw on and contribute much more and/or much more directly to these significant paradigmatic debates and changes underway.

More specifically, with regard to South Africa's external trade strategies, SA trade officials have to locate their planning within a host of political judgments, and undertake thoroughgoing economic and political assessments, such as:

- Is the US economy as strong as it is perceived to be? Or is it actually dangerously imbalanced and a potentially destabilising factor in the global economy? If so, what can/should be done about this?
- In this light, should South Africa be reinforcing its trade orientations towards the US<sup>9</sup> or towards the EU? Or towards the EU *per se*, independently of what is happening or might happen in the US?
- Or should SA be refocusing and redirecting its trade strategy (ever) more towards the South and

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towards the 2005 meeting of the G8 in Gleneagles Scotland.

<sup>9</sup> As it is now in the process of doing through the negotiation of a US-SACU trade agreement

especially towards the rapidly expanding 'emerging' economic powers, China, India and Brazil?

- Or should SA be diversifying its trade orientations and relations (even) more widely towards Africa, where it has both comparative and competitive advantages? If so, within what policy frameworks?
- Or should South Africa be re-orientating selected sectors of its production towards its own domestic markets,...and actually reduce its (excessive) external trade orientation and international exposure?
- Or should South Africa's trade-and-development strategy be a skillful coordination and combination of various or all of the above? And, if so, with what respective weight(s) and emphases?

The above questions do not purport to be a comprehensive survey of the kind of political and policy challenges facing South African trade-and-economic policy analysts; but simply to illustrate the complexity of the kind of strategic options they face and the difficult strategic assessments that South African trade policy makers have to make. The fundamental point is that both SA's bilateral and regional trade negotiations and its positioning in multilateral trade negotiations do not take place in a political vacuum. They are located within challenging and

changing economic and political perspectives and differing interpretations of these. Such political interpretations may be consciously made or not, coherently formulated or otherwise, based on 'self-evident truths' or questionable judgments .... or on the basis of emerging and more questioning insights. Furthermore, trade policy analyses have also to consciously interrogate a number of other policy positions and political assumptions still informing SA trade analysis and policy development; for example - in the context of this present paper - on the nature of the 'multilateral trade system'.

#### **4. The Multilateral Trade System (MTS)**

A broad and commonly articulated assumption amongst South African government trade officials and institutional trade 'experts' - and even some non-governmental actors<sup>10</sup>- is that we have to shape and orientate our policies to maximise our gains or opportunities in the 'multilateral trade system'. This entails getting 'improved market access' into other countries, and especially the rich markets of the North. In most developing countries such opening-up has been accompanied by

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<sup>10</sup> And even expressed by some otherwise perceptive and critical non-governmental actors in South Africa, such as trade unionists. But who seem on this issue to

the enforced opening up of their own markets, in return, and the (re) enforced heavy external orientation of their economies on the basis of the 'export-led growth' model. This model has been 'autonomously' implemented in SA over the past decade with increasingly questionable effects upon the broader production economy, on internal policy decisions, on employment generation and on tackling the growing poverty in this country. Yet SA trade officials, and others, continue to refer routinely to South Africa's commitment to 'the multilateral trade system' as if it is a self-evident necessity and almost an objective and largely immutable given.

In this way, rather than subjecting the MTS to rigorous interrogation, and rather than producing creative innovations as part of new strategic thinking, South Africa could find itself merely operating pragmatically within the *status quo*; mainly focused on trying to promote its 'offensive trade interests' in both the North and the South; finding its own trade *niches*, its own competitive trade 'opportunities' and pursuing the reduction of external trade barriers etc. Whereas, SA should be prioritising the necessity to challenge and change a system which,

- is based on questionable theoretical notions and trade frameworks deliberately structured to serve the aims and interests of the more developed economies and their companies, as reflected in the biased and imbalanced current multilateral trade agreements; while
- at the same time, this system of 'rules' is characterised by the tendentious utilisation, evasion, or opportunistic adjustment of its driving 'theories' (or rationalisations) and these very rules, as and where required by the more powerful countries and corporate interests.

Despite growing public awareness worldwide of these highly questionable features and negative effects of the MTS, the pragmatic argument put forward by SA trade officials, and many neo-liberal analysts, is that South Africa and all developing countries must, nonetheless, operate with due caution and must carefully nurture the current multilateral system of trade agreements. The argument goes that 'without the MTS, the situation would be even worse', and therefore we have to ensure that we take up issues in such a (gradual or accommodating) way as to ensure that the majors are kept within the game and do not withdraw away from the MTS altogether. If this were to happen, the argument goes:

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have assimilated these notions and assumptions within and through their NEDLAC briefings from the DTI,

- the developing countries would be picked off, one by one, by the powerful countries and subject to even more disadvantageous bilateral and regional agreements; and/or the weaker countries of the world would be exposed to unilateral trade discriminations and overt and covert pressures and threats by powerful governments, as in the past; and/or
- the world could descend into a new mercantilism or trade wars, a global free-for-all and even economic 'anarchy'.

