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THE G77@50 AND THE STRUGGLE FOR A DECOLONIAL FUTURE

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ABSTRACT

This introductory article outlines the importance of the subject discussed in this edition of Unisa's *Latin American Report*, the Group of 77+ China. It seeks to locate this discussion at the centre of the search for an alternative world to one that remains haunted by colonial legacies and new imperial designs. It makes the point that the G77 is born into an evolving pursuit of a dream for a world in which former colonies realise fully their aspirations for a future that is good for all. It shows that the G77 has played a crucial role in this, while it also poses questions about the Group's ability to implement what it works so hard to reach consensus on.

Keywords: G77, South agency, multilateralism, decolonisation

INTRODUCTION

This article seeks to place the discussion in this edition in the struggles for an alternative world, a world for all replacing the current world that was fashioned under imperialism and colonialism. It also explains the rationale for this edition as well as an outline of the critical questions that invite discussion in this context. It



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argues that the G77 is born into an evolving pursuit of a dream for a world in which former colonies realise fully their aspirations for a future that is good for all. Yet, there are questions about the Group's ability to implement its consensus positions.

THE REVITALISATION OF THE JOURNAL

The *UNISA Latin American Report* has been published as an academic journal for conversations, information sharing and knowledge production on the significance of the Latin America and the Caribbean regions since 1984. It has evolved over time as South Africa/Africa's relations with the changing Latin America and the Caribbean changed. This marks the 31st year of its existence. It is a journal of the University of South Africa (Unisa)'s Centre for Latin American Studies currently incubated within the Institute for Global Dialogue (IGD). The university recently mandated the IGD to strengthen the position of the journal in broader Global South Studies as part of reviving the Centre. The process is advancing steadily and this edition marks the beginning of the repositioning process by focusing on the significance of the Group of Seventy Seven (G77) as it marked fifty years of its existence.

We anticipate the broadening of the subjects that the journal provides a platform for to issues such as south multilateral diplomacy, the south and international trade and investment trends, emerging powers and global responsibilities, BRICs and minilateralisms, state of democracy and governance in the south regions, changing geopolitics and demographics in the south, history and significance of solidarity movements, the changing role of social movements and people's organisations, regional integration and cooperation, ocean economy and security, the south Atlantic as a zone of peace and development, poverty and underdevelopment, science and technology, arts, language and culture, and so forth. We hope to see the journal provide space for engagement with topical issues through review articles as well as long-term structural issues through longer research articles, while also giving an increasing space for reviews of major books in the south across a range of disciplines. The aspiration is to have a journal that is transdisciplinary in the sense that articles will not just recognise the existence of various disciplines but will explore ways of going beyond disciplinary knowledge and its decadence. It will open space for challenging the colonality of knowledge in order to make possible the re-emergence of knowledges in place of hegemonic knowledge, an epistemic plurality necessary for cognitive justice and the shifting of the geography of reason (Gordon 2006; Zeleza 2006). We hope that through the journal there would be engagement with the idea of decolonising knowledge in the sense of epistemology, methodology and pedagogy. Articles employing decolonial, subaltern, south-centric epistemic lenses are therefore encouraged.

THE G77 COMES OF AGE?

This edition is dedicated to the role and position of the G77 in the pursuit of a world for all, a world in which developing countries escape the scandal of north-dominated global power asymmetry (Ahmia 2006). The countries of Latin America and the Caribbean played a crucial role in this, alongside those of Africa and greater Asia including the Middle East. Some of the most crucial turning points in the evolution of the Group took place in this region. This includes the adoption of Buenos Aires Plan of Action (UN Special Unit for TDCD 1978.), which continues to frame the South's orientation towards development and technical cooperation; the Havana Declaration, which set out the strategic agenda of the whole of the south beyond the Cold War; and the recent Santa Cruz Declaration that defined the South's pursuit of a new world order in the context of shifts in global power, are among the most obvious examples (Swart and Lund 2010).

In many ways, the Group reflects the Latin America and the Caribbean regions' struggle to define their role in the face of uncertainty about changes in the world. This includes changes in relation to North-South dialogue following the end of the Cold War. Like these regions, the Group has vacillated between radical vocalisation of frustration about the slow pace of change in global power and exploring dialogue mechanisms for influencing such change. I will call this a struggle between the desire to find a radical break with the logic of post-war geopolitical arrangements and a willingness to adopt an amicable, pragmatic diplomatic posture in hope for a negotiated way out of the post-war façade of international relations.

The formation of the G77 in 1964 was timely for a number of reasons. The first was that the structures of global governance that emerged after the Second World War on the basis of calculations in the global north about how to prevent another war were less than two decades old. The countries of the south, mostly former colonies that did not participate actively in the design and operationalisation of the global governance system had hardly a decade of experience in institutions they did not create, a system that was not designed with their interests in mind. They therefore had learned some major lessons about what worked and what did not work, how to operate in the world system designed for others. One major lesson was the need to create alternative platforms for advancing interests that the imperial orders could not be entrusted with.

The second reason is that since the historical gathering of African and Asian countries in Bandung, Indonesia, in 1955, the dream of a united global south acting cooperatively to deal with common challenges and shared aspiration had become bigger as many former colonies achieved their independence in the 1950s and 1960s (Tan and Acharya 2008). It had given birth to energy and willingness on the part of developing countries to play a critical role in changing the world system, from a world without others to a world for all. This sense of south agency led to the establishment of the Non-Aligned Movement (NAM) in 1963 as a signal against

joining the family feud among global powers called Cold War (Srivastava 2001). They agreed not to be too absorbed in the battle between two contending western ideas and ideologies – capitalism and communism.

The emergence of NAM signalled an attempt to chart a new path for global politics and diplomacy, one in which the interests of the people, especially the people of the south, would be more paramount than geopolitical games among global powers. It therefore represented the maturing of south multilateralism and the birth of the G77 as a multilateral body focused more specifically on the South's development interests complemented NAM's political/security orientation.

Thirdly, time had come for the developing world to build relations beyond political solidarity against political colonialism towards a strong framework for economic, developmental and cultural decolonisation in concrete terms. The 1955 Bandung Conference had underlined a comprehensive basis for south-south cooperation, spanning political, economic, technological/scientific, cultural and people-to-people zones of cooperation.

The birth of the G77 was a culmination of part of this latter dream. Born on the sidelines of the UN Conference of Trade and Development (UNCTAD), the G77 was always poised to respond to the South's need for a shared and coherent agenda for global development that responds to the huge needs of the developing countries. Indeed, the G77 wasted no time in deliberating in a focused and detailed manner the various aspects of its global development agenda and south-south developmental cooperation, producing in the process such ground-breaking agreements as the Right to Development idea introduced by Senegalese legal expert, Keba M'Baye, in 1972 and the New International Economic Order of 1974 (Shivji 1989: 28–31).

KEY QUESTIONS LINGER ON

But whether enough has been achieved as expected now that the global environment has improved following the end of the Cold War, which was a major inhibition to the South's development in the past, is a matter for debate. Whether the G77 (now called G77+China) has taken advantage of the upsurge of developing countries, the rise of emerging powers and the strengthening of south institutions at regional levels is a subject of much discussion right now. What has actually happened in the implementation of the great promises of the G77+China is the subject of this edition.

Serges Djoyou Kamga reflects on the epochal decision on the right to development and how this has evolved to this day, the period of advanced discussions towards a new global development agenda. Locating it in the context of changing legal norms relating to socio-economic issues, Kamga shows that the idea is germane to the Group's pursuit of an alternative world, one that is equitable and without poverty. Lukman Abdulrauf critically discusses the important role of transborder data flows for economic development in the global south generally and the implications of

this for the G77's pursuit of comprehensive trade and development. To this end, Abdulrauf makes the case for a data protection legal framework to ensure that the south benefits from the information revolution during the age of globalisation. The articles by Sibulele Walaza and Samuel Oloruntoba deal with the role of the G77 in the management of global economic governance. Walaza focuses more specifically on the position and impact of the G77 as a negotiating group in the World Trade Organisation's Doha Development Round. It credits the G77 for consistently pursuing a fair, equitable and just international trade environment. Oloruntoba casts a critical eye on the G77 response to the unjust global economic governance. It demonstrates that the G77 is still crucial for pursuing the transformation of the global economic governance system. Lesley Masters' article is on the special role of the G77 in climate change negotiations within the UN Framework for Climate Change, underlining the importance of the unity of the 134 member states in influencing the outcomes of negotiations. She points to cleavages within this huge Group as a major challenge to its potential to become the agency for global reform. Bright Nkrumah analyses the impact of the G77 in the WTO negotiations on agriculture and how this contributes to ensuring sustainable food security in the south broadly and in Africa in particular. It suggests that the failure to achieve concrete results for poor nations in these negotiations undermines the stature of the G77.

Taken together, these articles underline the importance of the G77 as the largest negotiation platform for developing countries in a world that is yet to fully decolonise and de-imperialise. They demonstrate progress made in developing a south consensus on a range of important questions in world affairs. However, they also show that reaching such consensus and common position is one thing, but translating them into concrete progress is another. This edition is a reminder that solidarity and cooperation are of limited long-term impact unless they lead to concerted action by nation states, regional groups and international institutions such as the United Nations to give effect to principles, values and steps agreed.

Long live, the spirit of south solidarity for global change!!

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G77+CHINA AND GLOBAL GOVERNANCE OF TRADE AND DEVELOPMENT

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ABSTRACT

The global governance of trade remains a very contentious issue between the global North and South. Despite the dominant notion that international trade can facilitate economic development, there are concerns that the global North, represented by Euro-American countries have to a certain extent, set the global trade rules in a way that favours their socio-economic development at the expense of the majority of the countries in the global South. The upstart advantage that Europe had in technological advancement provided an impetus for exploration and subsequent conquest of distant lands and peoples. These were done through interrelated events such as the slave trade, imperialism, colonialism and neo-colonialism. The global economic governance architecture that followed the Second World War in forms of rules that governed conduct of trade, finance and investment, was tilted in favour of the advanced countries. It was in the context of resistance to this unequal global economic structure that the G 77+China was formed in June 1964. This article interrogates the role, successes and limitations of this group of countries in shaping the global governance of trade.

Keywords: G77+China, global governance, trade, development, Africa



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INTRODUCTION

Over the past five centuries, the international economic order has been defined by unequal exchange through the domination of other parts of the world by the Euro-America imperial powers (Amin 1976; Emmanuel 1972). Although each of the different regions of the contemporary world of Asia, Africa and Latin America had experienced spurts of growth, modernisation, advancement and certain levels of institutional development, the Industrial Revolution that took place in Europe in the 16th century effectively altered the global order in power relations, the pursuit of self-interest and architecture of global governance (Nayyar 2009). The upstart advantage that Europe had in technological advancement, provided an impetus for exploration and subsequent conquest of distant lands and peoples, through interrelated events such as the slave trade, imperialism, colonialism and neo-colonialism.

The need for cheap labour, access to raw materials and market for manufactured products further reinforced the deployment of crude power in the pursuit of power, influence and profit. The capitalist system that emerged from the industrial revolution was fraught with some internal contradictions that make cyclical crises inevitable. The economic depression of the 1930s, political problems in Europe and pressures from colonised regions of the world led to a process of decolonisation, in which many colonies were granted flag independence. However, the global economic structure that has subsisted since earlier centuries in form of rules that governed conduct of trade, finance and investment was tilted in favour of the advanced countries, which are mostly found in Europe and North America. It was in the context of resistance to this unequal global economic structure that the G77+China was formed in June 1964. As Geldart and Lyon (1981) note, the G77 emerged primarily as a United Nations-centred association of Latin American, African and Asian groups of countries together with Yugoslavia in connection with the launching of the United Nations Conference on Trade and Development (UNCTAD). They also argue that the 'G77 was born within, and primarily as a result of the changing composition of the United Nations system in the 1960s – and resulted directly from the quest for a new international trade organisation' (1981: 81).

Over the course of the past 50 years, the G77+China has campaigned and made demands for the restructuring of the international system, especially on issues of trade and development. How far has the Group succeeded in achieving their aims? What are the challenges and obstacles to the realisation of their objectives? How relevant are they in contemporary global order and what are the prospects for a more equitable international order? Using the deadlocked negotiations on Doha Development Round as a case study, this article examines the role of the G 77+China in setting and influencing the agenda for global governance of trade and development. Given the salience of power and interests that define North-South relations, the G77+China has as its basic objective, influencing agendas on global governance of trade, as necessary steps towards the restructuring of the international economic order.

The next section contains the historical and theoretical trajectories of the formation of the Group of 77 and China, their configurations, aims and objectives. Section three situates the Doha Development Rounds within the campaign of the G77+China for new forms of relationship with the developed countries on trade and development. This section also interrogates the current changes in the global geography of power, especially in relation to the rise of China and other emerging economies, increasing alliances for South-South co-operation and the relevance of the Group. Section four examines the challenges that have affected the Group in achieving its aims and objectives, while section five concludes with recommendations.

G77+CHINA: HISTORICAL AND THEORETICAL UNDERPINNINGS

The G77+China came into being on 15 June 1964 as result of the need to promote equality in the international economic system between the developed economies and developing and less developed countries. The Group was also formed to promote the interests of the developing world through negotiations for a more equitable basis of the relationship with the developed countries. Although the Group was initially made up of 75 developing countries mostly found in Asia, Latin America and Africa, it increased immediately to 77 members after the first meeting of UNCTAD. Today, the Group is made up of 134 (Appendix 1) countries that include countries that are classified as low income, lower middle income and upper middle income countries. Appendix 11 contains the list of lower middle income and upper middle income countries. Membership of this income bracket is based on the World Bank criteria of per capita income. In the past 50 years, some members of the G77+China have moved from low income to lower middle income, while some have moved from lower middle income to upper middle income. A few members of the Group such as Singapore and United Arab Emirates have moved to the level of high income countries. The limited number of countries that have joined the high income countries is a further testimony to the skewed nature of the global economic order and the unwillingness of the advanced countries to yield to the demands of the G77+China group. This reality necessitates the continued existence of the Group. It also makes for a more vigorous and strategic engagement of the Group with the advanced countries.

Despite a more than 50 per cent increase in membership since it was formed 50 years ago, the Group still retained the original name due to the importance attached to the foundational philosophy and purpose for which it was created. The Group is the largest intergovernmental organisation within the United Nations Organization.

Its emergence, essence, relevance and continuity can be located within the context of the resistance to the Anglo-American-centric world order that came into being at the end of the Second World War. The United States of America emerged as the most powerful country in the world after the Second World War,

both economically and militarily. Among other issues, the country demonstrated her economic supremacy and ability through the funding of the Marshall Plan for rebuilding of war-ravaged Europe and the setting of the terms and conditions for the establishment of the Bretton Woods Institutions, namely, the International Bank for Reconstruction and Development (later World Bank), the International Monetary Fund and the General Agreements on Tariff and Trade (GATT), later World Trade Organisation (WTO) (Spero and Hart 2010; Gilpin 2001). The premium that the American dollar commanded as the ‘world’s premier currency’ and ‘the linchpin of the international monetary system’ (Geldart and Lyon 1981: 81) was further evidence of the country’s economic supremacy after the war. The country became a nuclear power whose arsenal can hardly be matched by any other country. Although the former Soviet Union presented some form of alternative economic model to the dominance of America-led capitalist system, the latter has continued to dominate the global order since 1945.

Theoretically, the Anglo-American world system that persists since the end of the Second World War has been encrusted with various theories, such as the neo-classical and liberal economic theories, in which free trade and market fundamentalism hold sway (Fine 2009). Under free trade, third world countries were and are still being encouraged to concentrate on the export of primary products in which they have comparative advantages. Developing and less developed countries were also encouraged to remove all forms of tariffs to import of manufactured products from developed countries as such moves will allow consumers to have choice in the range of goods and services to be consumed. There have also been pressures on the developing countries to remove all forms of subsidies on exports as they are said to constitute distortions to prices of goods.

In contrast to these theories was the seminal contribution of Raul Prebisch, former Executive Secretary of the United Nations Economic Commission for Latin America in the 1950s. He laid the foundation for dependency theory, which posits that the global system is unsustainable for the development of the developing countries due to the manner of their incorporation into the global capitalist system and the resultant dependence on the developed countries for trade, finance and technology (Prebisch 1950; Furtado 1964; Dos Santos 1975; 1970). As Adebajo (2014: 39) argues, ‘Prebisch challenged dominant theories of global trade and the international division of labour predicated on the export of finished products by the rich North – the “centre” – to a “periphery” of countries in the global South which in return export unfinished raw materials to the North uncompetitive prices.’ Other variants of the dependency theory such as the world systems theory and the theory of underdevelopment further show that the exploitative pattern of relationship between the developed and the developing countries is detrimental to the socio-economic and political development of the latter (Wallerstein 1979; 1974; Baran 1968).

While the Bretton Woods institutions have played decisive roles in shaping the post-war economic fortunes of the former colonies in Asia, Latin America and Africa, it is in the areas of trade and development that the salience of the importance of the G77+China can be most appreciated. At the end of the Second World War, there was a general belief that one of the causes of the war was economic nationalism, which manifested in the protectionist policies that governments pursued. In order to avoid another war, there was a near consensus among developed countries for a new trade regime that focuses on free trade. In particular, 'a liberal international economic framework benefiting all countries was perceived by the decision makers in the United States government to be coincidental with their own interests' (Williams n.d: 38). The need to find export market for surplus industrial products from the United States became imperative. Consequently, a more liberal international trade regime, which has been hampered by protectionist policies in Britain, its colonies and other developed countries was deemed to be imperative and due for negotiation. Developing countries on the other hand were desirous of having access to the markets of the developed countries as well as having a leeway to develop their infant industries.

At the conference organised by the United Nations Conference on Trade and Development (UNCTAD) in Havana, Cuba, in 1947, the few developing countries that had been granted independence in the 1940s proposed an International Trade Organisation (ITO), which will be charged with the responsibility of managing trade relations between the developed and developing countries and in such a way that will take care of the development needs of the latter. The proposal for the establishment of the ITO under the Havana Charter was opposed by the US, thus leading to its demise (Spero and Hart 2010; Gilpin 2001). The General Agreement on Tariff and Trade was created in 1947 as a replacement to the ITO. Its main operative force was that of reciprocity based on the Most Favoured Nation, in which any concession granted to any of the Contracting Parties was expected to be extended to other members. As Williams (n.d: 43) argues, this principle formed the basis for the establishment of a liberal, multilateral, non-discriminatory system.

From its commencement, the GATT fell short of the expectations of less developed and developing countries as it reflected, mostly, the interests of the developed countries, especially those of the United States of America. Contrary to the Havana Charter, which incorporated issues of development concerns of the third world countries, GATT 'excluded issues of development such as the restrictions on the use of quantitative restrictions, subsidies and preferential agreements and commodity agreements' (Williams n.d: 44). The element of power in the relations between the advanced countries and less developed countries was further demonstrated under GATT when the former did not allow Article XV111, which was meant to deal with 'adjustment in connection with economic development' to function. However, the relative power that some developing countries, most especially the oil exporting

countries, had in the late 1960s and early 1970s led to some concessions in which the Article XXIV was inserted into GATT to allow for non-reciprocal trade relations between developed countries and least developed countries. Such concessions were subject to some rules such as the length of time that the non-reciprocal arrangement can last and the volume of trade that can be covered. The lack of co-operation from the developed countries in meeting the development aspirations of the less developed and developing countries provided a rallying point for the latter to form various groups such as the G77+China, which they have been using to canvass for a more equitable international economic system.

At the inception of the G77 in 1964, it was concerned with the establishment of a new international division of labour oriented towards the accelerated industrialisation of developing countries, a new framework of international trade that is wholly consistent with the needs of accelerated development and the need to redress the injustice and neglect of centuries (Bissio 2014). In the course of the 50 years of its existence, the Group has recorded some milestones in forging a common front towards advancing the development interests of its members. Some of their achievements include the establishment of specialised organisations within the United Nations such as the United Nations Conference on Trade and Development (UNCTAD), and United Nations Industrial Development Organisation (UNIDO), among others. The Group has also exerted pressures on the global North to establish a new international economic order (1974), and it ensured that development becomes a right of all peoples of the world (1986), and institutionalised a global system of trade preferences (1988) and a campaign for a new development paradigm (2014) (Bissio 2014).

G77 AND DOHA DEVELOPMENT ROUNDS

The Uruguay Round of Negotiations did not sufficiently address the development concerns of the developing countries. For instance, the issue of access to markets for agricultural products from developing countries to developed countries remain contentious. The developed economies of Europe, United States of America and Japan continued to grant subsidies to their farmers. At the end of the Uruguay Round, the World Trade Organisation was established in 1994 to succeed the General Agreements on Tariff and Trade. In preparation for the Launch of the Doha Development Round in 2001, the G77+China met to demand that the new rounds of negotiation should not only be about trade, but must include their general and particular development needs. The G77 stressed the ill-effects of globalisation, the need to establish a fair trading system and the right of the South to participate equitably in global decision making. The Group also affirmed the role of the South-South cooperation and the new direction for a New International Economic Order.

In preparation for negotiations on the fourth Ministerial Conference in Doha, the Group of 77+China met in Geneva, Switzerland, and made a 35-point declaration, which included their demand for a more equitable and development friendly multilateral trading system. The observations and demands of the Group covered issues of duty free and quota free access by developed countries for exports from the developing countries, review and implementation of outstanding agreements under the Uruguay Round, Trade Related Intellectual Property Agreement, and Agreements on Trade Related Investment Measures. They made special case for the incorporation of the development needs of small economies and landlocked countries. In general, the Group recognised the development deficit in the WTO and demanded that development should be made a priority before any other issue could be negotiated. In particular, they sought for the full and immediate implementation of Commitment 5 and 7 of the Third United Nations Conference on the Least Developed Countries (LDC III), which was concerned with 'enhancing the role of trade in development and mobilising financial resources' (see www.g77.org).

