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Ensuring fair play at Cancun

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THE Fifth Ministerial Conference in Cancun is an important milestone. It is not an end of the process but an intermediate stage where negotiators take stock and aim to ensure that the new round of world trade talks, named the Doha Development Round, is on target.

The draft ministerial text forwarded to the ministers in Cancun has not been agreed "in any part" but, according to a cover letter by chairman of the General Council Carlos Perez del Castillo and World Trade Organisation (WTO) Director General Dr Supachai Panitchpakdi, it "constitutes an adequate and manageable basis for discussion". They hoped that it would "prove a useful tool in our search for common ground in Cancun". Many are not so hopeful.

The mandate is for the round to be completed by the end of next year. But since the meeting in Doha, Qatar, in November 2001, all the deadlines have been missed. These include the modalities for agriculture negotiations - March 31, 2003; modalities for non-agriculture products - May 31, 2003; review of the dispute settlement understanding - May 31, 2003; review of the special and differential treatment and implementation issues - Dec 31, 2002, and solution for use of compulsory licensing under Trade Related Aspects of Intellectual Property Rights (TRIPS) and public health - Dec 31, 2002.

The ministers have a full agenda before them in Cancun beginning Wednesday. There will no longer be open but "line-by-line Green Room" negotiations which will be more intense and demanding on the ministers.

The 146 members will seek to resolve differences and reach consensus on some 20 issues. This is an arduous and uphill task as the current round is more contentious than previous ones. Not only has the agenda and scope of the negotiations been widened and expanded, but there are divergent views and positions among the larger membership, which will increase to 148 with the accession of Cambodia and Nepal at Cancun.

There are also distortions in the WTO negotiations where the developed countries, the US and EU, negotiate on a bilateral basis without due regard for the interests of other WTO members. The organisation is increasingly politicised and fractured by internal divisions.

According to Datuk Seri Rafidah Aziz, Minister of International Trade and Industry, there is not just the North-South divide, but North-North and South-South differences as well that will have to be resolved.

Malaysia, for example, has problems with high import duty on palm oil in developing countries where the duty is as high as 300 per cent and therefore cannot compete with cheaper and subsidised soyabean imports into these markets.

Malaysia's position is clear. As the world's 18th largest trading nation with exports totalling RM354.5 billion last year, Kuala Lumpur will pursue a more equitable and liberal environment to ensure better market access for Malaysian exports.

Seen as a "political heavyweight" and respected for its negotiating skills, Malaysia will seek to ensure that the legitimate concerns of developing countries are not ignored and that development concerns of WTO members continue to remain in the forefront of the world body's work programme.

Malaysia's approach to negotiations has always been one of pragmatism. As a major world trader it would have to take cognisance of the need to be

competitive.

Many developing countries, including South Africa, look to Malaysia to champion their cause during the negotiations. Many do not have the technical capacity or expertise to negotiate. Rafidah, who is leading Malaysia's 41-member delegation to the conference and as a member of the "Green Room" has her work cut out.

Prime Minister Datuk Seri Dr Mahathir Mohamad, as Chairman of the Non-Aligned Movement (NAM), has also been mandated by members of the South African International Dialogue (SAID) to speak up for them and forward their views and concerns to the Ministerial Conference in Cancun.

There are a number of issues of particular concern to developing countries and other "hot button issues" that cry out for solution. These include agriculture reform, which lies at the heart of WTO negotiations on lowering barriers to world trade; agricultural subsidies and market access for agriculture, non-agriculture products and services; strengthening WTO rules relating to subsidies, anti-dumping and regional trade agreements; improving the dispute-settlement mechanism; TRIPS and public health; trade and environment; special and differential treatment provisions and issues related to the implementation of WTO agreements.

The developed countries, the US and the EU, are pushing for liberalisation of the services sector. But, as Rafidah pointed out, some developing countries do not have the capacity to open up while others do not even have a services sector to speak of. This must be treated with due regard for the domestic needs, situation and environment of these countries.

The complexity of the issue is reflected in the number of countries - 32 out of the 146 members - that have submitted their initial offers. Malaysia has undertaken voluntary liberalisation measures in several sectors not committed under the General Agreement on Trade in Services (GATS) including distributive trade and education services. It has submitted re-quests to 45 countries and received re-quests from, among others, the US, EU and Japan to open up more sectors and higher levels of liberalisation.

Even as many of the issues from the Uruguay Round have not been completed to the satisfaction of all parties, developed countries are pushing for negotiations on the New Issues. It was agreed in Doha that clarification and deeper understanding on the four new issues, otherwise known as the Singapore issues - trade and investment, trade and competition policy, transparency in government procurement and trade facilitation - be carried out.

Some countries want to link the new issues with progress in agriculture negotiations. But developing countries, including Malaysia, have consistently maintained these are "not part of a single undertaking" of the Doha Declaration.

It was made clear in Doha that the decision to commence negotiations could only be taken at Cancun, the Fifth Ministerial Conference, on the basis of "explicit consensus".

According to Perez del Castillo and Supachai, "convergence has so far eluded the negotiators" on the Singapore issues. Developing countries say that the time is not yet ripe to discuss the modalities and that Cancun should not launch negotiations of the four issues.

Twenty developing countries, including China, India and Brazil, plan to act in unison to block the opening up of their industries, unless the US and EU promise to slash farm price supports and set a deadline for outlawing export subsidies.

Developed countries are also trying to fill in regulatory gaps in WTO agreement through litigation.

There was a 149 per cent increase in anti-dumping cases initiated, rising to 132 in 2002 from 53 in 2001. The US topped the list of anti-dumping actions in 2000 and 2001 and India in 2002.

Dr Razeen Salley, lecturer and head of the International Trade Policy Unit at the London School of Economics, says resorting to litigation is a dangerous and slippery slope. He argues that WTO members must make policy choices through negotiation, not by default through dispute settlement. But are the major players listening?

The battle lines appear to have been drawn even though negotiators seem to have overcome last minute hitches to reach a deal on giving some of the world's poorest countries access to cheap drugs. Much will depend on the success of this week's negotiations on how to meet the 2005 deadline for a global free trade accord. The US has already given notice that it will go alone if the 2005 deadline is not met.