Even without the last threatening scenario - which defenders of the *status quo* often deploy in their negotiating arsenals - there is much justification for the other fears. However - despite the intemperate threat to developing countries by USTR Zoelick, in Cancun 2003, that henceforth the US would deal with them bilaterally<sup>11</sup> - the fact is that US and EU have always utilised their own separate, differing and similar, approaches to targeted countries. Both the EU and the US have recourse to their own unilateral GSP (Generalised System of Preferences) offers to specific countries. Both of them have their own unilaterally devised

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<sup>11</sup> Angered by the successful developing country resistance to the major governments' aims,

discriminatory trade schemes<sup>12</sup>. Furthermore, even within the all-inclusive so-called multilateral rules based system, the majors consistently utilise all sorts of 'informal' and illegitimate backstage inducements and offers, or pressures and threats, against targeted countries, both the stronger and the weak.

The even fuller reality within the multilateral trade system is that the most powerful countries, the US and the EU, have also always utilised bilateral and regional strategies in furtherance of their global(isation) strategies. Before and even while they were negotiating the ground-breaking Uruguay Round Agreements (URAs) - to open up and (re)regulate all economies and all sectors according to the requirements of their global corporations and 'national' economic interests - both the EU and the US were simultaneously busy consolidating their regional economic power bases; the former as the European Community/Union and the latter through the North American Free Trade Agreement/Area (NAFTA). And, to this day - even as they both continue to deepen and expand their regional

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<sup>12</sup> Such the EU's EBA (Everything But Arms) offer to LDCs, and the US' AGOA (African Growth and Opportunities Act ) presented to Africa, and a similar version to the Caribbean

agreements and spheres of operation - they, at the same time, energetically continue to work and argue in the WTO about the necessity for 'one integrated open global economy' and a single system of global rules applicable to all.

## **5. The World Trade Organisation (WTO)**

The WTO is the most significant expression and instrument of the MTS. The global nature and outreach of the highly industrialised countries' 'national' economies and the global operations of their corporations require an open and or so-called 'integrated' global economy. This can be achieved piecemeal through dozens of bilateral FTAs and thousands of BITs (bilateral investment treaties). But the more efficient and effective means for the major economies and their companies is through binding multilateral rules created through the WTO and supported by other related international neo-liberal institutions such as the IMF and World Bank. And, while powerful governments and corporations can - and do - resort to all sorts of other less 'legitimate' or even illegal means to secure their interests, it is nonetheless more effective to do so, as far as possible, under the cover of some sort of 'legality'. Hence the importance of the WTO 'rules', in conjunction with the

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standing threat or actual employment of its quasi-judicial Dispute Settlement processes and the threat or 'legal' application of WTO-sanctioned enforcement mechanisms, as necessary for the majors - against each other in their own trade wars, and/or against the rest of the world.

Thus, the multilateral system of rules under the WTO constitutes an essential universal 'hold-all' for all economies and all companies, even while the majors create and use other specific bilaterals or regionals as they judge necessary. The US and the EU are also scrupulously careful to present these other agreements as being based on 'compliance with' WTO rules; although they also often go beyond the WTO to enforce the acceptance of 'WTO+' terms that are not (yet) enshrined in the WTO, and are actually being resisted in the multilateral processes. In sum, the major powers operate in such a way as to make the multilaterals, bilaterals and regionals complementary and mutually reinforcing. The constant underlying aim and common denominator to all these instruments and approaches is the unrelenting promotion of their economic/strategic interests.

When SA trade analysts refer to 'the multilateral trade system', they are essentially referring to the World Trade Organisation. The argument is that the



WTO provides the open and level platform for the formulation and the guarantee of a "multilateral rules-based system" of international trade relations. And that these will place some constraints on otherwise unrestrained abuses by stronger countries. As such, this system of rules must be carefully protected and promoted. The first question, of course, is whether the WTO is in fact a 'level' platform between countries of such vastly different size and economic/political weight. Or whether it can only be made less imbalanced or slightly more level through the creation and exercise of countervailing combined power of as many as possible of the other member states through tactical and strategic alliances amongst themselves. This is what has been building up over the past decade of intense backstage and public struggles in the WTO between the developing and the developed countries. And contributing to these developing countries combined and counterbalancing efforts is the fundamental political challenge also facing South Africa in the WTO.