The Group deliberated on how to institute an equitable, fair and reasonable new international economic order through mutual South-North beneficial co-operation (Muthucumaraswamy and Wang 2010). As these authors argue, the position of the G77+China on the restructuring of the international economic order has been strengthened by the more activist roles that leading members of the Group such as China, Brazil and India have been playing at various smaller forums within the WTO, such as G20, G7 and G6. The salience of this argument can be seen in the involvement of these big players in the world economy in the green room negotiations at the WTO. Previously, involvement in the green room negotiations at the WTO has been limited to members of developed countries made up of the G8 member countries. However, G77 members such as China, Brazil and India have been championing the interests of the G77 members in this powerful inner caucus. It was through the concerted efforts of the G20 members that the Agriculture Framework Proposal was included in the Doha Development Round.

This Framework makes it very clear that in order for the development needs of the development countries to be achieved under the Doha Development Round, agriculture should be fully incorporated into the rules of the multilateral trading system. This Framework is especially in relation to the distortions created by developed countries in the agribusiness and agricultural exports from developing countries (Muthucumaraswamy and Wang 2010). In addition to the Framework, G77 members such as India and Brazil also represent the G20 in the 'Five Interested Parties', which was established for agricultural negotiations in the Doha Development Round. With the involvement of the G77 and China members in G7 and G6, which include powerful economic blocs such as the EU, USA, Japan and Australia, it can be argued that their voice has become louder and stronger at the multilateral levels. As Akinboye and Oloruntoba (2013) argue, the deadlock in the

Doha Development Round is directly traceable to the stronger voice and higher levels of co-operation among members of the G77+China. Despite the commitment of this Group to the multilateral trading system, it have refused to accept the dictates of the developed countries on the Singapore issues such as Transparency in Government Procurement, Trade Facilitation (Customs Issues), Trade and Investment and Trade and Competition. Notwithstanding these, the deal on Trade Facilitation Agreement (TFA) that was reached in Bali in 2013, the G77 countries continue to hold their positions that their development concern should be given priority in the Doha negotiations.

Although declarations are usually different from action at the international levels, there is no doubt that the G77+China group of countries has, to a great extent, shaped global governance of trade and development. One of the incontrovertible evidences of this is the inclusion of development in the overall mandate of the WTO through provisions for Special and Differential Measures in which developing countries are allowed to enjoy preferential trading agreements with developed countries. Through the article XXIV of the GATT, which was also replicated in the WTO, developing countries are allowed to enjoy non-reciprocal trading regimes with developed countries for a reasonable period of time. Although the reasonable period of time is a subject of conflicting interpretations, such provisions allow least developed countries the space to develop their infant industries. It also allows them to export duty free to the markets of the developed countries. Examples of these were the Lome Conventions between Africa and the European Community (which lapsed with the introduction of the Cotonou Agreements in 2000) and the African Growth and Opportunities Act between United States of America and eligible countries in Africa.

The G77 has also been instrumental in working with UNCTAD to build the technical capacity of developing countries on trade negotiations. It was a further testimony to the increasing importance of the G77 and China that the Doha Ministerial Declaration of 2001 was based on the agreements that developed countries should reform the three agriculture issues that affect the development potentials of developing countries. These issues include: elimination of export subsidies, substantial reduction in trade distorting domestic support, and substantial improvements in market access for all products. It can further be argued that the group has contributed to the abiding hope in the continuation of the rules-based multilateral trading system under the WTO. Despite the insistence of the members of the G77 and China that the multilateral trading system should be made more transparent and development oriented, they have been consistent on most of the declarations that they made in support of a rules-based multilateral trading system at the Fourth WTO Ministerial Conference in Doha in 2001. The importance of the support that G77+China has given to the continuation of the multilateral system can further be understood in the light of the efforts that the group made to ensure a

deal on Trade Facilitation at the Bali Ministerial Conference in December 2013. The processes leading to the TFA as well as its outcomes have been criticised as lacking in transparency. Although the benefits of the agreement will mostly be skewed in favour of developed countries that have finished products to export to developing countries (South Centre 2014), the deal was reached to reactivate the struggling negotiations of the Doha Development Round.

It can be argued that the commitments by the G77 and China member countries on the sustainability of the multilateral trade system are in sharp contrast to the wavering positions of global powers such as the United States of America and European Union on the issue of multilateralism of trade. Rather than acceding to the development demands of the G77 and China countries that have been at the core of the negotiations on Doha Development Round, the EU and the US have resorted to a new regime of regional agreements that tend to undermine their commitment to multilateralism. As scholars Starbova (2008) and Bhagwati (1991) have argued, regional agreements are detrimental to the promotion of an open international trade regime. Sterbova (2008: 32) argues that free trade agreements undermine the transparency and the principle of non-discrimination, which are the basis of the global trade governance and divert interest in the multilateral trading system. Apart from the various regional agreements with countries in the South, which are usually skewed in favour of the developed countries, the latter have now increased the tempo of forming regional agreements among themselves. A typical example of this is the on-going negotiations of the EU-US Trade and Investment Partnership (TTIP). Various studies have shown that the TTIP could have negative impacts on the development of countries in the South, especially on the issues of market access for agricultural products (Rollo *et al.*, 2014; Oloruntoba 2014; WEF 2014).

In furtherance of its founding philosophy and objectives, G77+China have been holding a series of meetings and conferences. In each of these meetings, they make declarations through which they articulate their demand for a restructuring of the international economic system through the incorporation of their needs for development. Usually, their views and declarations are in contrast to the dominant neoliberal paradigm on economic policy and practices, to which most of the developed countries are subscribed. Even though such declarations may not carry the force of action to bring about instant change in the international economic order, they constitute legitimate demands that bring pressure on developed countries to effect the necessary changes in the global economy.

Despite the fact that most of the 133 member countries of the group are generally poor, the success stories of a few of them in terms of reduction in poverty and inequality, the high level of economic growth and institution building through unorthodox measures, have inspired stronger confidence to advocate for alternative measures to advance human development. For instance, Ravallion (2009a) shows how countries such as Brazil and China have drastically reduced poverty and inequality without necessarily following the neoliberal economic doctrine.

In recognition of these dynamics, the G77+China, at its 50th anniversary meeting in Bolivia in June 2014, made declarations geared towards a new development paradigm in the world. The declarations were both general and specific. While the general ones covered issues of sustainable development (respect for the earth), improvement in the practice of democracy in accordance with cultural specificities, national sovereignty and benefits over natural resources, eradication of poverty (national ownership of development agenda), fight against corruption, employment generation, provision of social services and so on, some were specific to issues of governance of trade. For instance, item 165 of the declaration states *inter alia* that it is essential to establish and uphold a universal, fair, rules-based, open, pro-development, non-discriminatory, inclusive and equitable multilateral trading system that contributes to growth, sustainable development and employment, particularly for developing countries. In a similar vein, items 166 and 167 of the declaration call for a timely and successful conclusion to the Doha Round of multilateral trade negotiations, which must fully respect its development mandate and place the needs and priorities of developing countries at its centre, and reiterate that developed countries should provide effective, sustainably financed trade-related technical assistance and capacity-building tailored to the specific needs and constraints of developing countries, including through the Enhanced Integrated Framework of WTO, in order to address the supply-side and trade-related infrastructure and productive capacity constraints of least developed countries.

As a progressively inclined group, G77+China has worked and continue to work with civil society organisations in the global South and sympathetic ones from the global North on the ways to achieve a restructuring of the international economic order. In this respect, organisations such as Third World Network, Oxfam and Social Watch have been particularly committed to working with the group. The South Centre has also continued to serve as an intellectual power house for the group through the provision of technical analysis of the issues involved in the North-South relations. The positions of the trade unions on issues of trade and development have been consistent with the demands of the G77+China. These unions have been mostly concerned with ensuring that development issues and the right of workers form the basis of any agreement in the Doha Round negotiations. For instance, in preparation for the WTO Ministerial Conference of December 2011, the Global Unions of labour made a 38-point demand that included the centrality of development concerns of the least developed and developing countries, decent work, inclusion of the International Labour Organisation (ILO) in WTO discussions as well as social, gender and environmental issues (ITUC 2011). The trade unions believe that trade liberalisation has led to job losses, underdevelopment and has continued to perpetuate unequal power relations between the developed and developing countries.

In summarising this section, it is important to state that the G77 has made significant contributions to the reforms of the global governance of trade and development. Despite the diversity in the composition of the Group in terms of

population, sizes of the economies, ideological commitment and diversities in alliances with the global powers, the joint historical experiences of colonialism and post-colonialism, contemporary trajectories of poverty and inequalities have unified them in their demand for a just and equitable international system. The idea of development that the G77 countries have canvassed is different from the idea of development that the West has been advocating. The G77+China's concept of development is the same as the one advanced by the Non-Aligned Movement at the Bandung Conference of 1955. As against the Western conception of development, which in the main refers to changes in the rate of economic growth, the G77+China conceive development as general improvement in the living standard of the people, latitude for endogenous development strategies and respect for the earth (Khor 2014; Ndlovu-Gatsheni 2012; Mkandawire 2011).

G77 AND THE CHALLENGES OF REFORMS OF GLOBAL GOVERNANCE OF TRADE AND DEVELOPMENT

Despite the laudable achievements of the G77+China in ensuring an international economic order that is balanced and equitable, the Group has faced various challenges that hamper the realisation of its aspirations. These challenges have both political and economic dimensions. The political factors relate to the diversity in the compositions of the members of the Group. This diversity affects the coherence of their voices, commitment to agreed principles and consistency of ideologies. Shifting alliances, especially during the Cold War between the United States and the former Soviet Union also affected the strength of the Group. The diversity of the Group, the continued dependency of most of the member countries on the West for economic aid, makes it easy prey for divide and rule by the West. The control that the West exerts over global institutions such as the World Bank, the IMF, the UN and the WTO limits the ability of the G77+ China to have its views and declarations fully implemented. As Wade (2013) argues, despite the obvious changes in the global geography of power, in which G77 countries such as Brazil, China and India have recorded higher levels of economic growth in recent times, nothing has changed in the power relations between the West and the rest of the world. He notes that 'the common narrative about China and some other developing countries rising to challenge the United States and other major Western States turns out to be an exaggeration at both ends'. Why? 'With the exception of China, developing countries remain lightweights in terms of their share of world gross domestic product (GDP)'. Hence, 'the United States and other Western states continue to set agenda of global economic and financial governance for the most part, while the big developing countries have exercised negligible leadership so far' (Wade 2013: 7). The current slowdown in economic growth, the capital crisis in China or even signs of recession in countries such as Brazil and Russia have validated the above

proposition. The rigid structure of the global capitalist system and the control that the core countries, such as the United States of America, have on the system makes any sudden transformation difficult, at least in the short to medium term. The twin forces of power and interests of the key actors and beneficiaries of the current order will resist any attempt to seek any fundamental change.

While the refusal of the EU and USA to accede to the demands of the G77+China on market access to agricultural products and issues of subsidies on agricultural products may have much to do with the domestic politics, it is worth stating that lack of a commitment to sustainable development of the global community lies at the root of the intransigence of the West in acceding to the demand for establishing a new international economic order, which would be in the development interests of all countries of the world. As Adedeji (2012) notes in respect of EU relations with Africa, notwithstanding the geographical proximity of the former with the latter, their relationship over the past five centuries has been marked by unequal exchange, exploitation and domination in favour of the EU. Neo-imperial designs in form of the current global capitalist order and the attendant economic globalisation is primarily concerned with the satisfaction of the private interests of the transnational capitalist class, with members spanning the core and the periphery of global capitalism (Robinson 2004).

Scholars have shown that the adoption of structural adjustment programmes in many member countries of the G77 in the 1980s and 1990s effectively led to the loss of policy space, destruction of the manufacturing bases, high debt profile and overall dependency of these countries. Their parlous economic conditions created opportunities for further domination by the West (Mkandawire and Soludo 1999). Another challenge is that the pursuit of national interests of powerful members of the group such as China, Brazil and India within organisations such as the WTO further weakens the sense of solidarity and common purpose that the group ought to develop in order to effect more concrete changes in the global governance architecture of trade and development. For instance, while the involvement of China, Brazil and India in the group of 7 in the WTO is supposed to reflect and represent the interests of all the member countries of the G77, it is most likely that these countries will seek to advance their national interests before considering the interests of other members of the Group. Wade (2013: 17) took this argument further when he notes that

the G20 is an important reason why the G77+China showed itself to be so unsure of what it wanted. Since the G20 was upgraded to heads-of-government level in late 2008, the big developing countries in the G20 tend to give priority to their G20 membership and are less inclined to engage in forging a common G77 position.

This sense of divided loyalty and the pursuit of self-interest at the expense of group interests tends to undermine the effectiveness of the G77+China.

With the notable exception of China, Brazil, India and a few other member countries of the G77, the economic factors that underlie the lack of effectiveness of the Group relates to the structural disarticulations in their economies. Supply side constraints in the form of decrepit infrastructures, subsistence agricultural practices, lack of access to finance, shortage of skilled manpower, governance challenges and institutional weaknesses, effectively hamper their overall capacity to achieve economic growth. In certain instances where there are market openings in the West, these supply side constraints usually prevent many G77 countries from accessing the markets. Premature and over-integration into the global economy have further weakened the development potential of many of the member countries of the G77. This form of integration is a fall-out of the structure of the colonial economy that the post-colonial state inherited. Ake (1981) contends that the colonial and post-colonial political economic systems were never designed to advance the cause of development in the former colonies. Rather, they have been carefully designed to serve the interests of the metropolises, both as sources of raw materials and outlets for manufactured products. From all indications, it will appear that this structure is being maintained till today. The asymmetry in power between the global North and South and the continuation of this old pattern of unequal relationship remain a serious challenge to the efforts of the G77+China in evolving a new development oriented international economic order.

Apart from the challenges above, effectiveness of the G77 and China to speak as a monolithic group has been weakened by various sub-groups to which many of the members belong. Some of these groups include elite economic clubs such as BRICS, which is made up of Brazil, Russia, India, China and South Africa. Other groups are formed on a regional basis such as Asian, African and Latin American groups, African, Caribbean and Pacific group, Least Developing Countries group, G33 and G90; both within and outside the United Nations system. These Groups are essentially committed to the advancement of the interests of their members. The multi-layered membership of various groups stretches the countries of resources and affects their capacity to forge common positions. Also, while these various sub-groups may have some benefits, they are usually framed within the dominant economic paradigm, in which *gross domestic product* is reified and used as a parameter of belonging (Fioramonti 2013). Given the volatility of the global capitalism, positions of countries may change at intervals. These Groups are also not based on the principle of solidarity or shared interests, which was the founding philosophy of the G77 and China. Economic consideration and maximisation of national interests, which inform the formation of those sub-groups, foster competition rather than complementarity. Hence, they may undermine the collective struggle of the group for a more inclusive and development oriented global order.

Perhaps one other important challenge to the effectiveness of the G77+China is that it is making too many declarations at every conferences, summits and meetings.

In view of the less than optimal result of this approach over the past 50 years, it might be necessary for the Group to focus on one or two items of negotiation at each point in time, so that they can be more thorough in their arguments and advocacy for changes in global power relations in their favour. Also, despite the clamour for increased market access to the developed countries, most of the G77 member countries trade more with their former colonial masters than with themselves.

CONCLUSION

The desire for a just and equitable international economic system led to the formation of the G77 and China in 1964. The Group, which started with about 77 members, has increased to 133 member countries today. Over the past 50 years of its existence, it has made significant contributions to the reforms of the international economic in such a way that the development priorities of its members have become a matter for global concerns. Within the context of the reform of the international economic system, the G77+China countries have been concerned about market access for agricultural products to the developed countries and about the space for the growth of manufacturing sectors. While the concerns that they expressed 50 years ago remain, the current changes in the global geography of power in which the rate of economic growth is higher in the G77+China countries have given a stronger voice to the Group.

The increasing population explosion and the associated growth in the middle class in the global South also provide them with higher prospects for negotiating with the global North. Most of the world natural resources and land mass are in the global South. These resources are needed by the countries in the global North. The large markets of the developing countries in the global South are also needed for the manufactured products of countries in the global North. This symbiotic relationship should provide a further basis for parity in power for negotiating for a more fair and equitable international economic order. The current tempo towards South-South co-operation should be sustained in such a way that countries in the South can tap into the resources that are available in each of the countries. This is particularly important in the areas of trade.

Countries in the global South should continue to trade among themselves. They should also commit more resources to building capacity for negotiations with the global North under the auspices of the G77+China. I have shown above that North-South relations are defined by power and interest, the G77+China should develop strategies that will ensure that their interests are well presented and pursued internationally. Their shared common destiny should also build in them a mechanism that will help them avoid the divide and rule tactics of the West. It is also important that the people, in the form of working classes and civil society organisations, become more involved in the activities of the G77+China. By so doing, their views will be well represented and their voice heard globally. The involvement of the people of

the global South in repositioning the global order can help in building solidarity with workers and people in the global south who are also suffering from the negative effects of global capitalism.

I would argue that one of the most potent forms of advocacy for a change in the global power relations, especially in relations to changing the rules in favour of the developing countries, is for them to trade more, invest more and transfer technology more among themselves. Given the large population of the 133 member countries, which is about 77 per cent of the world population, a co-ordinated approach to facilitating trade and investment among the member countries will drastically alter the balance of trade and development in their favour. With stronger economic power, they can easily re-order and re-shape the international economic order. Rather than waiting for the global North to facilitate this change, the global South has the necessary resources and potential to achieve the needed change. In order to enhance the competitiveness of the Group, they must scale up their productive capacities through industrialisation. The current drive towards the establishment of BRICS Development Bank is a step in the right direction. It is hoped that the Bank will make development finance its major priority by making money available to poor members of the Group. More developed members of the global South should assist in facilitating institutional capacity building in the areas of governance and policy making for less developed members of the Group. Lastly, as we have demonstrated above, there is an element of power and hegemonic consciousness by the advanced capitalist countries to retain the current unequal structure. Rather than focus on the economic issue alone, the G77+China must engage in an all-encompassing project of decolonisation of the mind, intellect, socio-cultural and political systems as a counterforce to the present suzerainty of the Euro-American world order.

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LIST OF MICS

Following the World Bank classification of defining MICs through their per capita income the following countries fall in the category of middle-income countries:

LOWER-MIDDLE-INCOME ECONOMIES (\$1,026 TO \$4,035)

Albania , Indonesia, São Tomé and Príncipe
 Armenia, India, Senegal
 Belize, Iraq, Solomon Islands
 Bhutan, Kiribati, South Sudan
 Bolivia, Lao, PDR Sri Lanka
 Cameroon, Lesotho, Sudan
 Cape Verde, Marshall Islands, Swaziland
 Congo, Rep. Micronesia, Fed. Sts. Syrian Arab Republic
 Côte d'Ivoire ,Moldova ,Timor- Leste
 Djibouti, Mongolia, Tonga

Egypt, Arab Rep. Morocco, Ukraine
El Salvador, Nicaragua, Uzbekistan
Fiji, Nigeria, Vanuatu
Georgia, Pakistan, Vietnam
Ghana, Papua New Guinea, West Bank and Gaza
Guatemala, Paraguay, Yemen, Rep.
Guyana, Philippines, Zambia
Honduras, Samoa

UPPER-MIDDLE-INCOME ECONOMIES (\$4,036 TO \$12,475)

Angola, Ecuador, Palau
Algeria, Gabon, Panama
American Samoa, Grenada, Peru
Antigua and Barbuda, Iran, Islamic Rep. Romania
Argentina, Jamaica, Russian Federation
Azerbaijan, Jordan, Serbia
Belarus, Kazakhstan, Seychelles
Bosnia and Herzegovina, Latvia, South Africa
Botswana, Lebanon, St. Lucia
Brazil, Libya, St. Vincent and the Grenadines
Bulgaria, Lithuania, Suriname
Chile, Macedonia, FYR Thailand
China, Malaysia, Tunisia
Colombia, Maldives, Turkey
Costa Rica, Mauritius, Turkmenistan
Cuba, Mexico, Tuvalu
Dominica, Montenegro, Uruguay
Dominican Republic, Namibia, Venezuela, RB

Source: United Nations Industrial Development Organisation (UNIDO).

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Cameroon, Lesotho, Sudan
Cape Verde, Marshall Islands, Swaziland
Congo, Rep. Micronesia, Fed. Sts. Syrian Arab Republic
Côte d'Ivoire ,Moldova ,Timor- Leste
Djibouti, Mongolia, Tonga
Egypt, Arab Rep. Morocco, Ukraine
El Salvador, Nicaragua, Uzbekistan
Fiji, Nigeria, Vanuatu
Georgia, Pakistan, Vietnam
Ghana, Papua New Guinea, West Bank and Gaza
Guatemala, Paraguay, Yemen, Rep.
Guyana, Philippines, Zambia
Honduras, Samoa

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Belarus, Kazakhstan, Seychelles
Bosnia and Herzegovina, Latvia, South Africa
Botswana, Lebanon, St. Lucia
Brazil, Libya, St. Vincent and the Grenadines
Bulgaria, Lithuania, Suriname
Chile, Macedonia, FYR Thailand
China, Malaysia, Tunisia
Colombia, Maldives, Turkey
Costa Rica, Mauritius, Turkmenistan

Cuba, Mexico, Tuvalu

Dominica, Montenegro, Uruguay

Dominican Republic, Namibia, Venezuela, RB

Source: United Nations Industrial Development Organisation (UNIDO).