At this stage, however, the point to be taken on board within South Africa is that, while a rules-based system is certainly preferable, the WTO as is often pointed out, is a power-driven and hence a power-based rather than a straightforward 'rules-based' institution.

But, the equally important point and challenge lies in the very nature and content of WTO rules. The fundamental problem is that these are deeply biased, inconsistent and inequitable. And, therefore, the outcomes and effects of such rules are inherently and inevitably imbalanced. Above all, these rules are based on the assumptions of the trade-and-growth paradigm; on the inevitability and self-evident necessity for universal trade liberalisation, as well as a host of other so-called trade-related agreements. These, in turn, are actually not only about trade (and investment) liberalisation ... but about the (re) regulation of international economic relations and national policy making in the interest of the transnational corporations that require an open integrated global economy conducive to their trade, investment and production operations.

#### **6. The cautious, diplomatic stance, and 'trade-off' approach**

Whether or not the SA government agrees with all the details of WTO rules and agreements - and it is certainly beginning to more actively question some, such as the egregious Agreement on Agriculture - the problem is that, in its concern not to upset the majors and destabilise the whole fragile 'rules-based' system, South Africa's positions and engagement in the WTO have hitherto tended to be conditioned and

constrained by this fear. This is not to suggest that diplomacy is not necessary. The main question is: to what purpose, and to what extent does 'political diplomacy' drive any country's interventions? South Africa's positions in the WTO have mostly been characterised by a notable cautiousness, a general concern not to challenge but rather to re-assure the majors. Such diplomatic and negotiating caution seems to have been motivated

- by the SA government's decision to project itself, in the WTO and more generally, as a 'responsible' and 'reasonable' 'partner' in international relations;
- by its expectation of receiving due recognition and possibly even concessions and rewards in return, both economic (trade and investment) as well as political; but also
- by an abiding concern not to antagonise the majors.

Over and above this political diplomacy South Africa's cautious stance in the WTO hitherto has also been characterised by a predetermined position to enter into negotiations predisposed to making compromises. This inclination from the very outset limits the defense of this country's interests, and has constrained SA's willingness to participate in most of the more proactive developing county

tactical alliances. Even where SA has become part of significant developing country tactical alliances in the WTO, such as the G20, the indications are that it continues to play a very cautious role, with a diplomatically 'reassuring' approach towards the majors, and a very evident eagerness to find a compromise settlement... seemingly even before testing the outer limits or potential in their own proposals. Similarly, while participating in the African and other developing country initiatives for the protection of their urgent health and medicine rights under the WTO's notorious TRIPs agreement, South Africa played a similarly cautiously diplomatic and conciliatory role towards the majors and their pharmaceutical corporations. The fundamental strategic mistake is that South African trade negotiators start out, technically - and psychologically - from a 'realistic' preparedness to make 'trade-offs'. They also make this willingness very evident to their negotiating adversaries and therefore play straight into their hands and make themselves very vulnerable to compromising pressures in the negotiating. The accommodating 'trade-off' mentality is hardly the most effective starting point for successful negotiations.

## **7. The so-called Doha 'Development' Round of the WTO**

South African trade negotiators and the DTI are very active promoters of the so-called Doha Development Agenda of the WTO, which was drawn up during the 4<sup>th</sup> WTO Ministerial in Doha in November 2001. And the South African media routinely refer to the vital importance of the development commitments to Africa and other developing countries within the Doha Round. It is one matter for the South African media to refer routinely to the current 'development round' of the WTO - because they are notoriously uninformed on the details of the WTO agreements or the negotiations. However it is a very different question if South African trade negotiators persuade themselves that the package of *quid pro quo* undertakings that emerged from the Doha ministerial in November are anything but highly limited and problematic. On the one hand Doha text, itself, is full of caveats and evasive formulations inserted by the majors to protect their interests. Furthermore, in the period immediately following Doha, the majors exposed their real intentions and the true character of their 'undertakings' in Doha by evading even the promises they had made on health issues under TRIPs. And, since then, the majors have consistently and persistently done everything they could and can to evade

the undertakings that they had seemingly made in Doha in relation to their legally and morally unjustifiable agricultural production supports, export subsidies and dumping. And there are also many other evasions of their 'development' promises.