THE G77 AND ECONOMIC DIPLOMACY: CHALLENGES AND PROSPECTS FOR AFRICA'S FOOD SECURITY

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ABSTRACT

Developing countries demonstrated their collective commitment to address their common economic problems through the formation of the Group of 77 (G77). The coalition has attempted to use its caucus to influence the reform of major international trade and investment policies through the United Nations (UN) fora. Two of such successes were the adoption of the Generalized System of Preferences (GSP) and the Agreement on Agriculture (AoA). These instruments seek to improve Africa's poverty and food insecurity by making the international market accessible to African farmers and prevent dumping of developed countries' agricultural commodities through phasing out high subsidies. Yet, to adopt a legal instrument at the UN level is one thing, but to implement it by states is another. These and other agro-trade initiatives have grossly failed to benefit the African rural farmers and combat chronic hunger. Against this backdrop, it is logical to conclude that the G77 has failed to transform its lofty ideal into practice. In summary, while this bloc of nations has previously managed to maintain some degree of solidarity along essential socio-economic issues, the existence of its internal differences remain worrying for the advancement of Africa's food security agenda.



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INTRODUCTION

Food insecurity plagues large portions of Africa today (AU, 2013; Bremner, 2012). The shortage of vitamin A and zinc still serves as the leading cause of death through diseases in the region (De Schutter and Cordes, 2011). According to the World Food Programme (WFP 2015), sub-Saharan Africa has the highest prevalence of hunger. Whereas one person in four is undernourished, 23 million primary school-age children attend classes hungry (WFP, 2015). Of specific concern has been the increasing number of the rural farmers who lack the economic means to acquire a sufficient amount of food and nutrient to enhance their continuous production (Hospes *et al.* 2011: 21).

A broad array of actors and factors may be linked to this sorry state of affairs. Indeed, the present system of trade and bilateral investment treaties (BITs) between African and the Organisation for Economic Co-operation and Development (OECD) countries has been identified as playing a far-reaching negative role towards achieving a sustainable progress in addressing Africa's hunger situation (Otsuki *et al.* 2001; Schutter, 2011). Similarly, African countries lack bargaining capacity, which often affects their import of agricultural machinery, fertilizers and pesticides from the industrialised countries (Williams 1987: 411). In the labour force sector, local farmers are exposed to high labour costs due to the expenditure of training and the traditional low output of domestic workers.

Farmers are also faced with the inadequate marketing and financial institutions coupled with lack of poor infrastructure, which leads to low productivity and low wages. In light of the aforementioned existing circumstances in Africa, local producers constantly find it very cumbersome to effectively compete with producers from the North. This imbalance has contributed to the existing food insecurity in the region, especially as local farmers are unable to achieve a fair level of competitiveness in the global market. Accordingly, African farmers who are about 80 per cent smallholder crop and animal producers (Fanpan 2009) therefore lose their means of income in order to enhance production and purchase adequate food for survival (Rosegrant and Cline 2003; Olson *et al.* 2004).

The international economic community has become increasingly conscious of the present food insufficiency that most African populations face due to the global agricultural commodity trade (WTO, 2010). And with the adoption of the Millennium Development Goals (MDGs), food (in) security has climbed the policy agenda of key international organisations such as the G77. It is, however, highly unlikely that this objective will be realised against the backdrop of the slow pace of implementation of agricultural commitments by both national and international actors.

At the United Nations' (UN's) level, the G77 to some extent is at the front line of efforts to advance and safeguard the population's freedom from hunger. The coalition jointly called on the international community to adopt appropriate food and nutrition policies as a long-term solution to addressing Africa's food insecurity. Specifically it reiterated

the need to strengthen the capacity of our countries, especially through international cooperation, to safeguard and enhance our people's nutrition through the promotion of their productive cultural and environmental practices. We also emphasize the urgent need to increase efforts at the national, regional and international levels to address food security and agriculture development as an integral part of the international development agenda. We demand sustained funding and increased targeted investment to enhance world food production and call for new and additional financial resources from all sources to achieve sustainable agriculture development and food security (G77 2014).

Despite being a significant actor for Africa's economic development, the G77 has over the years been fraught with internal differences and regional preferences, thereby making collective decision-making cumbersome. The large ranging variety of members and the lack of a permanent institutional framework (no permanent secretariat) pose a problem to the G77's ability to effectively influence the international economic order with respect to food security. Since the existing norms have evidently failed to reduce poverty and guarantee food security, the only other plausible remedy is the adoption of an additional binding legal framework with the ability to address the present unfair international agricultural trade practices. The question then becomes whether the G77 can exercise solidarity at the UN level, specifically within the World Trade Organisation (WTO), to fast-track the negotiations towards the adoption of the new AoA. This article therefore interrogates whether the G77 has the potential of improving Africa's hunger situation through the adoption of a new agricultural policy that safeguards the interests of small-scale farmers.

TRACING THE ROOT CAUSES OF FOOD INSECURITY IN AFRICA

Since the 1980s, most African countries have moved from their initial position as 'net food exporters to being net food importers' (Schutter and Cordes 2011: 17). Although part of this shift can be explained by the continuous sizeable growth in demography in the region, the major remote cause was the reduction of import tariffs for African countries as a component of the structural adjustment scheme imposed by the OECD states as a condition for borrowing on the international markets in the 1980s (Schutter and Cordes 2011: 17–18). One of the incentives promised by the North was abundant and subsidised cheap food stocks on the international markets, resulting in the dumping of a large amount of subsidised agricultural commodities in the local markets. This condition motivated African states to increase their reliance

on international markets for agricultural commodities instead of boosting domestic production.

As a result, fast-growing urban residents in African countries continuously failed to consume fresh and locally produced commodities and rather procured and became dependant on processed and imported foods. The relationship between the urban consumer and the rural producer was gradually weakened, with local farmers producing less for family consumption or for the local market. Small-scale farmers were made to specialise in a restricted number of tropical products, which affected their income and thereby reinforced the poverty and inequality situation in the rural and urban communities (Schutter and Cordes 2011: 16–17).

The few domestic farmers who were partially spared were the large producers who managed to enter the global market chains. Even then at the world agriculture trade level, ‘market success is determined not by comparative advantage, but by comparative access to subsidies – an area which producers in poor [African] countries are unable to compete’ (UNDP, 2005: 130). Against the backdrop of the current high import tariffs of the North, few agricultural products from Africa make it to the developed markets (DW, 2010).

With lack of competition from African farmers – because of price distortions resulting from subsidies granted by Western countries to their producers – the sector has failed to attract investment for the last three decades (Schutter *et al.* 2011: 152). Certainly, it is not only the private sector that is a culprit, but the international community and many governments have for many decades neglected this sector. According to Schutter *et al.* (2011: 152), the percentage of official development assistance (ODA) between 1980 and 2005 drastically dropped from 18 per cent to 4 per cent. For this reason, although the cost of farm inputs has appreciated over the years, small farmers do not receive the necessary support to cope with the price appreciation. Further, the structural adjustment scheme imposed on sub-Saharan African countries further dismantled previous agricultural public support programmes with the intention that price signals will not be distorted and public deficits will be lowered. Indeed, too little has been done to formulate efficient policies for African countries to sustain their food security situation, especially in terms of (i) improving small-scale farmers’ access to the markets by providing transport, and (ii) increasing small farmers access to credit and support irrigation. In light of the aforementioned constraints, most African countries are now heavily reliant on imported food, which many poor people find difficult to afford.

African countries have therefore been made more vulnerable as their food bills keep increasing in light of the frequent spikes of food commodities in the international markets (De Schutter and Cordes 2011: 17). According to the United Nations Development Programme (2005: 130), African countries lose approximately ‘\$24 billion a year in agricultural income from protectionism and subsidies in developed countries, not counting the dynamic and spill over effects’. This has led to increases in prices of food, which many people in the region cannot afford. Subsequently,

there is an occasional delivery of food surpluses by the OECD states, as food aid can barely be considered as adequate reparation to African states in light of their vulnerability to the regular balance of payment (BOP) problems coupled with the price shocks on international markets.

With the globalised trade and food production system leading to expansion in industrial agriculture and agricultural commodities, small African farmers have been pushed out of the local markets with subsidised commodities from the OECD countries, thereby exacerbating poverty and food insecurity in the region (GPF 2015). This situation raises serious concerns, that is, if there is enough food, why are millions still food insecure? In other words, if there is more food in the region than the current population, why do some Africans still face starvation and chronic hunger?¹ In attempting to respond to this question, it is important to understand the content of food security.

Despite its simple name, food security is an enormously difficult concept and situation in Africa (Tibaijuka 2004). The fundamental legal expression of food security rests on the human right to sufficient food. A region is food secured when 'all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. The four pillars of food security are availability, stability of supply, access and utilization' (FAO 2004: 5).

The above definition of food security calls for an adequate production standard, as well as sufficient products readily made available at the markets and that individuals have the means to procure good quality food to meet their basic nutritional requirements (Wiber 2010). The link between availability and access is crucial especially as both are understood to mean the potential to obtain enough calories and nutrients acceptable in a given culture, and sufficient to meet dietary needs of every man, woman and child, alone or in a community with others.

Africa's food insecurity is therefore not derived from lack of availability, but rather from lack of access. This condition was succinctly espoused by Amartya Sen (1981: 39) in his work titled *Poverty and famines: An essay on entitlement and deprivation*. In his essay, he presented that food security cannot be simply realised with sufficient aggregate and availability of food production, but rather starvation absolutely 'does imply poverty'. His work portrays poverty and not shortage of food as the cause of food insecurity throughout history.

Certainly, the number of the famished has escalated almost at the same time that the percentage of food availability has increased. For instance, while South Africa is considered as 'food secure' nation – it has more than enough food to feed its 53 million people – the number of people facing chronic hunger was estimated at around 13 million (Oxfam 2014: 2). This means that the growth in yearly calories production has constantly exceeded demographic expansion. Yet, the majority of the African population facing chronic hunger reside in rural areas, which are the hub of domestic food production (Schutter and Cordes 2011). These victims are either

farmers who are heavily dependent on small-scale farming for their subsistence or labourers of large plantations with poor working conditions.

THE G77 AND FOOD SECURITY

The year 2014 marked the 50th Anniversary of the G77. With the rise in the number of nation-states to over 150 in the UN during the post-world war in the third quarter of the 20th century, developing states from Africa, Asia and Latin America were discontented with the existing market pricing policies. Considered as the ‘revolution of the Colonized’ (Friedman and Williams 1978: 557), these states, which share common features of being anti-colonial, non-European and non-White, decided to form an alliance to advance their common economic interests.

The organisation was established during the first United Nations Conference on Trade and Development (UNCTAD) held in Geneva in 1964. Here, a group of about seventy-five states launched the ‘Joint Declaration of the Developing Countries’ at the UN General Assembly as a measure to improve their development (Geldart and Lyon 1980). It is still not clear whether it was their common colonial background or racial grounds that triggered the formation of the Group.

The primary objective of the group is to ‘articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the United Nations system’ (G77 2015). This aim indicates that the group is merely a mouthpiece and not a policymaker that seeks to influence the developing states agenda during international negotiations by collecting and harmonising the opinions of its members. It is a heterogeneous coalition in terms of the great economic and political differences between the group members. Economic distinction can be determined with regards to specific economic indicators, such as gross national product (GNP). This means that in the G77 different states might have different interests regarding specific issues. However, it is often the political importance attached to an issue that often determines the solidarity or disunity of the members from asserting influence.

In the present international system, the group has remained the main proponents for African views and opinions particularly with regards to economic issues (Kasa *et al.* 2008). With its enormous membership, the group serves as a major league and operates as a political unit for developing countries during international negotiations. Consisting of six Chapters,² the organisational structure of the group is now closely linked to major UN institutions.³ The coalition’s chairmanship, which is the main political ambit, rotates among the three geographical groups – Africa, Asia and Latin America.

To become a member of the G77, a state has to first and foremost be admitted into one of the three geographical groups. However, a country can become a non-regional member of the group by directly submitting a written application through one of the regional groups stating its reasons for joining. Such an application has

to be channelled through the chairman of the G77. After all members have taken a decision on the basis of consensus, the non-regional member may participate in the activities of a regional group in unofficial arrangements (Williams 1987: 213).

For electoral purposes, within the UN system, specifically under UNCTAD, member states are divided into a group of four – Groups A, B, C and D. African and other developing countries are lumped into Groups A and C; Group B is composed of Western industrialised states; while the socialist states are placed in Group D. The membership of G77 is synonymous with UNCTAD's Groups A and C. Nonetheless, China, which is a member of Group A and stands out as an 'increasing influence on the prospects for peace and development of the Asian region and world as a whole' (Kirton, 1999), only serves as an 'associate' and is not a full member of the G77. Apart from enhancing caucusing in the regional groups, this arrangement became a fundamental outlet for policy formulation in the G77 (Geldart and Lyon 1980).

It is imperative to indicate that the outcomes of negotiations within the G77 and at the UN level are often premised on the type of negotiation approach employed (Williams, 1987: 25). Parties within the G77 therefore rely on five precise methods of arriving at a collective decision, namely through: (i) persuasion or convincing the other party; (ii) diplomacy or making concession of different objectives; (iii) adjudication or the involvement of an external party to achieve a specific goal; (iv) institutionalization or the use of selected offices, norms and sanctions to induce influence; or (v) coercion or the attempt to threaten or injure the other party. Many negotiations at intra-77 level are mostly a hybrid of these deliberation methods (Williams 1987: 25). However, negotiations between the G77 and Groups B and D mostly manifest diplomacy.

The perspective of G77 on food security

Any institutional success to a large extent depends on the organisation's structure and its political development. In other words, the G77's architecture and common interest of the members are relevant in the successful deliberations of any economic policy that will benefit the African small and large scale farmers. The G77 has been instrumental in advancing the economic interest of developing countries, particularly in the period between 1964–1970. This period witnessed the evolution of two key events with relevance to food security. These were (i) the joint position of the G77 in the adoption of the Generalized System of Preferences (GSP); and (ii) the UNCTAD's resolution to operationalise the GSP.

The GSP concerned the granting and implementation of discriminatory preferential access for processed and semi-manufactured exports from Africa and other G77 countries to developed markets. To some extent, it attempted to facilitate the competitiveness of the agricultural commodities of G77 members *vis-à-vis* Western producers and third-country non-preferred exporters' commodities. During the negotiation leading to the adoption of the GSP, it was argued by the G77 that

access to the developed markets is a *sine qua non* for the group's agriculture growth (Williams, 1987: 303). With manufactured good, the growth potential of African countries may be more dynamic, especially as it will close the trade gap between African and the developed countries as the former will develop its terms of trade. However, with their excessive reliance on primary commodity exports as a result of the existing trade limitations discussed above, African states did not benefit from the GSP. This condition negatively impacted the food security situation in Africa, considering that while primary commodities are less income-elastic and price-elastic, it also faces declining export prices (Williams, 1987: 303).

With the failure of the GSP to address the needs of developing countries including those in Africa, the Agreement on Agriculture (AoA) was negotiated during the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and entered into force with the institutionalisation of the World Trade Organisation (WTO) in 1995. The AoA's overarching objective is to facilitate the flow of agricultural produce from developing countries to the OECD countries by making the global market accessible. The provisions of the AoA were concomitantly reinforced with the Agreement on Subsidies and Countervailing Measures (SCM) and Antidumping Agreement (AA) were adopted to reduce the unfair trade imbalances.

The SCM addresses two separate but closely related issues, namely 'multilateral disciplines regulating the provision of subsidies, and the use of countervailing measures to offset injury caused by subsidized imports' (WTO, 2015). For instance, article 3 (Part II) of the SCM grossly proscribes agricultural subsidies by the OECD countries while the AA regulates dumping by imposing anti-dumping duties under certain procedures established by the state. The notion of food security was a fundamental concept during the negotiation, mostly referred to by the G77. With the entry into force of the AoA, WTO members are obliged to effect essential reform in agricultural trade, which in the long term will enhance 'non-trade concerns' (AoA art. 20(b)) specifically in rural development and food security.

However, on the ground, the AoA has not translated into addressing the trade imbalances, and instead of improving, it has exacerbated the food insecurity and underdevelopment in most African states (Schutter 2011). Irrespective of the existence of these instruments, the EU and the US continuously contravene and engage in subsidies and dumping practices against Africa. One basic criticism levelled against the AoA has been its article 13, popularly termed as the 'Peace Clause'. The Clause essentially proscribed litigations or challenges through a number of WTO legislations to export subsidies and dumping that were legal under the AoA for the next ten years.

Nonetheless, after the expiry of the Clause in January 2004, major countries and organisations such as the European Union (EU) and the United States (US) have not complied. These two actors persistently subsidise and dump their export agricultural products, killing local markets in Africa (Konstantinov 2011). Although the Dispute Settlement Process (DSP) is available to right this wrong, the over-reliance of most

African states on the North and their huge markets has discouraged them from litigation (Murphy *et al.* 2005).

In the face of the inherent weaknesses within the AoA, members of the WTO, including the G77, meeting at the Doha Ministerial Conference in 2001 declared their intent to renegotiate the AoA. In a declaration (Doha Declaration) adopted during the Conference, WTO members intimated their willingness to broadly negotiate a *new* AoA in order to facilitate 'substantial reductions in trade-distortions' and phase out all manner of export subsidies (WTO 2001: 13).

However, in November of 2011, the present Doha Development Round was adopted despite many G77 ministerial delegations boycotting the negotiation. The developing countries warned that the unfair trade rules may slow down development since it invades the internal policy environment of WTO member states (Konstantinov 2011: 219). This disagreement among members was more acute in 2003 in Cancún-Mexico 2004 in Geneva and 2007 in Potsdam-Germany, where attempts to renew negotiations woefully failed as a result of lack of consensus on market access and farm subsidies. In the absence of political consensus for the adoption of the new AoA, the big markets such as the European Union (EU) and the United States (US) have managed to evade multilateralism through bilateral trade agreements (BTAs) and free trade agreements (FTAs) with African countries.

The adoption of these preferential trade agreements by the big markets serve as tactics to get favourable concessions from Africans, particularly as the agreements circumvent the WTO multilateral system, which is fraught with joint opposition by the G77 (see art. XXIV of GATT). One of the many provisions of the BTAs and FTAs worth considering is their tariff structures. The tariffs structures of the Organisation for Economic Co-operation and Development (OECD) countries have, over the years, served as a deterrent and negatively impacted on the African food situation. Northern producers to a great extent enjoy an excessive rate of protection, which is far beyond the nominal degree of protection in the OECD countries (Williams 1987: 305).

A primary characteristic of the tariff scheme in the North is the increase of rates in accordance with the level of processing of an agricultural good. Whereas high levies are imposed on processed and quasi-processed commodities from African countries, there are no levies or at best low rates of duties on imported raw agricultural materials (Fulginiti and Shogren 1992). This tariff regime compels large-scale African farmers to export without processing their raw agricultural commodities, which negatively cut down on their export gains.

With regards to tariff liberalisation, the North only liberalises those agricultural sectors that do not threaten or compete with their domestic production, thereby restricting African farmers to few tropical commodities (Konstantinov 2011). Consequently, many African countries are now heavily dependent on a limited number of primary goods and are thus unenthusiastic about diversifying into

favourable products in light of the existing tariffs escalation and tariffs peaks on processed and semi-processed good (Woolcock 2007). There is, therefore, a regional consensus that the present international trade system has not been favourable to Africans (Schutter *et al.* 2011).

Further, the poverty situation of the small-scale farmers, who constitute majority of the famished in Africa, has been worsened rather than improved with the activation of the BTAs and FTAs. For instance, as a prerequisite for entering into an FTA, the North usually demands the establishment of rules on patent agricultural seeds and plants. In extreme instances, small-scale farmers are prohibited from planting domestic seeds or their own seeds (see *1991 UPOV Act*). The impact of this ceiling on rural communities and small-scale farmers is severe considering that as seed prices escalate, local farmers lose their relative share of large agribusiness growth through their lack of competitiveness.

Additionally, the FTAs prohibit African states from framing agricultural protection policies that restrict imports of agricultural commodities in situations of massive reduction of prices, irrespective of the safeguards under the AoA (Lewis 1999; McQueen 2002). In situations where the states do have these safeguards, some FTAs even restrict or nullify the effectiveness of these laws, thereby rendering them virtually ineffective (Candau and Jean 2005).

For these reasons, despite the existence of the US and EU initiatives such as the *African Growth and Opportunity Act* (AGOA), and the Cotonou Agreement, Everything But Arms and the Economic Partnership Agreement (EPA), respectively, African farmers still face the additional challenge of lack of access to the high-value markets of these OECD states (Jaffee and Henson 2005). This frustration, arguably, can be tied up with the complicated nature of the rules set out under these initiatives. Specifically, the high threshold set by private buyers and the margins adopted under the Agreement on Technical Barriers to Trade (ATBT) and Agreement on the Application of Sanitary and Phytosanitary (SPS) pose great barriers for small-scale African farmers (Henson and Loader 2001). The plight of small-scale farmers is exacerbated by the subjective competition on their own local markets due to the exceedingly subsidised agricultural commodities exported by farmers from the North (Schutter *et al.* 2011: 151).

Concessions under FTAs are thus nominal and trade liberalisation is not reciprocal. The proliferation of these bilateral agreements does not only undermine development in Africa, but also poses massive threat to the region's food security situation. The G77 therefore have a duty to influence the global market through the WTO to provide African states with predictable multilateral trade system (MTS) conducive for food security. One of the overarching objectives of the MTS should be to promote economic development, eradicate poverty and facilitate African countries integration into the global economy (G77 2015).

Addressing food security by the G77: Controversies and constraints

Many writings on the G77 present the coalition's heterogeneity as a fundamental constraint to achieving joint positions on political and economic issues (Adede 1979; Kim and Russett 1996; Williams 1997). This is certainly the case when one assesses their different positions on economic and specifically food security matters. The consolidation of the interests and positions of the least developed countries (LDCs) *vis-à-vis* advanced regimes (such as Brazil, India and South Africa) has at all times been a delicate concern in the group, considering that the latter is seen as dominating in intra-group negotiations. This practice therefore questions the underlying conception of the group equality.

Furthermore, members of the G77 hold diverse positions with regards to the North, which range from a rejectionist position at one end, to a desire for closer a collaboration at the other (Williams 1987: 283–284). The OECD countries, for that reason, exploit these attitudinal tendencies by framing and entering into BTAs and FTAs with some countries on specific matters that practically affect the G77 collective interests (Williams 1987: 284). Further to this, divisiveness within the G77 concerning the conflicting membership of the G77 members with other organisations in the North is a major challenge. For instance, the membership of some group members in the ACP and the concomitant introduction of the EPA have been envisioned as divisive to the common agricultural interest of the coalition. Also considering that some African members have already entered into bilateral agreements on agricultural commodities outside the formal G77 food negotiation, one can infer that the previous unity of the coalition for a successful AoA re-negotiation is insecure.

In addition, considering that there is already mounting disagreement concerning the joint ratification of the EPA at the national and sub-regional levels (Meyn 2012; Khadiagala 2012), it is highly unlikely that some G77 states – particularly Africans – will cede their trade relationship with the North and join the group to demand for a reform. It is therefore likely that consensus building for trade reform will be hampered by tensions between the 'unwilling', powerful economies in the group that are somewhat benefiting under the present regime, and the 'beggars', mainly the LDCs. This situation is worrying in light of the fact that the complete solidarity of the membership is relevant when acting jointly as an interest group to pursue a particular aim in the political process at the UN level.

The G77's internal decision making process suffers from crises and slowness. In light of the general level of common gains, differences certainly arise on issues of economic interests. The differences in opinion, although good, often slow down decision making processes. Yet, despite dissenting opinions are dominant and delay efforts to arrive at resolutions, there is no existing dispute settlement procedures in the G77 to address conflicts. When a major disagreement occurs, an *ad hoc* committee

or a working group is formed to resolve the matter. The activity of the committee is often riddled with excessive delay since its *modus operandi* is persuasion. The committee attempts to persuade the dissenting party(ies) until one side or both parties make a concession or reach a consensus on the particular issue. Failure to reach a consensus at home means that other relevant matters will also suffer at the UN level (Williams, 1987: 286).

LOOKING FORWARD

The G77 emerged from the convergence of ideological factors, economic conditions and global policy-making structures. The acute economic situations faced by the developing countries in the 1950s coupled with the lack of effective institutions through which these states could seek redress for unfair international economic order provided the basis for co-operation. Irrespective of all its internal weaknesses, the G77 has witnessed an increase rather than a defection of members.

The G77 has witnessed about 58 per cent increase in its membership and a stable expansion in its institutional architecture in its fifty years of existence. The coalition has played a fundamental part in food security negotiations. The achievement of the group arises from co-ordinating policy positions and advocating for the interests of marginalised LDCs in global decision-making.

The progress with regards to the G77's unity can be traced to the economic gains by members and not because the coalition has not been exposed to any excessive strains on its unity. In the group, member states do not have to bear any actual direct economic costs to become a member. The economic gain therefore outweighs the costs of membership (Williams 1987: 287). It is important for the group to remain united. If not, the North will continue to remain the 'clientele of the rich' while the members of the group are reduced to a 'bunch of beggars' (Friedman and Williams 1978: 558).

More so, despite its heterogeneous nature and occasional disagreement among its members, which is customary with any institution, the coalition still functions. It is imperative to note that these divisive attitudinal tendencies actually triggered the improvement of the structures and decision-making procedures of the G77. This development deepened and widened the scope of interest articulation and aggregation, thereby ensuring that member states could effectively advance their own interests in the coalition. The G77 could therefore become a fundamental tool for negotiating and adopting the new AoA and influence its compliance to address the needs of the African countries.

In the international food security arena, some African states enjoy preferential access to the industrialised market, mainly through the EU and the US. Yet, the emphasis on reform is relevant considering that the enjoyment of preferences by Africans for manufactured and semi-manufactured export commodities had only been nominal. This is because the existing vertical preferences extend to African

producers, mostly on the basis of primary commodities and not their processed or semi-processed exports with higher gains (Williams, 1987: 330). Hence, many African farmer currently face socio-economic crises due to their over reliance on these primary agricultural exports, which are often hit by declining terms of trade and volatility of export earnings (Williams 1987: 374).

The G77 should therefore use its strength derived from its numbers and advocate for a reform in the international economic market and facilitate the speedy re-negotiation of the AoA through the WTO to address Africa's food insecurity. Any such interest should seek for advancement of (i) widening market access for African processed and primary exports; and (ii) a subsidy in the export revenue fluctuations of African LDCs by cutting down on the undue fluctuations in good supplies and prices; (iii) efficient conditions in agricultural product trade in terms of volume of trade and prices; and (iv) establishment of stabilisation of prices beneficial to producers and consumers alike (Williams 1987: 387).

Consequently farmers in the developed countries will lose their initial protection and give African exporters considerable leverage over domestic OECD producers. A preferential tariff reduction will thus give exporters two essential benefits: (i) it will provide a competitive edge for African producers *vis-à-vis* commodities from non-preferred third states; and (ii) it will neutralise the degree of protection extended to OECD countries producers.

In sum, agriculture serves as the sources of employment for approximately 60 per cent of the economically active population and around 70 per cent of the poorest population in Africa (ADBG 2010: IV). Currently, small-scale farmers receive wages that are too low to sustain them and enhance further production (De Schutter and Cordes 2011: 5). In order to address the agricultural deficit, there is a need to create a conducive atmosphere, devoid of all the barriers to enable small-scale farmers benefiting from their operations.

In summary, by addressing the tariff gap, agricultural production can be raised where it has been stagnant while increasing the wages of small farmers (De Schutter and Cordes 2011: 5–6). The benefits will therefore extend to a large section of the rural poor, thereby enhancing rural development and other sectors of the local economies. This improvement will curtail the migration of rural folks into urban centres (urbanisation), which places undue strain on the public facilities of these countries which they often find it difficult to bear.

NOTES

1. See OXFAM (2015). There is enough food to feed the world. Available at <http://www.oxfam.ca/there-enough-food-feed-world> (accessed 23 March 2015).
2. The Chapters of the G77 can be found in Geneva (UNCTAD), Nairobi (UNEP), Paris (UNESCO), Rome (FAO/IFAD), Vienna (UNIDO), and the Group of 24 (G-24) in

Washington, D.C. (IMF and World Bank).

3. The G77 has been active in several organisations created by the UN General Assembly such as the United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), United Nations Environment Programme (UNEP), International Monetary Fund (IMF), General Agreement on Tariffs and Trade (GATT), World Health Organization (WHO), International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and United Nations Commission on International Trade Law (UNCITRAL).

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THE G77+CHINA'S ROLE IN TRADE MULTILATERALISM: ADVOCATING FOR SOUTH AGENCY

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ABSTRACT

The Group of Seventy-Seven (G77) plus China is positioned in global multilateralism as a platform for advancing the collective interests and issues of the global South in the United Nations (UN) system. For this reason, the organization has a special role to play in the multilateral trade negotiation system where groups, coalitions and alliances are crucial negotiation levers for individual countries. On this basis, the G77 seeks a fair, just and equitable international trade environment, an ideal linked directly to the pursuit of global reform towards a post-Western-led world. This article analyses critically the role of the G77 in exercising global South agency on international trade within the World Trade Organization (WTO) system and the efficacy of its role in promoting South-South trade co-operation. As the group is not without its challenges and its diverse membership has varied interests within the multilateral trade system, it is difficult to ascertain the group's authority in advocating for reforms in the system. The G77's advocacy for South agency, however, remains important.



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INTRODUCTION

Developing countries have for several decades sought to align their aspirations and collectively express their interests in global fora. The largest intergovernmental organisation of developing countries, the Group of 77 and China (hereafter G77), marked its 50th jubilee in June 2014. It was founded on 15 June 1964 when 77 developing countries signed the 'Joint Declaration of the Seventy-Seven Developing Countries' at the end of the first session of the United Nations Conference on Trade and Development (UNCTAD) in Geneva.¹ In 2014, South Africa took chairmanship of the G77 during this opportune year for reflection.

The group has since its establishment grown to a membership of 132², but has retained the initial name for its historical significance. It has developed a special relationship with China, as the biggest developing economy that has also since grown to be a major actor in international trade. The G77 provides a platform for the 'countries of the South to articulate and promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues within the UN system, and promote South-South cooperation for development'.³ Indeed, developing countries have, through the G77, been able to express unified positions that seek to influence the international agenda in the pursuit of common goals in the related fields of finance, foreign direct investment, capital market, external debt, food, agriculture, industrialisation, intellectual property rights, social development, health, education, sustainable development, science and technology, and information and communication technology, on the basis of the same principles enunciated in 1964.⁴

The G77's collective commitment to aligning their positions in global political and economic matters has been consistent over the years, but it is up to scholarship to attempt to ascertain how instrumental the group has been in addressing political and economic matters that are of concern to its membership. Among economic matters of concern, is the rebalancing of trade gains, for the benefit of developing countries, through the multilateral trade system. The group is, however, not organised as a negotiator group in the WTO, which is focused on facilitating seamless global trade. Instead, the G77 members belong to varied negotiation groups within the WTO.

According to the G77's reference text to trade, advocacy in trade multilateralism has focused on two key issues in the formalised negotiations through the WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT). One has been the establishment of a fair and equitable multilateral trade system and the other has been facilitating accession of developing countries to the multilateral organisation. This is informed by the consolidated belief, of statesmen/leaders and theorists alike,

that a globalising world relies on mechanisms to manage the growing complexity of interactions and that mechanism are international organisations⁵, such as the WTO. Significant strides have been made regarding the G77's latter objective as developing countries comprise a significant membership of the WTO today. Global trade benefits for developing countries have, however, remained marginal. The contestations at global fora are largely expressed in the common positions of developing countries that are, at times, in contrast to those of developed countries.

This article focuses critically on how the G77 exercises its agency on global trade issues, particularly within the WTO, wherein it is not organised. The article also assesses the group's efforts to strengthen trade co-operation among developing countries, with the aim of examining its role in trade multilateralism.

UNDERSTANDING THE G77

The multilateral trade system was established under GATT in 1948, a number of years before developing countries took the bold decision to organise under the United Nations, in order to leverage their common interests and align their position in global political and economic matters.

When the G77 was established, trade was already a central point of deliberation among nations of the world. Over the more than 50 years since, the concerted efforts to manage the multilateral trade system and the scope of issues deliberated within the international organisation concerned with trade has become much more complex. Whereas GATT initially dealt with purely trade issues, the WTO concerns itself with a web of non-tariff barriers; issues around trade in services; intellectual property; and finance.⁶ The complex web means that countries of the South have had much more to comprehend in their pursuit of advocating for a fairer multilateral trading system.

According to the 2014 Trade and Development Report, UNCTAD's annual publication, the first UNCTAD conference held in 1964 addressed issues of trade based on three essential premises— 'the necessity of industrialisation, the need to counter external imbalances and the forces that generate them, and the need for different treatment for structurally different economies'.⁷ The establishment of UNCTAD following that conference laid the ground for developing a more inclusive trade and development agenda.

Through its reports over the years, UNCTAD has offered a critical analysis of the multilateral trade system from the perspective of a United Nations body intricately intertwined with the G77. The launch of its flagship annual Trade and Development Report (TDR) was precisely informed by the G77's interest in independent research on trade and development issues and in alternative views and policy options to those of the Bretton Woods institutions.⁸ Informed by a structuralist approach, the report has consistently assessed the role of the state in economic activity; the decline in policy space for self-determination, particularly for developing countries; as well as purposely driven efforts geared to assure that development gains from the multilateral

trading system and outcomes of trade negotiations are ones that are beneficial to countries of the global South.

As an example, UNCTAD's observations were such that free trade agreements and other investment agreements that countries of the global South agreed to in the 1990s resulted in the loss of policy space that was accepted in the light of expected increases in foreign direct investments (FDIs). By the early 2000s, as the then newly founded WTO found its feet, perceptions around the obstruction of policy space shifted as it became apparent that even investment rules could frustrate public policies, including those aimed at improving FDI impact.⁹ With the common understanding that the structural transformation of economies in the global South is required to diversify their exports to a larger value-added portfolio for increased export revenues, it will be difficult to argue against greater flexibility in policy-making.

Despite the varied constraints experienced since the establishment of a multilateral trading system, countries of the South have over time become the driving force behind the growth of international trade. Their organisation and much of the work around trade in the UN system, at UNCTAD, can be commended. However, global trade rules are made in the WTO. The system, which is underpinned by the WTO is regarded as an inclusive one as agreements, negotiated and signed by a large majority of states, are ratified by their legislatures. While both the UN and the WTO are international organisations concerned with developments in both developed and developing countries, it is within the WTO that the rules in the multilateral trade system are deliberated. It is for this reason that the varied interests of developing countries are importantly expressed within the WTO.

GROUP REPRESENTATION IN THE WTO

Common regional and sub-regional positions are central to resolving issues under negotiation within the WTO as these issues are hammered out within groups that can leverage their consensus on agreed interests. Although not an entity in the WTO, the G77 is clear on its support for the rules-based multilateral trading system, regarding it as a fundamental instrument for 'the promotion of economic development, the facilitation of developing countries' integration into the global economy and the eradication of poverty'.¹⁰ Among the groups in negotiation at the WTO, the vast majority of the membership of the G77 are members of the African group, the African, Caribbean and Pacific (ACP) group and the least-developed countries (LDCs) group.

Countries of the global South are particularly provisioned for within WTO agreements. According to the WTO, whose Doha Round of negotiations is a developmental round, the special provisions for countries, who have significant membership in the G77, include 'longer time periods to implement agreements and commitments, measures to increase their trading opportunities, provisions requiring

all WTO members to safeguard their trade interests, and support to help them build the infrastructure for WTO work, handle disputes, and implement technical standards'.¹¹

Members of some key interest groups within the WTO are also drawn from the G77, demonstrating the nuanced differences amongst developing countries regarding trade advocacy. The varied positions on addressing the contentious agricultural trade issue are a prime example of where G77 members are not unified. Some belong to the Cairns Group, a coalition of agricultural exporting countries, who advocate for reformed agricultural trade and have a commitment to achieve free trade in the sector since the Uruguay Round, along with a few developed countries. There is also the G20¹², an exclusive alliance of developing countries advocating for reforms of agriculture in developed countries. The ACP group of developing countries, with preferences in the European Union (EU) has similar contentions with agricultural trade. Then there are the small, vulnerable economies (SVEs) agriculture group and the coalition of developing countries seeking greater market access for tropical products, as well as the G33 coalition of developing countries seeking for flexibility for developing countries to undertake limited market openings in agriculture.¹³

Developing countries in these groups are largely responding to the continued subsidisation of agriculture by industrialised nations, who in the same vein advocate for open markets in developing countries. Developing countries and Africa's exports, in particular, continue to be dominated by primary commodities, hence the focused approach in the negotiations on addressing the unjust agricultural subsidies in developed countries. The apprehension from G77-affiliated countries is generally of further marginalisation in trade gains, stemming from the GATT years. Although interests and emphasis, even among African countries, are varied, there has been a growing realisation that countries are more effective when objections are presented in a group, rather than individually.

The G77 therefore pronounces on macro issues that are of general interest to developing countries, such as trade-distorting agricultural policies in this case, while its divided membership advocates for particular common causes in the key groups within the WTO negotiating for reform in agricultural trade.

DEVELOPING COUNTRY POSITIONS IN THE WTO

At an institutional level, the G77, which is tied to UNCTAD, has had to navigate and channel its trade advocacy to the WTO, outside the UN system. Despite the perception from developing countries that the UN system is friendlier to their interests than the multilateral trading system, UNCTAD is regarded as the one UN agency with which the WTO has the closest working relationship.¹⁴ The reasoning is that, as Craig Van Grassek, who compiled a comprehensive book on the *History and future of the WTO*, puts it, 'both organisations are devoted to trade and development, but in UNCTAD those priorities are in alphabetical order and in the WTO it is the reverse'.¹⁵ In earlier years of the rules-based multilateral trading system, the GATT's

apparent competition with UNCTAD and the creation of the G77 are considered to have contributed to the formal recognition of developing country concerns in the GATT.¹⁶

The WTO shifted its emphasis to a developmental mandate through the Doha Development Round that was launched in 2001, specifically to address the contentions of developing countries, given outcomes of previous Rounds and implementation challenges of the then existing agreements. Doha's make-up and expected outcomes are supposed to help producers of goods and services, their exporters and importers alike to conduct their business smoothly. It is generally agreed in trade scholarship that the WTO's response to give issues of development a new impetus arose from the December 1999 Ministerial in Seattle when civil society organisations protested the unequal distribution of gains from the global trade system. At the core of this particular Round is the advancement of equity in the trade system, as advanced by the G77. Notwithstanding the correlation and differences between the rules-based WTO and UNCTAD, as well as the large array of issues of concern for the membership of the G77, the Group has found voice in the multilateral trade negotiation platforms in its 50 years.

It was leading up to the first WTO Ministerial post-Seattle in 2001 that the G77, then with no consensus on a new round or its contents, emphasised that multilateral rules needed to be improved to become more responsive to the trade and development interests of developing countries and to achieve equitable objectives.¹⁷ The need to integrate the development dimension soon became the group's chorus for multilateral trade negotiations.¹⁸

Marking 40 years in 2004, the G77 pointed out that it was no coincidence that the group was born alongside UNCTAD, because an equitable international trade system was a central issue for developing countries.¹⁹ In an era of post-independence, a shared legacy among developing countries saw the endurance of established trade relations between former colonies and colonial powers. Countries have since continued to focus on increasing their exports and diversifying their trade. While developmental aid had occupied much of the narrative, particularly for African countries post-independence, slogans such as 'trade instead of aid' have since been popularised, as increased trade and investments have overtaken the importance of development aid. The WTO leads its own Aid for Trade initiative, launched at the Hong Kong Ministerial Conference in December 2005 and supported by the G77, and that sees it as critical for boosting capacity in building trade. The group sees it as instrumental for rendering the trading system responsive to the development aspirations of developing countries by enhancing trade capacity and international competitiveness while also ensuring domestic policy space ownership.²⁰

As the impasse on multilateral trade agreements at the Doha Development Round continued with no significant shifts for developing countries, the G77 once again lent its voice as a means to fully leverage the potential of trade. In 2010, the Group appealed for political will from developed countries to resist all protectionist

measures and tendencies, particularly agricultural subsidies and non-tariff barriers to trade, as well as to resolve existing trade distorting measures.²¹ In their September 2013 review of the world economic situation and the development challenges faced by developing countries, Ministers of the G77 further reiterated that trade remained a crucial tool to provide long-term sustainable growth. It was noted that the lingering effects of the global financial crisis that saw declines in trade has had a disadvantaging impact on developing countries as they contended with a fall in exports and a loss of export revenues.²²

The legally binding agreement on trade facilitation was subsequently the central outcome of the last WTO Ministerial in Bali, Indonesia, in December 2013, which also included decisions on agriculture, cotton and development and LDC issues. The agreement is referred to as the milestone Bali Package. It emphasises trade facilitation by resolving 'a series of decisions aimed at streamlining trade, allowing developing countries more options for providing food security and boosting trade in the least developed countries'.²³ Directly addressing concerns of the G77 regarding the improvement of multilateral rules, the Bali Package is an important success for developing countries in that the more seamless movement of goods should re-ignite exports. While gains for developing countries at the WTO remain relatively marginal, they are gains for the membership of the G77 and augur well for the position of the G77 as an international actor.

FISSURES AMONG DEVELOPING COUNTRIES

As commendable as common-objective blocs are, they are also imbued with power dynamics that may frustrate their agency. Because of its size and the changing economic global order, the G77 has been weakened by the rise of a strong incentive to organise in smaller groupings, particularly from the so-called emerging powers that have built their own intra-regional groupings. On the one end, member countries regarded as emerging powers in the global system, such as the BRICS group of nations (Brazil, Russia, India, China and South Africa), have grown in influence. In their paper evaluating coalitions of developing countries in the WTO, Jerome Prieur and Omar R. Serrano argue that emerging powers traditionally seek to augment their influence in their regions and one of the methods used to achieve this is by playing a more active role in forming coalitions at the WTO.²⁴ Indeed, while international organisations are endowed with authority, Michael Barnett and Martha Finnemore, for instance, point out that international organisations can be passive structures as states are the agents that exercise the power.²⁵ The BRICS group of nations, with the exception of Russia, are all vital members and were critical in the earlier formation of the stated groups in negotiations at the WTO. Their active participation has inevitably shifted the bargaining power from large groupings such as the G77, to smaller and more effective grouping such as Cairns and the G20 groups in the negotiations at the WTO.

On the other end, the larger group of less powerful members of the G77, the LDCs, are more apprehensive of the benefits of trade liberalisation that is the core objective of the WTO. They tend to view trade liberalisation as a threat to the margins of trade preference that they enjoy in accessing the markets of industrialised countries, and they are uneasy about the vulnerability of opening up that could also restrict their own policy space.²⁶ The realisation of a unified voice on more specific issues at the WTO will continue to be constrained by the diversity of the G77's membership, but this should not deter the Group from advocating for a broadly accommodating multilateral trading system.