On these grounds, it is interesting to note that most African governments, separately and together, seem to be avoiding calling this the Doha 'Development' Round .. and refer rather to 'the Doha agenda'. On the other hand, they are insisting very firmly on the prioritisation of their development rights and needs in this round of negotiations. It is most welcome that the South African government, too, has publicly made the 'development' aims of this round of WTO the *since qua non* of progress in the negotiations. Of course, it is also understandable for the SA government to use the development 'claims' of the Doha agreement as a diplomatic tool in its WTO engagements. However within this most commendable broad strategic approach, South Africa's negotiators must be wary of allowing their own diplomatic stance - and to some degree their sense of identification with and 'ownership' of the Doha agenda <sup>13</sup>- to lure them into defending

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<sup>13</sup> Owing to the reported role of the -then - SA Minister of Trade in the formulation and acceptance of

the Doha agreement and relying on the detail of the Doha text which is full of flaws and limitations.

#### **8. 'Fast-track' in the USA .... And therefore in the WTO**

A more specific political judgment made by South African trade officials is that the current Doha Round of negotiations in the WTO must be held together and carried through to a conclusion before the end of 2006. This is six months before the date for the termination of the current 'fast track' trade negotiating mandate of the US President. The repeated warning made by US trade negotiators and others is that it would be seriously disadvantageous to other countries, and to 'the global free trade system', if the negotiations within the Doha Agenda are not finalised before the end of 2006, in order to allow US trade official six months to get their WTO undertakings implemented before the 'cut-off' date for US Presidential fast-track powers. According to this argument, the external trade policies directed, thereafter, by the US Congress will be far slower, more complicated, more unpredictable - and possibly very protectionist - than under the present dispensation. This is another typical example of the many political ploys that

US negotiators utilise in their trade negotiations.

The counter-argument, however, is that the complexities and uncertainties of US policies are already a given. At the same time, within these uncertainties, the constant and established characteristic of US international interventions is their unrelenting self-serving nature. And this holds true whatever the internal political arrangements are within the US at any particular juncture. This is a constant facing all countries in dealing with the US in all sectors and on all issues. Developing country strategic assessments cannot be based on reliance on the rapid, or otherwise, decisions of the current or any other US President. Whatever the fine differences of emphasis - or 'style' - between one US administration and another, South Africa together with the rest of the world, cannot allow themselves to be manipulated and held hostage by the United States and precipitated into unsatisfactory and dangerous, and inter-locking agreements within the Doha Round simply on the basis of what a future US administration 'might' or might not do. South African and other developing countries have to engage in the Doha Round, and within the WTO more generally, on the basis on their own assessments of their own interests and needs, and they have to

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the Doha 'development' agenda during the 4<sup>th</sup> Ministerial in November 2001.

act firmly and form alliances on these bases wherever possible and 'whatever it takes'. This is the challenge facing them in the forthcoming WTO ministerial due to take place in Hong Kong in December.

### **9. The 'failure' or the 'success' of the Hong Kong WTO Ministerial**

All the indications are that the current negotiations are not advancing towards agreement on the many issues at stake. And the warnings by key players and mainstream media analysts are that the Hong Kong meeting could be 'a failure'. The further interpretation is that this would be a 'catastrophe' for SA... for Africa... for the developing world... for the very survival of the WTO... and the maintenance of the multilateral trade system. These alarmist threats must be seen for what they are. The fact of the matter is that, the way things now stand, **the best and necessary outcome in the interest of South Africa, Africa and the developing countries is for there to be another impasses in yet another WTO ministerial.** The immediate 'trade' stakes are high but the long-term developmental and more fundamental political implications are very much greater. The various established and emerging alliances of African and other developing countries must stand firm on their identified positions and demands. And, if their principled stands

cause a deadlock, they must not allow themselves to be brow-beaten on this by the majors and their media agents. The developing countries much welcome the impasse, stand firm, reinforce their principles and continue to utilise the gains made in whatever ongoing processes emerge from Honk Kong. **Each 'failed' WTO ministerial is part of the continuing and essential process of incrementally shifting the global balance of power, both within the WTO and more broadly, between the developed and developing countries, and between the North and the South in general**

### **10. South Africa's role and responsibility**

The overall challenge to the SA government is whether this country has participated and contributed as much as it should have and could to the many developing country negotiating interventions and initiatives... over and above its role in the agriculture-focused G20. South Africa now seems to be moving away from its earlier misconceived option to "act as a bridge between the developed and developing countries" in the WTO, and rather to be acting more clearly and publicly within the initiatives of various developing country tactical coalitions. If this is the case, South Africa will at last be in a position to make the vitally important contribution to developing country

resistance in the WTO that is commensurate with the democratic credentials and political skills within this country. South Africa also has the vitally important role of being a relatively stronger 'emerging' African economy that can give vital support to the decisions and positions of the rest of Africa, and the world's LDCs (most of which are in Africa). The question is whether SA will assume its much hoped for role in the strategic resistance of the developing countries against the domination of the whole world by the more powerful industrialised countries and their interests.

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