South Africa accepted nomination to chair the G77 in June 2014 and assumed responsibility to steer the group to common positions in January 2015. During that opportune year for reflection, it was not trade issues that occupied the group of countries. Rather, key issues were deliberated on were the post-2015 development agenda; the UN development system, driven by the UN Development Programme (UNDP); financing for development; the framework for sovereign debt restructuring; climate change issues; and inputs to administrative issues of the UN.

At the handover ceremony of the chairmanship of the Group of 77 in January 2015, South Africa's Deputy Minister of International Relations and Co-operation, Luwellyn Landers, set the year's agenda by stating that the group's efforts would be to primarily evaluate the progress made in reaching the Millennium Development Goals (MDGs), and the negotiation of the post-2015 development agenda.²⁷ While trade remains a key avenue to harness global partnerships, it was not explicitly set as an aspirant MDG. It was, however, regarded as a key outcome of the last goal, which was to develop a global partnership for development. Trade also continues to present opportunities for nurturing South-South relations.

Trade developments for countries of the South in the 50 years of the G77 have generally been positive. According to the UNCTAD's study on global trade trends in their *Development and globalization* report 2012, the rise in South-South trade had been particularly pronounced in East Asia and is linked to the gain in prominence of global supply chains.²⁸ Another UNCTAD report notes that imports have been growing at relatively high rates of between 8 per cent and 9 per cent in 2013, in countries of the South, despite the slowing of global trade trends. African and West Asian countries had continued to benefit from high commodity prices, while China remained a strong market for several primary commodities.²⁹

CONCERTED EFFORTS FOR EQUITABLE TRADE

The rallying common cause against trade distorting subsidies by developed countries, other trade barriers, and calls for capacity building for developing countries, is an important agenda for the G77 plus China.³⁰ However, unresolved issues in the global fora continue to entrench inequities. Multilateralism has, as a result, transcended the

institution (WTO), and is expressed in other concerted efforts for equitable trade such as preferential and regional trade agreements.

The increased engagements at regional trade and South-South trade levels have resulted in a consolidated multipolar trading system, alongside the multilateral trading system.

Emerging powers are playing a more pronounced role in the trade system, within regional and bilateral free trade agreements, alongside their important roles within the multilateral trade system governed by the WTO. Importantly, the G77 recognised that strengthening regional and sub-regional ties among developing countries is essential to mitigating the marginal gains in international trade.³¹ The group's African country members have, for instance, given impetus to the need to boost intra-African trade; with the realisation that trade among nations on the continent is low in contrast to other developing regions and regional integration groupings. China leads the way in South-South trade relations as it has vigorously consolidated trade relations; and has become the largest trading partner to a significant number of countries, most of which are developing countries.

For the G77, South-South co-operation is pursued as a strategy for economic independence and self-reliance for countries of the South.³² The group's own efforts to strengthen trade cooperation among developing countries are also reflected through the Global System of Trade Preferences (GSTP). The GSTP is considered, in WTO terms, to be a preferential agreement that includes some countries that are not members of the WTO; it covers only certain products, and subjects South-South agreements in general to lesser scrutiny than North-South or North-North agreements.³³ Established in 1989, the agreement promotes and seeks to enhance South-South trade.³⁴ There are 42 country members of GSTP.

The parallel trading system to the multilateral trading system underpinned by the WTO is, however, not without its challenges. In his July 2013 farewell statements at the end of his term at the helm of the WTO, former Director-General Pascal Lamy related what he regarded as challenges. Lamy said he had often heard the argument that the way to move forward from the multitude of issues that have often plagued the WTO was to abandon the multilateral system and simply move to plurilateral or regional arrangements. He pointed to the less than robust GSTP as an argument against the abandonment of the multilateral system.³⁵

The increased proliferation of preferential agreements, despite the formality of the WTO being the only organisation that regulates trade on a global scale, is evidently not without its difficulties. In the context of South agency, the realities of differing economic interests and levels of development within the G77 mean that, as in the multilateral space, the challenge will remain the need to address how the group leverages its differences and its collective negotiating power to get the best possible outcome for all countries of the global South.³⁶ Efforts to strengthen trade

co-operation among countries of the South present both challenges and opportunities, as they do in multilateral trade negotiations.

Challenges facing the G77 in the WTO negotiations include the following:

- A large number of G77 member states, being significant exporters of primary products, inevitably compete for export shares and this weakens their cohesion in multilateral negotiations.
- Country policies are tightly constrained by regulations enforced by international organisations such as the WTO, even where preferential trade agreements are in place. As constraints are largely on governments, not companies, there is an implicit shrinkage of self-determination space in trade (economic) policies.
- There are more prominent negotiating groups representing interests of the South, with a particular economic focus – such as the BRICS (Brazil, Russia, India, China and South Africa) and India, Brazil and South Africa (IBSA). The gains in trade of these emerging economies tend to eclipse those of other developing countries' significantly, creating large inequities among developing countries. Others, not as notable or formalised include the so-called African KINGs (Kenya, Ivory Coast, Nigeria and Ghana) – economically dynamic countries that may in future become formalised groups.

The opportunities that remain prevalent in the G77 agency in the WTO include the following:

- South-South co-operation that the G77 epitomises will continue to consolidate developing countries' positions in critical international organisations, such as the WTO.
- Greater intra-regional trade that the G77 promotes will contribute to industrialisation, diversification of exports, infrastructure development as well as subsequent reduction of costs in trade facilitation.

Some of the policy considerations that naturally arise from the reality analysed above includes the following:

- As it looks to consolidate its position and remain relevant, the G77 will have to confront the need to enhance its advocacy for South agency in trade multilateralism. It will be forced to fast track its own ambitions to strengthen trade co-operation among developing countries, as the realisation of equity in trade multilateralism has evidently been a slow process, or contend with loss of ambition and time.

- The G77 is well placed, outside the WTO process, to concentrate on building the capacity of its members through policy co-ordination that should lead to seamless trade facilitation, enhanced trade and diversified exports. The group could also take the opportunity, as the driver of this co-operation, to renew its relevance.
- As the largest bloc of developing countries, the G77 will have to more proactively and openly reflect on successes and setbacks suffered, particularly before and after the biennial WTO Ministerial Conferences. Such references will cast a broader perspective to the impact of the rules-based multilateral system on developing countries. The more specific outcomes are already well documented by the particular interest groups in the multilateral negotiations, which also represent the diversity of interests among developing countries.
- Many of Africa's trade relations have been characterised by the movement of trade between former coloniser and former colony, with the former exporting value-added trade goods and the latter exporting primary goods. The G77's efforts to strengthen South-South trade co-operation present African countries with the opportunity to not only challenge those power-imbued ties, but to also diversify their exports for increased export revenues.

CONCLUSION

Power relations between the more industrialised economies and countries of the The global South is implicitly expressed in international agreements; and it has been up to developing country blocs such as the G77 to challenge the status quo that continues to entrench inequities. As it turned 50, a retrospective analysis of the G77 pronouncements on trade shows that these have been limited to common cause at a macro level, such as on inequities, trade distorting subsidies, capacity building for policy making and implementing agreements as well as trade facilitation. The diversified and specific interests among developing countries are instead expressed in the various negotiation groups they belong to in the WTO. This limits positions that could be regarded as that of the G77 and presumably the Group's authority in advocacy in trade multilateralism.

Another observation in its 50th year was that trade has not featured prominently as a priority issue of engagement for the group of nations, which was occupied by the post-2015 development agenda in the form of deliberations around a new sustainable development agenda. The challenge will be to strengthen the governance of global trade in support of development goals.

Much of the work around trade that is led by UN organisations, such as UNCTAD, informed by the G77's interest in independent research on trade and development and offering critical assessments of some constraints within the WTO, has been diluted by members' activity in the WTO. Notwithstanding this, it remains

important that the work continues to inform positioning of developing countries' interests within the WTO.

That multilateral trade issues are not prioritised within the G77 is not to say that South-South trade relations are far from the agenda of countries of the South. As groupings such as BRICS gained prominence, so have they championed the strengthening of South-South trade relations. As the largest bloc of developing countries in the UN, the G77 is nonetheless well placed to steer negotiations to benefit its membership. It is one thing to commit to multilateral trade negotiations, but strong lobbying from particular interest Groups and cleverage on collective bargaining power are essential to reaching conclusions.

BIOGRAPHICAL NOTES

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THE G77 AND THE RIGHT TO DEVELOPMENT

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ABSTRACT

Established in 1964, the G77 is the largest intergovernmental organisation representing developing countries in the United Nations. It was established to ensure a just world order and to ensure the realisation of the controversial right to development (RTD). The aim of this article is to explore the role of the G77 in fostering this realisation. To this end, it examines the platforms on which the G77 operates at the UN and beyond to explore the likelihood to lead to the achievement of the RTD. It finds that the UN Second, Third and Fourth Committees provide opportunities where the G77 can use its number to vote on various issues related to the realisation of the RTD. However, the G77 faces challenges related to the non-binding feature of the right, the constant opposition of many powerful Western countries that take important RTD decisions away from the UN, such as the World Trade Organisation, the International Monetary Fund and the G8 and the G20. To mitigate these challenges, the article calls on China's influence in these fora to claim the RTD.

Keywords: right to development, G77, the UN Committees, global justice



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INTRODUCTION

The Group of 77 (G77) is the largest intergovernmental organisation of developing countries in the United Nations (UN). It was set up on 15 June 1964 by the 77 developing country signatories of the 'Joint Declaration of the Seventy-Seven Countries', and was adopted at the end of the first session of the United Nations Conference on Trade and Development (UNCTAD) in Geneva. Although members of the G77 have increased to 133 countries, the original name was retained due to its historic importance (<http://www.g77.org>).

The aim of the G77 is to provide a platform at the United Nations through which developing countries can communicate and 'promote their collective economic interests and enhance their joint negotiating capacity on all major international economic issues and promote South-South cooperation for development' (<http://www.g77bolivia.com/en/about-g77>). On 20 July 2014, the G77 and China commemorated the 50th anniversary of G77. This included the adoption of the Declaration of Santa Cruz, 'Towards a New World Order For Living Well'.

This article reflects on the agenda, role and significance of the G77 in a changing world. One key item on the G77 agenda is the realisation of the right to development (RTD), which is the focus of this article. While the G77's objective is to fight for the establishment of an equitable world without poverty, the RTD is the legal concept to combat poverty. Put differently, the goal of the G77 and the RTD is the abolition of poverty. Both the G77 and the RTD seek social progress and a better standard of living for all. The success of the G77 in addressing the imbalances in the global economy will lead to a realisation of the RTD.

I examine the concept of the RTD and the role of the G77 in its development, and analyse the challenges and opportunities towards its realisation. The article is divided into five parts, including the introduction. The second part focuses on the role of the G77 in articulating the RTD. The third part focuses on unpacking the concept of the RTD, and the fourth part looks at the way forward through an examination of the opportunities and challenges for the realisation of the RTD at the UN, which is central forum for global governance. The final part of this article provides some concluding remarks.

THE CENTRAL ROLE OF THE G77 IN THE ARTICULATION OF THE RTD

Subsequent to their independence and their incorporation into the community of nations, developing countries realised that the world order was not conducive for their own development. Development was hindered by trade barriers, lack of sovereignty over their resources, lack of technology, lack of financial resources and serious debt burdens. Therefore, they came together through the G77 forum to claim

the establishment of a New International Economic Order (NIEO) to enable them to realise their development.

At its inaugural meeting on 15 June 1964, the G77 set the tone through the first sentence of its Declaration by recognising that this was a ‘significant step towards creating a new and just world economic order’ (G77 Declaration 1964: para. 1). It outlined the foundation of the NIEO, which included ‘a new international division of labour oriented towards the accelerated industrialisation of developing countries’, the need for the international community to establish a conducive environment to enhance the living standards of people in the developing world, and ensure that global trade policy is consistent with development needs of the Third World (G77 Declaration 1964: para. 1).

These ideas were further articulated in 1967 at the first Ministerial Conference of the G77 in Algiers, Algeria, where the Charter of Algiers was adopted. In the first sentence of this Charter, the G77 highlighted that their members were united by the need to achieve their ‘economic and social development’ (The Charter of Algiers, 1967: part 1) and that this need is linked to the establishment of a new world order. More importantly, at the same Conference, the expression ‘right to development’ was articulated for the first time when the foreign minister of Senegal unequivocally declared:

Our task is to denounce the old colonial compact and to replace it with a new right. In the same way that developed countries proclaimed individual rights to education, health and work, we must claim here, loud and clear, that the nations of the Third World have *the right to development* [my italics].

(Meillan, 2003: 14)

As articulated through the call for the NIEO, the RTD was considered as the bridge to detect and address the ‘structural and systemic root causes of inequality and underdevelopment’ in developing countries (Marks, 2011: 2). This call was answered by the international community in 1974 through the adoption of the Declarations on The Establishment International Economic Order (UN Resolution 3201 (S-VI)) as well as through the adoption of the Charter on the Economic Rights and Duties of States (UN Resolution 3281 (XXIX)), which reiterates the need for a world order in which the asymmetrical relationship between the global South and the global North will become history.

In a nutshell, the NIEO Declaration underlines the need to respect the equal sovereignty of states, their sovereignty over their resources, self-determination, and the need to ensure international co-operation, equal participation of states in world affairs and global equity, which are all elements of the RTD. According to Tadeo (2010: 343), the RTD ‘provides a unique opportunity to promote an international economic order that is based on equity, social justice, and one that integrates human rights in different dimensions’.

Building on the notion of the RTD and international solidarity as advanced by the G77 through the NIEO, Keba M'baye the then Chief Justice of Senegal, articulated the notion to the academia. In his address in 1972 at the International Institute of Human Rights in Strasbourg, France, M'baye portrayed development as a human right (M'baye, 1972). This idea filtered down to the UN and led to the adoption (without vote) of Resolution 4 (XXXIII) in 1977 by the Committee on Human Rights. The Resolution called upon the UN Secretary General to engage in research on the international aspects of the RTD. Subsequently, the RTD became the topic of a political battle at the UN, and in 1986 the G77 and other countries in the Non-Aligned Movement (NAM) voted for the adoption of the United Nations Declaration on the Right to Develop (UNDRTD), which explicitly refers to the NIEO (Preamble, para 3).

On the African continent, the ideas of the G77 led to the incorporation of the RTD into the African Charter on Human and Peoples' Rights adopted in 1981:

All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. States shall have the duty, individually or collectively, to ensure the exercise of the right to development (art 22).

As indicated above, the notion of the RTD originated from the G77, which was also behind the concept of the NIEO. The latter became the platform on which to debate and frame the RTD, which came to fruition with the adoption of the RTD in 1986. Subsequently, the G77 has advanced the RTD and its elements in one way or another at various UN summits and international conferences, such as Rio de Janeiro in 1992, Cairo in 1994, Copenhagen and Beijing in 1995. Today, the agenda of the RTD is well secured in the Santa Cruz Declaration (2014) of 'Towards a New World Order For Living Well'.

This declaration, acknowledges that the nation state should be the primary provider of development. In this respect, it should freely adopt appropriate policies and fight corruption and establish democratic conditions that are conducive to development. However, for development to happen, the international community should remove imbalances in the global economy and the inequitable structures that can only grow underdevelopment in the third world. 'Establishing New World Order For Living Well' entails a global effort through partnership to promote:

sustained, inclusive and equitable economic growth, creating greater opportunities for all, reducing inequalities, raising basic standards of living, fostering equitable social development and inclusion, and promoting the integrated and sustainable management of natural resources and ecosystems that supports, inter alia, economic, social and human development.

UNPACKING THE RIGHT TO DEVELOPMENT

For some analysts, ‘development’ means progress or ‘change’ (Chambers: 2004) and ‘modernisation’ (Seers 1969). For others, it means culture, religion beliefs, identity and way of life, and is defined by Gross national happiness and Gross national product (<http://www.grossnationalhappiness.com/>). Nevertheless, development should be seen as freedom enhancing human potential and capabilities (Sen 1999). Development should capture various elements to better human lives. Udombana (2000: 757) observes:

After all, the primary aim of development is to satisfy man’s spiritual and material needs. Development, then, consists of the ability to maximize resources. It is for the benefit of human beings in all of their aspects, tangible and intangible.

Subscribing to this view on development, the article presents the RTD as a multifaceted right. According to the UNDRTD (art 1), the RTD is:

- Inalienable.
- Every individual and group is the central subject of development and should be the active participants and beneficiaries of development.
- States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals (art 2).
- International co-operation is vital for the realisation of the RTD.

The features of the RTD are captured by Sengupta (A/55/306, para 4; Kirchmeier, 2006:9), an independent expert on the RTD as follows:

(a) there is an inalienable human right that is called the right to development; (b) there is a particular process of economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized; and (c) the right to development is a human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy that particular process of development.

However, this characterisation of the RTD is not universally accepted. It has been 28 years since the UN General Assembly officially recognised the right in the UNDRTD, 21 years since governments reached a consensus on the RTD through the Vienna Declaration on Human Rights and Programme of Actions (UN GA A/Conf.157/23), 16 years since the open ended working group was established and an independent expert on the RTD appointed (Commission on Human Rights, Resolution 1998/72) and 10 years since the UN High-Level Task Force (HLTF) on implementing the RTD was established (Commission for Human Rights 2004/7). However, the right is still one of the most controversial human rights of our time (Kamga 2011: 383). While

some perceive the RTD to be the ‘basic right’ (Shue 1980: 19–20) without which other rights are meaningless, others (Bedjaoui 1989; Dimitrievic 1982) describe the right as heresy (Donnelly 1985). Alston (1998: 20) argues that the RTD is

little more than a rhetorical exercise designed to enable the Eastern European countries to score points on disarmament and collective rights [and] it also permits the Third World to “distort” the issues of human rights by affirming the equal importance of economic, social and cultural rights and by linking human rights in general to its ‘utopian’ aspiration for a new international economic order.

Sharing this view, Bello (1992:462) observes that the RTD is

too woolly and does not easily invite the degree of commitment that one expects unequivocally in support of an inescapable conclusion; ... The right to development appears to be more like an idea or ideal couched in a spirit of adventure, a political ideology conceived to be all things to all men in a developing world, especially Africa; it lacks purposeful specificity; it is latent with ambiguity and highly controversial and “directionless”; it strikes a cord of the advent of the good Samaritan.

At the centre of this disagreement are questions on the composite or stand-alone nature of the RTD, on the duty bearers as well as right holders of the RTD. On the composite or stand-alone nature of the RTD, the UNDRTD (art 9) provides that ‘all the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole’. This is in line with the Vienna Declaration of 1993 (para 5), which highlights the universality, indivisibility, interdependence and interrelatedness of all human rights. From this perspective, the RTD is a multifaceted human right made up of civil and political, as well as economic, social and cultural rights under an ‘umbrella’ where no right can be paramount over the other (Sengupta, 2006: 17). Kamga and Fombad (2013:204) present the emerging position on the RTD as a composite right which:

comprises the human rights principles of equality, non-discrimination, participation, transparency and accountability as well as international co-operation. It provides a framework to address contemporary challenges to human well-being through the human rights standards addressed in their interconnectedness.

When addressing the rights holders of the RTD, the controversy is threefold: Is the RTD an individual right? Is it a collective right? Or is it the right of a state? According to the UNDRTD (art 1, *my italics*), the RTD ‘is ... a right by virtue of which *every human person* and *all people* are entitled to participate in’. In this sentence, the RTD is seen as an individual right as it alludes to ‘every human person’ and a collective right when it applies to ‘all people’. Furthermore, the UNDRTD (art, 2) also defines development as a process aimed at the development of the ‘well-being of the entire *population* and all *individuals*’.

Sengupta (2004) aptly merges the individual and collective features of the RTD in his observation that although the RTD benefits can be enjoyed individually, claiming the right collectively would be more practical. Against this view, the United States of America posits that the RTD ‘implies that each individual should enjoy the right to develop his or her intellectual capabilities to the maximum extent possible through the exercise of the full range of civil and political rights’ (Daniele 2005). But Bejaoui (1989) argues that the RTD is simply the right of ‘human race in general’. Explaining the emerging position, Kamga and Fombad (2013: 204) argue that the RTD is ‘an empowering right which targets individuals and groups. When it is claimed on behalf of a group or a specific community, the beneficiaries are individuals, members of the community.’

On whether the RTD is the right of a state, the Declaration on NIEO reads:

The new international economic order should be founded on full respect for the following principles: *The right of every country* to adopt the economic and social system that it deems the most appropriate for its own development and not to be subjected to discrimination of any kind as a result.

This was reiterated by the UNDRTD (art 2(3), (my italics)) as follows: ‘States have *the right* and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals....’. This seems to suggest that just like human beings, states have *rights*. This assertion appears controversial.

Nevertheless, since a state is not human, it can only claim such a right from the international community on behalf of its people. In this case, it becomes the representative of its people. Crawford argues that a state acting as the main negotiator of a right does not turn it into the beneficiary, but the bridge used for the interest of individuals (Crawford 1988: 159–167). Accordingly, the ‘state plays the role of the equivalent of a legal trustee’ (M’baye 1991: 1041). The Working Group on the Right to Development (UN Doc E/CN.4/1985/11, para. 20) sheds more light on the issue in the following statement:

States and organizations have rights and obligations as far as the realisation of human rights was concerned and in relation to the right to development as a human right, although that did not mean that they possessed human rights as such.

In summary, the state is the beneficiary of the right if it acts on behalf of its citizens. The other area of disagreement is on the duty bearer of the RTD. As much as the UNDRTD (art. 3) vests primary responsibility on the state/nation to realise the RTD, it also highlights that ‘States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development’. This means that the international community at large has the obligation to ensure the realisation of the RTD in a country in need. This is the most controversial aspect of the RTD as

the global North refuses to be bound by any obligation to develop the global South. In other words, the global North is of the view that the duty bearer of human rights is the nation state that should take its responsibility for its citizens. However, the emerging position is that for the RTD to become a reality, ‘the sustainable efforts at the national level are largely dependent upon effective international cooperation and a favourable economic environment’ (Özden YEAR??: 17). In a similar vein, Kamga and Fombad (2013:203) argue that for the realisation of the RTD:

national action should be complemented by international actions revolving around the adoption of fair trade policies on the global market, solving the debt burden of developing countries, ensuring that wealthy countries respect their development assistance pledges and ensuring real global partnership for development in general.

In this context, the G77 recognised that the RTD is an inalienable human right. It suggests that international action conducive to the achievement of the RTD comprises global good governance, more precisely in the international financial institutions and the UN bodies (Özden). Capturing an answer to the questions about the RTD, the HLTf (A/HRC/15/WG.2/task force/2.Add.2, 2010) defines the RTD as ‘the right of peoples and individuals to the constant improvement of their well-being and to a national and *global enabling environment* conducive to just, equitable, participatory and human-centred development respectful of all human rights’ (Marks 2011: 9). Overall, notwithstanding the huge controversy that surrounds the RTD, the latter is now a *fait accompli* (Alston 1981: 31) and different groups must now work towards its implementation.

THE WAY FORWARD: CHALLENGES AND OPPORTUNITIES TO FURTHERING THE RTD

Although the RTD is now broadly recognised, its operationalisation has yet to become a reality. This section explores some of the opportunities and challenges for the RTD to become a reality. The focus is on the justiciability of the right as well as how the G77 and China can tap into UN system to achieve the realisation of the right and turn it into reality on the ground.

Engaging with the Justiciability of the RTD

Globally, the RTD is non-binding and is also believed to be non-justiciable. However, at this level, there is a huge opportunity to ensure its realisation. In this respect, the RTD had been the focus of various UN activities such as resolutions, seminars and international conferences, and as such, has ascended into the realm of international human rights standards. Baxi (2008: 47) argues that besides the Universal Declaration on Human Rights (UDHR, G Ass Res 217 A (III)), the UNDRTD is one of the

most repeated declarations within the UN system. This intense activity on the RTD demonstrates the state practice and shows the *opinion juris* or intention to be bound as evidence of customary law. From this perspective, Baxi (2008: 47) observes that 'it is clear that the programmatic content of the RTD has attained over the decades, a wider endorsement from the community of states than in sight at the time of its adoption'. This maturation of the RTD is sufficient to make a case for the adoption of a fully fleshed global treaty on the right. Nevertheless, while hoping for the advent of an RTD treaty, the broad recognition of the RTD provides a platform to ensure its actualisation.

Unlike at the global level where the RTD is not binding, in the African human rights system, the right is binding in Article 22 of the African Charter. It is included in various African Constitutions, such as in Cameroon (in paragraph 3 of the Preamble), and in Malawi (in section 30 and Ethiopia in article 43). Even though the RTD is not expressly provided for in the South African and Indian Constitutions, the impressive jurisprudence on socio-economic rights and environmental rights from these countries suggests that the RTD is very justiciable in their courts. Even though this cannot be entirely rejected, reducing the RTD to socio-economic rights or environmental rights may lead to questions on its added value. Therefore, while acknowledging the significance of the justiciability of socio-economic rights, for the realisation of the RTD one should guard against forgetting its multifaceted feature. This was underlined at the regional level in Africa.

Under the African human rights system, the RTD has been adjudicated by the African Commission on Human and Peoples' Rights (the African Commission). The African Commission has addressed the RTD through the following communications: *Kevin Mgwanga Gumne et al v Cameroon* (Communication 266/2003), *Democratic Republic of the Congo v Burundi, Rwanda, and Uganda* (Communication 227/99) and the *Centre for Minority Rights Development and Minority Rights Group International (on behalf of the Endorois) v Kenya* (Communication 276/2003). In the *Endorois* case, the African Commission clearly highlights the nature of the RTD, which is a multifaceted human right comprising 'elements of non-discrimination, participation, accountability and transparency, equity and choices as well as capabilities' (*Endorois* case para. 128; Kamga, 2011: 390). The communications referred to above show that far from being an abstract topic of discussion between diplomats at the UN in Geneva or New York, the RTD is a fully fledged human right to be discussed in human rights institutions such as Commissions and court rooms.

Nevertheless, it is not enough to have a textual justiciable right. In other words, though the RTD is justiciable in the African human rights system, it does not reach the ground as a result of many factors, including global inequities. The letter hinders African governments' ability to realise the right for their citizens. The following subsection investigates how the G77 can address these inequities within the UN system where global decisions are taken.

The G77 and the UN Committees

As result of the diversity of issues the UN General Assembly is tasked to address, its work is divided and allocated to its six main committees, which debate issues before presenting resolutions and decisions to the plenary Assembly for deliberation. The allocation of tasks to Committees is organised as follows: The First Committee deals with disarmament and international security; the Second Committee deals with economic and financial matters; the Third Committee deals with social, humanitarian and human rights questions; the Fourth Committee focuses on special political and decolonisation issues; the Fifth Committee focuses on administrative and budgetary questions; and the Sixth committee, known as the legal Committee, focuses on international legal issues (<http://www.un.org/ga/maincommittees.shtml>). In what follows, the article focuses on the Second, Third and Fifth Committees through which the G77 can ensure the realization of the RTD.

The G77 at the Second Committee of the UN General Assembly

The core issues at the second Committee are intrinsically linked to the realisation of the RTD. These issues revolve around economic growth, international trade, international financial system, and external debt sustainability, financing for development, sustainable development, poverty eradication, globalisation and interdependence as well as technology transfer. Given the large number of members of the G77, the latter can shape the agenda on issues highlighted above, that will ensure a better standard of living for all in the developing world. From this perspective, the G77 can use its number to influence decisions on fair trade rules, financing development, debts cancellation and other issues that hinder the realisation of the RTD in the global South. Indeed this has happened, as shown by the adoption of various resolutions built from the Second Committee with the massive support of the G77. In this respect, the G77 was instrumental in the adoption of the General Assembly Resolution 68/204 of 20 December 2013 to convene, in 2015 or 2016, the Third International Conference on Financing for Development (Landers, 2014). The more recent success is the adoption of the Resolution on Sovereign Debt Restructuring adopted by General Assembly on 9 September 2014. Known as the Resolution ‘Towards the establishment of a multilateral legal framework for sovereign debt restructuring processes’ (document A/68/L.57/Rev), it aims to restructure foreign debt so as to ensure the economic growth in the South.

However, the efficiency of the G77 at the Second Committee is often limited by various factors. Among others, sometimes members of the G77 do not reach consensus on a specific position, and this leads to disagreements that weaken the Group. For instance, during the conclusion of the work of the Open Working Group on Sustainable Development Goals (OWG-SDGs), which took place from 14 to 18 July 2014 to prepare its report for the General Assembly, the G77 failed to agree

on proposed Goals and Targets, in spite of reaching an agreement on the Means of Implementation and a few general principles (Landers 2014).

The lack of consensus by the G77 is often due 'to competing national, regional, or factional interests' (Swart 2010: 23), which member countries have to deal with. Explaining the situation, a former chair of the G77 clarified that '[e]ach issue on the G-77's agenda has its own constituency'. For instance, the groups of BASIC (Brazil, India, China and South Africa) and BRICS (Brazil, Russia(a non-G-77 member), India, China and South Africa) often take specific stances on trade issues that may be contrary to the G77 decisions. In the same register, the position of China, which is associated to the G77, and at the same time a member of BASIC, BRICS and the G 20, does not always inspire confidence in the G77 (Swart, 2010: 23).

However, having many constituencies or holding multiple memberships to groups may well be the opportunity to look for middle ground, seek consensus and design roadmaps needed to ensure the eradication of poverty, which is vital for the realisation of the RTD. From this perspective, given that many trade and finance issues are discussed at the G20, where member states shape global policies on international trade and finance, countries such as China have the leverage and opportunity to insert the G77's agenda in the discussions that are normally kept away from the Second Committee. Nevertheless, the challenge remains; as one is never sure whether China would relinquish its specific interests at the G20 to push through the common agenda of the G77. Given that China would have invested its resources to access the debates in the G20, it is unlikely to see the G77 interests as paramount. Indeed, the problem is aggravated by the global economic crisis, which forces countries to fight for their specific interest. In the words of Landers (2014):

[F]ollowing the global economic slowdown, which has turned the global development agenda into highly contested terrain, with many countries seeking to reshape it completely in order to try and restore their comparative economic advantage, maintaining unity among the countries of the South, and therefore within the G77 itself, has become a real challenge.

The other challenges faced by the G77 is that many decisions related to international trade and finance are taken at the World Trade Organisation and in international financial institutions (World Bank and International Monetary Fund) designed to serve the global North interest (Kamga, 2013). In this context, important decisions related to the realisation of the RTD are taken away from the Second Committee, thus away from the G77.

In spite of the challenges underlined above, the G77 can and should keep playing its role, which is important in keeping the questions of unfair trade rules, debt and eradication of poverty at the Second Committee and at the concert of nations, which is the UN. In fact, the G77 has been credited for shaping important aspects of MDGs. Lund (2010: 43) argues that the goal 8b reads like a G77 declaration when it calls for

[T]ariff and quota free access for the least developed countries' exports; enhanced program of debt relief for heavily indebted poor countries (HIPC) and cancellation of official bilateral debt; and more generous Official Development Assistance (ODA) for countries committed to poverty reduction (http://www.un.org/en/development/desa/policy/mdg_gap/mdg8_targets.pdf).

Indeed, this shows that although the G77 could not secure all its demands in the MDGs (such as employment measures) (Lund, 2010: 41), it has the potential to shape global politics for the eradication of poverty and the realisation of the RTD through the Second Committee and the UN Assembly in general.

The G77 at the Third Committee of the UN General Assembly

As alluded to earlier, the Third Committee is mandated to deal with social, humanitarian, cultural and human rights issues that affect people worldwide. It is therefore, the site to address the RTD. As indicated earlier, the RTD has been the most contentious human rights of our time. Nevertheless the resilience of the G77 and the NAM had kept the right alive at the Third Committee and in the General Assembly, where they vote for its resolutions. In fact, the amount of work on the RTD shown earlier was spearheaded by the G77 and the NAM. It could even be argued that one of the clear successes of the G77 at the Third Committee is illustrated by the number of votes on RTD resolutions at the General Assembly, which so far had been a resounding victory for developing countries.

However, given that human rights in general are interdependent and interrelated, the fact that the G77 often distances itself from human rights at the UN (Lund, 2010: 113) seems to weaken its stand on the RTD. Lund (2010: 113) observes that the G77 seems to be keen on having removed all references to human rights and existing agreements on human rights from the draft political declarations. Nevertheless, it could be argued that this hesitation of the G77 on human rights is linked to the fact that the human rights discourse is often used as a conditionality for development assistance (Sagasti, Casabonne and Prada, 2007) or as a tool to shape development policies in the global South. This idea may justify the polarisation of G77 members on votes related to human rights (Gowan and Brantner, 2008). In any event, the G77 and China have stood firm and united whenever the RTD was discussed. This shows that the G77 and China have the potential to influence global politics on the RTD.

It is nonetheless important to note that resolutions of the General Assembly are non-binding, but their moral and persuasive effect cannot be underestimated. In fact, the activities of the G77 on the RTD have kept the issue on the table and forced the international community to continuously address it. Indeed the Third Committee is an avenue where the G77 and China strengthen the RTD discourse and compels the international community to seek solution for its realisation.

The G77 at Fifth Committee of the UN General Assembly

Also known as the administrative and budgetary committee, the Fifth Committee debates the budget of the UN Secretariat and sends its judgements and recommendations to the UN General Assembly for approval. Therefore the work of the Fifth Committee is vital for the functioning of the UN Secretariat because, as correctly observed by Swart (2010: 1), 'Without timely approval of adequate budgets and payment of dues, for instance, the UN Secretariat cannot properly function'.

The nature of the work of the Committee enables the G77 to use its number to shape or at least to influence budget and administrative related decisions, or to frustrate the whole process as decisions and undertakings have to conform to clear deadlines (Swart, 2010: 1). The G77 and China have taken advantage of the situation to call for an increase of budget allocation for development. For instance in 2007, the G77 used its number to acquire more funding for development (Swart 2010: 28). This was triggered by the fact that in 2006, \$600 million was approved for activities of the Department of Political Affairs. In Addition, there was an increase of 34 per cent for peacekeeping operations whereas the development budget increased by 0.5 per cent (Martinetti 2007: 2). This was a case of unfair distribution of resources, which was detrimental to the interest of the global South in need of development.

Although criticised for contributing only 20 per cent of the budget, the G77 members stay firm in requesting more development funding on the ground that their ability to contribute substantially is limited by their smaller portion of the world's economy, huge external debts, and poverty levels in their countries (Swart 2010: 5). Put differently, unfair global policies on trade, debts and other global inequities hinder the G77's ability to pay its dues to the UN. This has been emphasised relentlessly by the G77. Indeed, the efficiency of the G77 in making the most of the nature of the work at the Fifth Committee led to the comment:

The G-77 is more united and more powerful in the Fifth Committee than in any other committee. Not just because of the deadlines and the importance of scales and budgets, but also because the role of consensus gives the group considerable leverage (Swart, 2010: 1).

However, to counter the power of the G77 in budgetary matters at the Fifth Committee, states from the northern hemisphere use voluntary contributions instead of due contributions. The use of voluntary contributions enables states from the North to shape the agenda by putting money in their specific interests and not in poverty eradication as advocated by the G77 (Martinetti 2007: 2). Indeed, voluntary contributions frustrate the G77 and China. Echoing the 2009 G77 Chair from Sudan, Swart (2010: 14–15) notes:

The Group of 77 and China is concerned to notice the growing imbalance between assessed and voluntary contributions. Indeed, we are facing a situation in which the amount of extra-budgetary resources has reached a level that is nearly twice as large as the regular budget. This has put the Organization in a governance crisis, whereby on the one hand, legislative

bodies approve mandates and priorities, and, on the other hand, voluntary contributions are often used to bend the priorities toward specific mandates. We currently have two classes of mandates: the privileged ones, which benefit from constant flow [of] resources from assessed contributions or voluntary assistance by donor countries; and the neglected ones, constantly under-funded and scrambling for a few crumbs of the regular budget.

Besides voluntary contributions that shape the agenda at the UN, the G77's victories merely frustrate the processes as they delay proposals from the North instead of achieving its goal of poverty eradication. This is due to the fact that when the G77 succeeds in getting a budgetary increase for development, the money is generally used to create more posts and not for explicit development projects or activities (Swart 2010: 29).

Nevertheless, given that the UN is an arena where the power game is important, every victory counts even if it is just a delay that can bring the other party to the discussion table or to a compromise. In this regard, another instance where the G77 affirmed its importance and relevance was during the review of the Mandate of the UN Secretariat in 2005. Called by the USA, the review aimed to assess, update and remove overlapping mandates. To avoid the might of G77, the review was assigned to informal working groups within the General Assembly and not at Fifth committee where it belongs as issues of mandate entail assignment of resources. Nonetheless, the G77 successfully derailed the process by prolonging the debate with pertinent questions related to its interest and as a result, the whole process was simply called off after three years of debates (Martinetti 2007: 4).

It is, however, contended that one of the most difficult challenges faced by the G77 is the growing number of emerging economy among its members, the power game exercised by the G20, which takes important decisions through WTO and the Bretton Woods institutions, the World Bank and the International Monetary Fund.

Overall, the Fifth Committee is an avenue to be used by the G77 to ensure that adequate budgets and appropriate reforms are adopted to ensure the realisation of the RTD in the South. Nevertheless, the G77 and China should strive to concretise their victories by ensuring that budgets increase obtained through the Fifth Committee is allocated to tangible development activities. In addition, they should find innovative ways to stop or at least reduce voluntary contributions or attempt to ensure that these contributions are used for development. They should also be able to find ways to stay united in spite of challenges related to the economic crisis, and always strive to keep global issues at the UN and not the G20 and away from the WTO and the Bretton Woods institutions.

CONCLUSION

At a time when the G77 and China commemorated the G77's 50th year anniversary, the aim of this article was to reflect on the agenda, role and significance of the G77 in a changing world. The reflection focuses specifically on the RTD that has been

advanced and advocated by the G77. In this reflection, the article explored the role that the G77 play in crafting the RTD concept; and it explained the concept and assessed challenges and opportunities for its realisation.

On the first point of the role of G77 in articulating the RTD, the article found that the G77 linked the RTD to the claim for an NIEO, and that the right was first articulated by the G77 in its 1967 summit in Algiers. In this forum, the RTD was articulated as the right of developing countries and was later introduced to academia by M'baye, who contributed immensely in developing the concept, which filtered down through academic writings and various international fora and summits into the UN.

On the second point related to the nature of the RTD, the article found that the right under discussion is a very controversial human right. The controversy revolves around the duty bearers of the RTD, its beneficiaries as well as its composite or stand-alone features. Nevertheless, the study also found that the current emerging position is that the RTD is a multifaceted human right to be realised by states as well as the international community for the benefit of individuals and groups, or the 'human race in general' (Bejaoui, 1989: 12).

On the final point dealing with the challenges and opportunities for the realisation of the RTD, the study found that engaging with the justiciability of the right would provide avenues through which to achieve the right. In this register, although at the global level the right is non-binding, it has been the topic of immense research and debates and has developed into customary law. More importantly, the RTD is binding in the African human rights system and its justiciability has been shown through the jurisprudence of the African Commission on Human and Peoples' Rights.

Nevertheless, realising that giving effect to the RTD at national level depends on the nature of global politics to eradicate poverty, the article focused on the opportunities and challenges in facing the G77 in the UN System. The article found that the Second, Third and Fifth Committee are avenues through which the G77 can make a significant difference in influencing global politics for poverty eradication. In this respect, the G77 can use these avenues for the adoption of fair and equitable trade and financial/debt policies, ensure recognition of the RTD and push for allocation more resources for development.

However, the study also found that self-interest, lack of tangible results, and various approaches used by the G20 and the global North to keep financial and trade issues away from the General Assembly are challenges to be addressed by the G77 for the RTD become reality. Nevertheless, these challenges are not insurmountable. So far, the work of the G77 reminds the rest of the world about the importance of the development agenda; it keeps the question of poverty on the table and is a constant reminder that the objective of a better standard of living for all prescribed by the UN Charter is yet to be realised. Fifty years after the establishment of the G77, its call for the RTD remains as relevant today as it was then. For the RTD to become

reality the G77 should follow the advice of the Chinese government at the G77's 40th anniversary (Swart 2010: 160).

We [the G77 and China] should open our minds, further improve the institutions, conduct more studies and come up with well-targeted and clearly-defined goals and policies to guide our work in the future. G-77 should also adopt a more open and pragmatic attitude

BIOGRAPHICAL NOTE

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REGULATING TRANSBORDER FLOW OF PERSONAL INFORMATION FOR DEVELOPMENT IN THE G77+CHINA GROUP

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ABSTRACT

Transborder data flow (TBDF) has generated much controversy in this era of globalisation. Various questions regarding its exact nature, dimension and role have been raised by scholars. Nevertheless, the majority of scholars agree that TBDF is crucial for development in every state and even more important for developing countries. In spite of the general consensus that TBDF is vital for development, it raises some concerns such as the infringement of individuals' right to privacy. This has made countries and international organisations regulate TBDF in data protection instruments. Such instruments in some cases put stringent conditions on TBDF, which could be an obstacle to the free movement of personal data across borders and may even serve as a non-tariff barrier



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against developing countries, including G77 states. The implication of this trend of events is that if G77 states do not take data protection and regulation of TBDF seriously, they may never benefit economically from developed countries. This will, of course, not sit well with the primary purpose for the establishment of the G77+China. With a special focus on the G77, this article examines the role of regulating TBDF in facilitating TBDF for economic development. This topic is crucial in the wake of various initiatives by the G77 to promote trade so as to foster development.

Keywords: trans-border data flow, data protection, personal data, G77, development, regulation

INTRODUCTION

Transborder data flow has become increasingly critical in economic, political and social terms since the adoption of the Organization of Economic Cooperation and Development (OECD) Guidelines on the protection of privacy and transborder flows of personal data in 1980 (OECD Guidelines) (Kuner 2011: 3). With increased globalisation of the world economy, there is greater need for personal data across the world as it has, in recent times, become a very powerful but scary item (Lagos 2014: 187). The greater need for personal data is as a result of the realisation of its significance by both private and public entities.¹ To depict the value of personal data in this globalised digital world, it has been described using several weighty phrases. It is termed a 'crucial raw material' (Kuner 2013: 1), a 'valuable commodity' (Kuvana 2009; Bygrave 2002: 99), and the lifeblood or basic currency of the information economy (Robinson et al. 2009: 12). In fact, it is said that personal data is the new oil of the internet and the new currency of the digital world (Kuvana 2009: 7). It is the hottest commodity on the market today and even more valuable than gold (Craig and Ludloff 2011: 7). Advances in technology and the internet have led to the globalisation of personal information and facilitated its transfers (Kong 2010: 21:1; Bennett and Raab 2003: 257). To enhance development in every modern society therefore, TBDF is imperative. This is even more so for developing countries who must utilise every opportunity at their disposal to maximise resources obtainable from their developed counterpart.

Developing countries have always sought a platform to harmonise their individual efforts towards achieving development. Such a platform came with the establishment of G77, which enables them work in unity to achieve economic growth and development. Thus the G77 gives them a united voice in negotiations on the terms of international trade that will facilitate growth. One means by which these countries can foster development is through TBDF, which is about the free movement of information across borders. TBDF has become a dominant topic in debates on international trade and its importance has been considered by several

commentators (Kuner 2011; Mhlaba 1995: 356–366). Its importance is that it brings about economic progress and creates a platform for exchange of resources among nations. This is imperative for developing countries of the G77. In spite of these widely acknowledged benefits of TBDF, there are several challenges associated with it. The most common is the threat to the privacy and security of personal data. This has made many countries, especially developed ones, put in place legal instruments regulating TBDF. Some of these developed countries have even been said to regulate TBDF for economic protectionist purposes. This therefore means that G77 states must individually and collectively take issues of regulation of TBDF seriously by putting in place the appropriate legal mechanisms. This article is inspired by the fact that issues regarding how TBDF impacts on international trade and economic development is yet to be a focus of law or policy in many countries, especially the G77 (Meltzer 2013: 13).

There is a number of scholarly works on regulating TBDF with respect to international institutions such as the Organization for Economic Cooperation and Development (OECD), the Council of Europe (CoE) and the European Union (EU). Among them are works by Kuner (2013; 2011) and Bygrave (2014). There is, however, no specific literature on regulating TBDF for development in the G77. The absence of scholarly works also shows that TBDF as a topic has scarcely been considered by the G77 as a means to harness resources from their developed counterparts.

Against this background, this article examines the significance of regulating TBDF for development in the G77 states. In so doing, the article is divided into six sections. Section 2 unpacks the concepts of ‘TBDF’, ‘data protection’ and ‘personal data’ within the context of this article. Here, the ambit and scope of the concepts are briefly examined. Section 3 gives a brief historical account of the G77 and its initiatives on TBDF. This is done for the purpose of establishing how crucial TBDF is for the development of the G77 states. In spite of importance of TBDF in the development of countries, Section 4 analyses why it needs to be regulated, thereby restricting its flow. Furthermore, it examines broadly the regulatory framework for TBDF with special focus on regimes that may affect TBDF of and between G77 states. Section 5 examines the role of data protection law in TBDF for development of G77 states. Section 6 reflects on how to enhance TBDF for development in the G77 states.

UNPACKING THE CONCEPTS OF TBDF, DATA PROTECTION, PERSONAL DATA

TBDF is a widely used term (Brown 1984: 2). According to Knoppers, TBDF ‘represents the flow of information with economic and/or cultural value’ (1984:1). This definition shows that the term refers to the flow of all kinds of information generally. Indeed, Novotny acknowledges the fact that data/information in TBDF could be operational, financial, personally identifiable (personal data) and scientific/

technical in nature (1981: 110–112). Similarly, Brown, relying on Fishman, contends that the term refers to ‘the electronic transmission of personal and non-personal information across political boundaries for processing and storage in computer files’ (Brown 1984: 2). Within the context of this paper, however, only a category of information – personal data/information – is the focus.² Thus, ‘[t]ransborder flows of personal data’ is a concept that was first adopted by the OECD Guidelines in 1980, and since then, it has become widely used. The OECD Guidelines define it (TBDF) as the ‘movement of personal data across national borders’ (OECD Article 1; Kuner 2011: 3). The Council of Europe Convention (CoE Convention) adopts the term ‘Transborder flows of personal data’ and it is defined as ‘the transfer across national borders, by whatever medium, of personal data undergoing automatic processing or collected with a view to their being automatically processed’ (CoE Convention, Article 12). More recent TBDF regulatory instruments do not give any definition. For example, the European Union Directive (EU Directive) uses the term ‘transfer to a third country of personal data’ without giving any specific definition (Article 25; Kuner 2011: 11). Unfortunately, the 2012 Proposed EU Regulation (EU Regulation) also adopts a similar approach as the EU Directive (EU Regulation, Article 40). In a rather confusing manner, the Asia Pacific Economic Cooperation (APEC) Privacy Framework uses a wide range of terms for TBDF. It uses the terms ‘Information transfer’, ‘information flow across borders’, ‘cross-border information flow’ and ‘cross-border data flow’ to refer to movement of personal data across national borders (Kuner 2011: 11). The majority of these instruments therefore, seem to portray TBDF as movement of personal data from one jurisdiction to others. These definitions, however, present TBDF in a rather simplistic way as they create an impression that TBDF is ‘a discrete act, such as someone pushing a button and causing data to be transferred’ (Kuner 2011: 11). Birnhack argues that TBDF is more complicated than merely describing information in such circumstance as merely ‘flowing’ (2008: 517). He contends that ‘Describing data as “flowing”, as if it were a physical object, does not reflect the global digital environment, in which data is everywhere’ (Birnhack 2008: 517).

Because of the threats associated with TBDF as a result of cross-boundary movements of personal information, it is increasingly regulated in a *sui generis* legislation called data protection law. Data protection is becoming a complex concept, like privacy. Hence, summarising it in a few lines is a difficult task (De Hert and Gutwirth 2009: 3). Nevertheless, it is important to attempt a workable definition so as to show its relationship with the concept of TBDF. De Hert and Gutwirth point out that data protection is a catch-all term for a series of ideas regarding the processing of personal data that governments apply to reconcile fundamental but conflicting values such as privacy, free flow of information, the need for government surveillance (2009: 3). This definition shows that enhancing TBDF and protecting privacy are conflicting values which data protection law seeks to balance. It does not, however, show the nature of the kind of risk individuals are exposed to.

In a more apt manner, Roos defines data protection as ‘a set of measures aimed at safeguarding individuals (data subjects) from harm, resulting from the computerised or manual processing of their personal information by data controllers’ (2008: 313). These measures comprise a group of principles on the processing of personal information (Roos 2008: 313). Two important phrases common in these definitions are ‘processing’ and ‘personal data/information’. These terms are at the very heart of data protection law. Processing means any operation, activity, or set of operations, which is performed on personal data, whether manually or automatically and such operation or activity includes collection, storage, updating, dissemination, erasure, destruction or transfer (POPIA, sec 1; EU Directive: Art 2(b)). The word processing covers a wide range of activities on personal data, which makes Kuner observe that ‘it is difficult to conceive of any operation performed on personal data in electronic commerce which would not be covered by it’ (Kuner 2007: 74). Thus, TBDF, which basically involves the dissemination or transfer of personal information across borders, is also a processing activity within the context of data protection law.

The regulation of TBDF for the purpose of privacy and data protection does not cover all kinds of data. Data protection law focuses only on personal data narrowly construed as ‘any information relating to an identified or identifiable natural person’ (EU Directive: Article 2). This implies any data that relates to an identified or identifiable individuals.³ Processing of this category, personal data, presents certain risk, which is why a dedicated legal structure (data protection) is put in place for its protection. Processing of certain categories of personal data may, however, not fall within the ambit of data protection law. Such categories include personal information processed in the course of personal activity,⁴ de-identified data,⁵ information collected for public interest, and information processed for journalistic and artistic purposes (POPIA: Section 4).

G77 AND TRANS-BORDER DATA FLOWS

A brief historical account is important for a proper contextualisation of the purpose and objective of the G77. Established in 1964, G77, as the name implies, is a group of seventy-seven developing countries that signed the Joint Declaration of the seventy-seven developing countries.⁶ The Declaration was issued at the end of the first session of the United Nations Conference on Trade and Development (UNCTAD) in Geneva.⁷ The UNCTAD is a United Nations (UN) body responsible for development issues with particular focus on international trade.⁸ A permanent institutional structure for the G77 was established with the first Ministerial Meeting of the Group in Algiers, which adopted the Charter of Algiers.⁹ The G77 has subsequently increased to 134 members, making it the largest intergovernmental organisation of developing countries in the UN, though the original name was retained due to its historical significance.¹⁰ The historical relationship of G77 with UNCTAD goes to show that the former is primarily established to facilitate economic growth of developing

countries through international trade. Thus a group of this nature will boost the negotiating capacity of developing economies in major international economic issues and promote co-operation for development.¹¹ Several means are used by the G77 to achieve the realisation of its goal of enhancing economic development in member states. One such means is the avenue it provides in its meetings for the exchange of knowledge, ideas and information (including personal data) between member states and developed countries. Thus, information must be able to flow freely across borders.

Legal framework for TBDF in the G77

With regard to TBDF, none of the G77 foundation documents contain provisions on the transfer of personal data across borders.¹² Nevertheless, the G77 legal instruments make elaborate provisions for transfer of technology, knowledge and patents between developing and developed countries. This may also indirectly affect TBDF. For example, Part E paragraph 7 of the Charter of Algiers provides that:

- a. The developed countries should encourage the transfer of knowledge and technology to developing countries by permitting the use of industrial patents on the best possible terms, which will enable products manufactured in developing countries to compete effectively in world markets;
- b. They should also promote the elimination of restrictive practices, relating to market distribution and price-fixing, which are imposed by enterprises in developed countries in granting licences for the use of patents and trade-marks in developing countries;
- c. The developed countries should provide guidance to their industrial entrepreneurs regarding investment opportunities in the export industries of the developing countries and familiarise them with legal, political, economic and other relevant information on the situation in the developing countries.

In this regard, it has been argued that technology and knowledge transfer raises issues of TBDF. For example, Knoppers contends that 'Transborder data flow and technology transfer issues have a substantial overlap' (1984: 1). According to Knoppers, TBDF issues are the key form of technology transfer.¹³ As information technology plays an increasingly important role in areas such as engineering and research, 'an increasing portion of our "know-how" and accompanying information is created, processed, stored, and disseminated in electronic or digitalized form (only)' (Knoppers 1984:1). It is therefore submitted that the accompanying information being referred to includes personal information. From this premise, it is arguable that knowledge and technology transfer will also involve movement of personal information across borders. The World Economic Forum observed with regard to the importance of personal information in knowledge transfer that:

To stay current, stakeholders should share insights and learnings on their relevant activities, from both successes as well as failures. After all, the ecosystem's promise is about the tremendous value created when individuals share information about who they are and what they know (WEF 2011: 12).

Therefore, although remote, the relevant provisions of the above quoted provision of the Charter of Algiers may be construed also to mean encouraging the transfer of personal data since it is also a resource that developing countries (G77 states)¹⁴ will need. There are also numerous provisions on trade liberalisation, especially with regard to the removal of trade barriers to free movement of goods and services between developed and developing states (Charter of Algiers: part 2, para 2). Since scholars have generally contended that personal information is now a commodity or a resources, then it is arguable that 'goods' within the context of trade liberalisation also include personal information. Indeed, Sauvart contends that discussions on TBDF 'increasingly recognize that data flows are commodity flows (either in their own right or because they are closely related to trade flows in other areas, such as shipping) and that, therefore, the subject matter should be regarded as an economic issue' (1983: 360). It goes without saying also that service trade between developed and developing countries will also involve TBDF. For example, an agreement on provision of professional services by engineers or construction workers between Nigeria and Germany will involve movement of personal information between the contracting parties.

Issues of TBDF are also rarely considered in Ministerial declarations in spite of the encouragement of global partnership for development among states. This is surprising as developing countries have been urged to take account of 'changing context' in the transfer of technology (UNCTAD: 5). Indeed, the reference to a 'changing context' in the transfer of technology should, arguably, involve the increasing prominence of TBDF in such transfers. Some Ministerial declarations, however, encourage initiatives on issues related to TBDF, such as technology transfer and information sharing on science and technology among states. As noted above, this will arguably include TBDF. The above shows that none of the documents have considered the significance of TBDF as a means of fostering development.

The importance of TBDF for development of G77 states

With globalisation and the so-called 'information revolution', TBDF becomes very significant for developing countries. Unfortunately, little empirical research has been done to evaluate the impact of TBDF to depict its significance (Kuner 2013:5; Mutai 2013: 8). Nevertheless, it has aptly been noted that '[t]he ability to transfer personal data internationally is assuming ever-increasing importance in promoting economic and social development' (Kuner 2011: 8). Thus, '[t]he international transfer of increasing amounts of personal data and the growth of electronic commerce have resulted in economic growth and efficiencies that have had a positive impact around

the world' (Kuner 2011: 10). According to the OECD, the growth of the internet together with the ability to move data rapidly is a key building block of the global economic order (Kuner 2013: 5; Meltzer 2013: 4). G77 states will, no doubt, benefit from the growing economic importance of cross-border data flows in the past few years, which has created new markets and unlocked numerous economic resources. Unfortunately, there is a general absence of qualitative data on TBDF to evaluate its practical significance, especially to developing countries of the G77 (Mutai 2013: 5).

Different countries are endowed with different economic resources. From this perspective, there is a need for countries to exchange resources so as to reap the benefits of economies of scales, division of labour and specialisation. Outsourcing transactions presents such an opportunity for developing countries of the G77 with the aid of TBDF. According to Greaver, '[o]utsourcing is the act of transferring some of an organization's recurring internal activities and decision rights to outsider providers [usually offshore], as set forth in a contract' (1999: 3). This process naturally involves movement of personal information. For example, during the due diligence and negotiation stages of an outsourcing contract, personal information of employees, customers and directors will be transferred between the contracting parties. Some of the potential benefits of outsourcing, according to McIvor, include cost reduction, performance improvements, flexibility, specialisation and access to innovation (2005: 21–23). Outsourced tasks are usually less effective and more expensive if they were to be carried out 'in house' (Stefanick 2007: 532). G77 member countries therefore stand a chance to benefit from outsourcing contracts propelled by TBDF as businesses could focus on their core functions that could lead to firm growth (Mutai 2013: 9).

Another important role of TBDF, according to Poulet, is the opportunity it creates for the transfer of personal information for the purpose of executing contracts, or for technical purposes such as for the purpose of processing, analysis or storage abroad (2009: 4). In this respect, Mutai observes that companies could enter foreign markets without necessarily having a physical presence there (Mutai 2013: 9). This is even more so because of the comparative cost advantage brought about by the relative advances in cloud computing. Furthermore, a common economic benefit of exporting personal data to a third country is for ease of administration, especially of multinational enterprises (MNEs) (Mutai 2013: 9). It is now common for multinationals to pool the data of all operating divisions and subsidiaries in one common databank with the aid of advances in technology (Knoppers 1984: 1; Sauvants 1983: 361). Thus, MNEs are increasingly dependent on the fast and reliable movements of information across borders (Mutai 2013: 2), so much so that Sauvants contends that TBDF have become the lifeblood of their operations (1983: 361; Kong 2010: 1). In this regard, a number of G77 states are hosts to large companies with headquarters in other parts of the world – mostly in developed countries. For example, multinationals such as Mastercard, Unilever, Accenture, Shell and Chevron have subsidiaries or affiliates in many African countries. Exporting employees and

business data brings about effective administration as a common database is built in different countries, which may help improve productivity. From the point of view of e-commerce, which is supported by TBDF, developing countries and consumers in these countries stand to benefit. Indeed, the importance of e-commerce to developing countries cannot be overemphasised (Ray 2011). According to Ray, e-commerce (technologies) helps developed countries access markets of developing countries (2011: 7). TBDF, supported by the internet and e-commerce, has benefits to consumers within G77 states. For example, Meltzer argues that TBDF has revolutionised the finance industry in that consumers can now access their accounts and accountants globally (2013: 4). Similarly, business in developing countries can access market-leading financial services in countries such as the US and UK (Meltzer 2013:4). Meltzer also observes that large companies in developed countries are also taking advantage of the opportunities TBDF creates to increase access to capital start-ups (2013: 4). For example, 33needs, a web application business, connects investors with small-scale entrepreneurs in developing countries (Meltzer 2013: 4).

The above shows the significance of TBDF for developing countries. The G-77 states may, however, not be able to benefit from the TBDF transactions because of the growing trend in regulation of data transfers by the developed countries. The reasons for these regulations will now be considered.

From the foregoing, TBDF is beneficial to G77 states, especially from economic and commercial perspectives. Nevertheless, south-south cooperation may be significantly hampered by the increasing regulation of TBDF, especially by developed countries. The following section discusses why states (developed countries) regulate TBDF and the major international instruments that have the effect of restricting TBDF.

WHY DO STATES REGULATE TBDF?

A number of reasons led to the regulation of TBDF. Knoppers identifies economic and sovereign concerns as the main reasons why states increasingly regulate TBDF (1984: 3–11). Economic concern, by and large, is for the purpose of protecting trade and balance of payment of a country that could be jeopardized if large amounts of data of a country are processed in another country (Knoppers 1984: 3). Sovereignty concerns, on the other hand, include national security, legal issues and cultural impacts (Knoppers 1984: 4). With specific reference to cross-border transfer of personal information, Kuner identifies four reasons why states regulate TBDF (2011: 7, 23, 24). Firstly is to prevent the circumvention of national data protection laws by transferring personal information to so-called ‘data havens’. In this regard, a TBDF regulation of a country prevents businesses from transferring personal information to third countries without TBDF regulations for processing so as to circumvent the laws in their home country, that is, data havens. The processing of personal data brings about reasonable incentives for business to do all that is necessary to circumvent

the law. For example, Section 4b of the Federal Data Protection Act of Germany 2003 provides that transfer to a foreign country outside Germany (or the EU) can only be effected if the third country has an adequate data protection regime. This section effectively bars data processors from transferring information to a third country without an effective data protection regime so as to circumvent the Act. Secondly, regulating TBDF will help protect individuals from the risks (privacy and data protection) they may be exposed to if their personal data is processed in other countries. A third reason is to address the difficulties in claiming data protection rights abroad. Because of issues of sovereignty, individuals and regulators may not be able to move against infringements of their privacy related rights abroad. However, with rules on TBDF, there is increased cooperation between regulatory authorities in various jurisdictions, which makes enforcement of privacy related rights easier. Lastly, TBDF is regulated so as to enhance consumer and individual confidence (Kuner 2011: 7; Donohue 2015: 20).

Of the above-mentioned reasons, the second arguably is the most common justification by states for regulating TBDF (Meltzer 2013: 6). Engaging in TBDF without appropriate regulations could bring about certain risks to both individuals of the developed country and the G77 state. Such risks are largely human rights related, such as violation of individuals' right to privacy. Indeed, a commentator observes that '[t]o date, privacy concerns have dominated the TBDF debate at the international level' (Knoppers 1984: 3). Violation of individuals' privacy may also occur if individuals' personal data falls into the wrong hands in the receiving state, which may in turn cause identity thefts and expose individuals to cybercriminals. Roos considers other possible risks to data processing, which also applies to TBDF. She states that personal data being transferred may be inaccurate, incomplete or irrelevant, accessed or disclosed without authorisation, and used for a purpose other than that for which they were collected or unlawfully destroyed (Roos 2008: 314). TBDF raises issues such as if an entity in the receiving state will put in place equivalent (or adequate) mechanisms to ensure its personal data is properly safeguarded. All these threats will naturally make consumers wary of engaging in e-commerce, except if an appropriate framework is in place to make them confident in the system.

There are two other important reasons why states regulate TBDF, which were not contained in Kuner's discussion (2011: 7). Firstly is the economic benefit accruing to G77 state by such regulation. In this regard, Mutai argues that regulation of TBDF may bring economic benefits to a country as other countries will be more willing to transfer personal data to such a country. Secondly, it has been argued that government regulates (restricts) TBDF for less legitimate and controversial reasons, such as to cause commercial loss to foreign business while promoting local companies (Meltzer 2013: 5).

The increasing threats TBDF places on personal data has made various legal systems regulate its free flow. It must, however, be pointed out that the primary

objective of these normative frameworks is not to totally prohibit the flow of personal data (De Hert and Gutwirth 2009: 3). Rather, these instruments establish structures to enhance transfer while also protecting the privacy interests of individuals' subject of the information.

REGULATORY FRAMEWORK FOR TBDF IN INTERNATIONAL LAW

The first set of responses to challenges of data privacy resulting from TBDF were within domestic laws of certain European countries such as Sweden and Germany (Lloyd 2011: 22). The expansion in TBDF across jurisdictions led to initiatives for its regulation by various international organisations, starting with the OECD. Today, more than 70 countries, including some G77 states, have enacted laws with provisions regulating TBDF (Kuner 2011: 6).¹⁵ Many of these countries are developed countries, especially in Europe. Similarly, many international organisations have instruments regulating TBDF. This section focuses on the international or regional instruments on TBDF. Some of these international instruments do not directly affect most G77 states because they are not state parties to them. Nevertheless, these instruments may indirectly affect transfer of personal information between a developed country and a G77 state, and this may be an obstacle to realise the objectives of the G77. Thus, it is imperative to consider briefly these instruments.

It must be pointed out that there are two major approaches to regulating TBDF to protect personal data. While some types are geographically based, others make data exporters accountable for the continued protection of individuals' personal data transferred irrespective of the geographical location (Kuner 2011: 7). In this regard, the EU and most of its members adopt the first approach while the APEC and some of its member economies adopt the second approach.

Because of the widely acknowledged benefits of TBDF to the development of countries, many of the legal instruments are, as a general rule, drafted in a way that encourages free flow of personal data across borders. Restricting trans-border data transfer is only an exception to the general rule and subject to some conditions.

As earlier stated, the OECD Guidelines was the first document to provide for TBDF. Part 3 of the guidelines generally provides for 'basic principles of international application: free flow and legitimate restrictions'. Article 16 requires member countries to take all reasonable and appropriate steps to ensure that TBDF including transit through member country are uninterrupted and secure (OECD Guidelines). A member country is also required to refrain from restricting flow of personal data except where another member country has not substantially observed the Guidelines, or where re-export of such data would circumvent its domestic privacy legislation (OECD Guidelines, paragraph 17). Member countries should also not establish laws and policies in the name of privacy which will obstruct TBDF that will exceed requirements for such protection (OECD Guidelines: paragraph 18). Based on this

provision, it is clear that the OECD Guidelines only regulate TBDF between member countries. This may have little effect on TBDF for G77 states as none of the G77 states are members of the OECD.¹⁶

The Council of Europe Convention is also applicable to member states only. Recent amendment of the Convention has, however, made it possible for non-European member states to be parties to the treaty.¹⁷ Chapter 3 of the Convention regulates TBDF. The Convention prohibits any obstacle to TBDF. It provides that ‘a party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorization transborder flows of personal data going to the territory of another party’. Some conditions for derogations are provided. This provision also applies to TBDF within states parties which include some G77 states.¹⁸ Nevertheless, an Additional Protocol to the Convention will make it applicable to all G77 states. Article 2(1) of the Additional Protocol provides that:

Each Party shall provide for the transfer of personal data to a recipient that is subject to the jurisdiction of a State or organisation that is not Party to the Convention only if that State or organisation ensures an adequate level of protection for the intended data transfer (CoE Additional Protocol: Article 12(1)).

The above provision also requires adequate level of protection by a G77 state not being state parties to the OECD. The UN Guideline principles also provide in Article 9 that personal data ‘should be able to circulate freely’ provided the legislation of the countries concerned ‘offer comparable safeguards for the protection of privacy’ (CoE Additional Protocol: Article 9). It is further provided that ‘if there are no reciprocal safeguards, limitations on such circulation may not be imposed unduly and only in so far as the protection of privacy demands’ (CoE Additional Protocol: Article 9).

The most influential and aggressive regulatory framework for TBDF is the EU Directive. The Directive is described by a commentator as ‘the leading force of globalizing data protection’ (Birnhack 2008: 512). The Directive, according to Mantelero, was ‘inspired not only by the intention of removing obstacles to flows of personal data in order to facilitate economic activities, but also by the aim of offering a high level of protection of individual rights’ (2012: 3). This instrument, though applicable to EU member states only, has an extra-territorial effect that impacts on G77 states. Article 25 of the Directive provides that personal information from an EU member state can only be transferred to a non-member state that has an adequate data protection regime (EU Directive, Art 25). The Directive also specifies a special mechanism for determining adequacy (EU Directive, Article 25(6)). In addition, some exceptions are provided from the general rule that permits extra-territorial transfer of data (EU Directive, Article 26; Birnhack 2008, 24: 513)). Based on the EU approach in the Directive, any G77 state desirous of having a business dealing with an European country must have a TBDF regime that is deemed ‘adequate’ by the EU.¹⁹ The EU’s approach to regulation of TBDF has drawn criticisms for a

commentator who argues that Europe is trying to impose its data protection regime on the world (Makulilo 2013: 447). This is because it is contended that:

The indirect effect of this rule [article 25] is to induce the countries interested in having commercial relations with the EU to adopt similar data protection laws. In the absence of these laws, local companies are not be able to work with European partners, because they cannot receive personal data concerning consumers, suppliers and partners (Mantelero 2013: 3).

Birnhack rejects this contention and argues that Europe cannot be said to impose its regime on the world because the directive is a non-binding international treaty. According to him, the Directive rather ‘applies a sophisticated, inducing mechanism to spread its gospel’ (Birnhack 2008: 512). The EU directive is the greatest obstacle to TBDF of G77 states especially with Europe. This is because no data protection law of any G77 state has been declared adequate by the EU Commission. What this means is that a non-European country (G77 state) cannot freely receive personal information from any European country based on the general requirements of Article 25. For example, a company in a G77 country that offers certain services such as advertising, which may require collection of personal information from the EU, will be restricted from engaging in such transaction by Article 25. G77 member states may, however, resort to the exception provides in Article 26 of the directive, which may be a more cumbersome and bureaucratic process.

Rather than the forceful approach of the EU directive in regulating TBDF, the APEC Privacy Framework adopts a milder approach. It provides that personal data should be processed in a way that protects individuals’ information privacy and allows them to realise the benefits of information flows within and across borders (APEC Privacy Framework, paragraph 29). Protection of personal data in the course of TBDF is realised under the APEC Privacy Framework through the accountability principle (APEC Privacy Framework, paragraph 26). The framework holds a transferor accountable for complying with measures to give effect to all the other principles (APEC Privacy Framework, para 26). This provision is applicable to data processing generally. Quite a number of developed countries belong to the APEC and are bound by the Privacy Framework. A transferor from an APEC member economy like Canada will have an additional burden, which may hamper TBDF to a developing G77 country.

THE ROLE OF DATA PROTECTION LEGAL INSTRUMENTS IN TBDF FOR DEVELOPMENT IN G77 STATES

TBDF is crucial for economic growth and development of the G77 states. TBDF is usually regulated within the data protection legal instrument. Thus, to enhance

TBDF, data protection law is imperative for three major reasons. First, it brings about economic benefits to G77 states. Second, the data protection legal framework will facilitate access to vibrant information market in jurisdictions or regions with strict requirements on transfer of personal data. Third, it will enhance consumer confidence in the system, which will enable them to participate more in e-commerce (Kuner 2013: 2).

It is generally known that the economic benefits of data protection legal instrument regulating TBDF are significant. The most important benefit is that it creates an opportunity to trade with developed countries. Many countries will freely allow transfers of personal data when they are guaranteed of equivalent protection in the receiving country (Kuner 2011: 24).²⁰ This will create economic benefits for the receiving states, in this case, the G77 states (Kuner 2011: 24). It will create an opportunity for outsourcing deals and serve as an incentive for MNEs to further invest in developing countries. This has a multiplier effect of job creation and economic and infrastructural improvement in a developing G77 country.

With respect to enhancing access to information market, the EU jurisdiction makes this issue significant. The EU has been stated to be the largest trading bloc in the world, which means no country or group can afford to ignore its rules.²¹ To enable access to the EU information and commodity market, G77 states, either individually or collectively, need to have a legal framework considered 'adequate' by the EU based on the requirement of the EU Directive. Another dimension of the significance of data protection law for TBDF goes to the very basis for which the G77 was established. Developed countries within EU can only assist developing countries, especially with respect to transfer of science and technology when the latter possess adequate regulations on TBDF. This is because in most cases, transfer of science and technology may include personal data of European citizens. Transfer of personal data out of Europe cannot otherwise be carried out in the absence of the TBDF regulatory framework in the receiving state. Moreover, the EU Directive makes it a mandatory requirement that member states 'shall take the measures necessary' to prevent any data transfer to states without an adequate data protection regime (EU Directive, Art 25(6)).

The provision restricting data transfers to jurisdictions without 'adequate' data protection instrument has been argued to serve economic protectionist purposes (Caruana and Cannataci 2007: 105). It is that contended this may effectively serve as a non-tariff barrier in favour of European states. Without prejudice to the truthfulness (or otherwise) of this assertion, G77 states can only circumvent this barrier when they have in place legal instruments on data protection. The EU will therefore have no reason to prevent data transfers to G77 member states under the guide of a lack of data protection instruments.

Availability of adequate data protection instruments in G77 states will enhance individuals' confidence in TBDF system. This will make them participate more in

transactions that involve TBDF. After all, Kuner has stated that with advances in technology, TBDF has grown to mean more than big business engaging in transfers of personal data (2011: 3). An individual may also need to access certain services or carry out some transaction across borders using the internet. This will boost e-commerce and therefore bring about development in G77 states.

The G77 leaders in a recent declaration have acknowledged the importance of protection of privacy, although not on the grounds of promotion of TBDF. The leaders were concerned about the use of ICTs to violate human rights and fundamental freedoms especially by developed countries (Khor 2014: 10–15).

CONCLUDING REMARKS

In conclusion, a number of important findings are made with regard to regulating TBDF for development in the G77. First, TBDF, in spite of its immense significance, has not been seriously considered by the G77. Secondly, because TBDF has not been considered, the benefits accruable to member states in regulating TBDF have also not been discussed. Thirdly, quite a number of G77 states, in spite of the significance of regulating TBDF, have no legal instrument regulating TBDF. For example, out of 54 African countries that are all members of the G77, only 14 have legal instruments regulating TBDF (Makulilo 2015:9).

A discussion on regulating TBDF for development in the G77 states is crucial in the wake of the increasing globalisation of the world, which is largely brought about by advances in technology. Given that the free movement of information, goods and services are one of the major features of a globalised world, every community must put in place adequate measure to flow with the tide of globalisation. The G77, which primarily seeks to foster economic growth of developing states, must therefore not be left behind in regulating TBDF for the purpose of data protection.

It is therefore recommended that the G77 should operate as a group for the purpose of regulating TBDF. First, the G77 as a body must have a framework on TBDF (and its regulation) with adequate provisions, like that of advanced countries. This framework must also be followed with a rigorous oversight and implementation mechanism. It is important that the G77 functions as a group because it will facilitate harmonisation and unification of data protection policies. This will create an atmosphere of certainty in the application of data protection law for development purposes. Second, even though a number of G77 states have individually adopted TBDF instruments and enacted data protection laws, a number of them are still lagging behind in this regard, like Nigeria. Similarly, none of the G77 member states with a TBDF regime is yet to be declared ‘adequate’ by international institutions such as the CoE and the EU. This means that the G77 as a group must put in place a mechanism with a view achieving far-reaching reforms in member states. The group initiative should also be complemented by individual efforts of enacting data protection laws by individual state parties. These suggestions will make developed

countries have confidence in the TBDF system of G77 states and open up their markets. This will serve as a double advantage in not only enabling access to the information markets of advanced nations, but will also guarantee human right to data protection of their citizens. Individuals as consumers will therefore be encouraged to participate in e-commerce and TBDF activities.

NOTES

1. Personal data is increasingly needed by private entities for commercial purposes. Many services offered to consumers rely heavily on aggregated data. Retailers need to know more about their customers so as to be able to market their goods and services through direct marketing. They also need customer personal information for marketing purposes. Public entities such as the government need individuals' personal information for law enforcement and crime prevention, welfare, budgeting. For more on the economic uses of personal information, see WEF (2011).
2. Both terms are used interchangeably in this paper even though a distinction can be drawn between them. According to Roos, data is unstructured or unorganised facts that need to be processed and organised to produce information. Information is thus a set of organised, structured and processed data (2008: 313). Bygrave opines that 'it is artificial and unnecessarily pedantic ... to maintain a division between the two notions, as such a division is usually difficult to maintain in practice' (2002: 20).
3. Some jurisdictions also include data that identifies a legal or corporate person as part of personal data and therefore within the scope of data protection law (POPIA: sec 1).
4. This includes information which, for example, is collected in a personal diary or mobile phone for pure personal purposes.
5. De-identified data means to delete any information that identifies the subject (POPIA: sec 1).
6. G-77, 'About the Group of 77'.
7. Ibid. See Joint declaration of the seventy-seven developing countries made at the conclusion of the United Nations Conference On Trade And Development. Available at <http://www.g77.org/doc/Joint%20Declaration.html> (accessed 10 April 2015).
8. UNCTAD, 'About us. According to the UNCTAD website, it is 'a forum where representatives of all countries can freely engage in dialogue and discuss ways to establish a better balance in the global economy'. It also 'offers direct technical assistance to developing countries and countries with economies in transition, helping them to build the capacities they need to become equitably integrated into the global economy and improve the well-being of their populations'.
9. In 1967. See First Ministerial Meeting of the Group of 77: Charter of Algiers.
10. G-77, 'About the Group of 77'.
11. Ibid.
12. G-77, First Ministerial Meeting of the Group of 77: Charter of Algiers.
13. See, for example, the 2013 declaration that states that The Ministers accordingly underscored the need for a strengthened and scaled-up global partnership for development, based on the recognition of national leadership and ownership of development strategies. They

- emphasised that international cooperation must be enhanced, including the fulfilment of commitments of internationally agreed official development assistance, debt relief, market access, capacity building and technical support, including technology transfer. See Para 9 of Ministerial Declaration adopted at the thirty-seventh annual meeting of the Ministers for Foreign Affairs of the States Members of the Group of 77, New York 26 September 2013 Available at [http://www.g77.org/doc/A-68-595\(E\).pdf](http://www.g77.org/doc/A-68-595(E).pdf) (accessed 10 April 2015).
14. See Para 9 of Conclusions and recommendations of the meeting of Ministers of Science and Technology of the member States of the Group of 77, Brazil, 3 September 2006. Available at [http://www.g77.org/doc/docs/A-61-382%20\(English\).pdf](http://www.g77.org/doc/docs/A-61-382%20(English).pdf) (accessed 10 April 2015).
 15. Argentina, Uruguay, Bahamas, Bosnia and Herzegovina, Benin, Burkina Faso, Mauritius, Morocco, South Africa and Tunisia (Kuner 2011: 6).
 16. Members of the OECD include Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom and United States. See OECD, 'List of OECD Member countries- Ratification of the Convention on the OECD'.
 17. In 2011, Uruguay became the 1st non-state member followed by Morocco in 2013. See Greenleaf, 'Morocco and Uruguay start Convention 108's Journey to Global privacy Treaty'.
 18. For example, Bosnia Herzegovina. See CoE, 'Member states of the Council of Europe'.
 19. Kong argues that the approach serves as an external push for third countries to improve their data protection. (2010: 445).
 20. Though Kuner was quick to admit that 'little "hard" research has been done to confirm the effects of transborder data flow regulation' (2011: 24).
 21. European Commission, 'Trade: EU position in world trade'. It was stated that 'The EU is the world's largest trading block. The EU is the world's largest trader of manufactured goods and services.'

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MULTILATERAL DIPLOMACY OF THE SOUTH: THE G77 AND CHINA IN THE CLIMATE CHANGE NEGOTIATIONS¹

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ABSTRACT

The G77 and China represents a multilateral group, engaged in multilateral diplomacy, across multiple fora. While the group has negotiated positive outcomes in terms of trade through its role in the UNCTAD, environmental negotiations have demonstrated the challenges facing the group in maintaining unity, and in turn, raised questions concerning its relevance. This review article considers the divisions that have emerged within the group, as well as those that have emerged between the G77 and China and developed countries within the context of the climate change negotiations. What is significant is that multilateral diplomacy within the group has seen the continuance of unity, despite considerable difference, yet there has been less success in breaching the divide between developed and developing countries as talks move towards the twenty-first Conference of the Parties (COP) in 2015.



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INTRODUCTION

From its origins in 1964, the Group of 77 (G77) has evolved in both its composition and agenda. From the initial 77 countries that made the first Joint Declaration at the conclusion of the UN Conference on Trade and Development (UNCTAD), the membership has grown to over 130 developing country member states of the geo-political South. This heterogeneous umbrella group includes larger emerging economies, least developed countries (LDCs), small island developing states (SIDS), and members of the Organisation for Petroleum Exporting Countries (OPEC). The changing international milieu in which the G77 and China² engages has seen the group representing its members across a number of international negotiation fora, including the critical negotiations on the post-2015 development agenda, which reached an agreement on the Sustainable Development Goals (SDG) in August 2015, and in the climate change negotiations, which aim to reach an international agreement in Paris in December (2015).

The very nature of this heterogeneous group, the largest intergovernmental grouping within the United Nations, has seen challenges in maintaining a common position; nevertheless its members continue to point to the role of the Group as a key platform in promoting 'solidarity' and the 'voice' of the South. This article unpacks the challenges of coherence for the G77 and China within the context of the climate change negotiations before considering the continued relevance of the Group for its member states going forward.

MULTILATERAL DIPLOMACY: MULTI-ISSUES, MULTI-PARTIES, MULTI-INTERESTS

In 2006, as Chair of the G77 and China, South African Minister of Foreign Affairs Nkosazana Dlamini Zuma noted that 'one of the greatest achievements for the Group of 77 and China has been our ability to maintain solidarity, unity and negotiate as a collective'.³ By 2009, and the climate change negotiations in Copenhagen, questions around solidarity and unity were at the fore in discussion concerning the role of the Group and its multilateral diplomacy.

The climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) are particularly challenging in their complexity (with multiple technical areas), and in finding a political solution to positions that have become increasingly polarised over the course of the previous 20 Conference of the Parties (COPs). This has been particularly apparent in the discussions on the future of the Kyoto Protocol, the only legally binding agreement for emission reductions for developed (Annex 1) countries, and the principle of common but differentiated responsibilities and respective capabilities. Developing countries are particularly concerned that developed countries would effectively 'kill Kyoto', reneging on their emission reduction commitments.

Within the climate change negotiations, the G77 and China represent a broad position of the geo-political South with its focus on maintaining the centrality of the UNFCCC as 'the primary international, intergovernmental forum for negotiating the global response to climate change' and

taking into account common but differentiated responsibilities and respective capabilities and specific national and regional development priorities, objectives and circumstances, to enhance action on addressing loss and damage associated with the adverse effects of climate change, taking into account national development processes.⁴

Within this collective there are, however, a number of differing positions that have a regional or an issue specific focus. This includes: the BASIC (Brazil, South Africa, India and China) countries; the LDC group; the LLDCs (Land-locked Least developed countries); members of the Africa Group; the Alliance of Small Island States (AOSIS); and members of the OPEC. So while there is an emphasis in the rhetoric on the broad elements that provide a shared sense of 'solidarity' between developing countries, there is also an indication of the challenge that the diversity in membership presents in determining responsibilities and respective capabilities in line with differing national and regional development priorities when it comes to addressing climate change.

That these smaller groups within the umbrella group play their own role in the climate change negotiations was evident in the lead up to, and during the fraught 2009 negotiations in Copenhagen (COP15). In the first instance, at the talks in Barcelona ahead of COP15, the Africa Group staged a successful walk-out in demonstrating their opposition to efforts to undermine the Kyoto Protocol. While this was successful in highlighting the position of developing countries more broadly, by the time the talks reached their close in Copenhagen there were divisions apparent between the G77 and China and the BASIC countries on the final 'noted' outcome of the negotiations. The BASIC countries decried efforts by the Danish to impose a draft text of the Copenhagen Accord, and presented their own version, a version not embraced by all members of the G77 and China, including the AOSIS and the LDC states. Here, for example, the position of the small island state of Tuvalu highlighted a differentiation within the G77 and China in its call for the emerging economies to be included in setting targets for emission reductions.⁵

There was further concern that developed countries were undermining cohesion within the G77 and China, co-opting poorer countries through access to climate project finance in the shape of the Clean Development Mechanism (CDM).⁶ For its part, the Africa Group, with its own common position on climate change, looked towards pursuing a greater focus on adaptation, technology transfer and finance, while the oil producing countries of OPEC remained concerned with a response measure or the negative impact on their economies that would follow the move away from the use of fossil fuels.

The Copenhagen negotiations were a step backwards both for the multilateral negotiations under the UNFCCC and for the role of the G77 and China in pursuing an agreement on climate change in which the concerns of the South would be central. The results from a survey conducted among participants in the formal climate change negotiations (2008–2010) on the perceived role of the G77 and China are revealing. From 27% identifying a leadership role for the G77 and China at the Poznań (2008) negotiations, by Cancún (2010) this had fallen to 19%.⁷

While the overall negotiation process recovered somewhat at the 16th Conference of the Parties (COP16) in Cancun, the G77 and China found itself fairly peripheral. The adoption of a BASIC+ approach, which saw the invitation of the Chair of the G77 and China to BASIC meetings in a form of ‘outreach’, did not do much to support the rhetoric from the emerging economies of the centrality of the G77.⁸ It is argued that what kept the Group together in the past has been a shared sense of marginalisation from global negotiations and that members of the G77 and China were not participant in ‘setting the rules’ for international institutions or negotiations.⁹ The BASIC countries, however, attracted considerable attention at Copenhagen for their role in the negotiations, setting them apart from other developing countries.

Whether the visibility of BASIC proved to be of value to the G77 and China has been raised in the benefit of these larger developing countries in the climate change negotiations in providing a voice for the concerns of the developing world.¹⁰ Allen and Dauvergne argue that states that gain traction in a negotiation through ‘issue-specific power’, such as the BASIC states as a result of their importance in emission reductions, can add to a broader coalition’s weight within negotiations.¹¹ Certainly the BASIC countries have found themselves increasingly drawn into discussions around climate change at the G20, the G8 and the Major Economies Forum on Energy and Climate Change, and while this has provided a more prominent position at the negotiation table, they are also increasingly under pressure to take more action in mitigating their own greenhouse gas emissions.

The role of the BASIC countries in spearheading the voice of the geo-political South has not, however, been sustained at the level achieved in Copenhagen. Despite the broad labelling of the BASIC countries as emerging states, they represent diverse economic, social and political contexts with different interests in the outcomes of climate change agreements. For instance, as evident at COP17, South Africa and Brazil were willing to take greater steps¹² (subject to finance and technology transfer) in negotiating climate change, while India and China continued to hold reservations around issues such as monitoring and evaluation.

Increasingly the argument is being made that membership of the G77 and China allows the BASIC countries to legitimise their developing country status. As Xi points out in his analysis, ‘China continues to benefit by keeping one foot firmly placed in the G-77; maintaining its identity within the G-77 enables Beijing to wear the Mantle of “developing country”’.¹³ In other words, the G77 and China grouping

provides the BASIC countries the opportunity to be ‘part of an undifferentiated South that [is] not yet required to take climate action through the principle of Common but Differentiated Responsibilities’.¹⁴ While their level of emissions means that these states are central parties to any future agreement, any commitment to environmental leadership continues to be taken in the context of their own developmental priorities.¹⁵

With the BASIC countries failing to sustain their prominent position within the climate change negotiations, a space for re-engagement by the G77 and China has opened. This is evident at the negotiations in Warsaw (Poland – COP19). Here it was the G77 and China that stalled the talks through a walk-out after it emerged that developed countries, including Australia, the US as well as the EU, were pushing to have the question of ‘compensation for extreme climate events’ deferred until after the 2015 negotiations.¹⁶

THE ROLE OF THE G77 AND CHINA AT THE CLIMATE CHANGE NEGOTIATIONS

As an international actor or agent, the G77 and China has been most successful when there has been active internal coalition building between member states.¹⁷ This includes driving the process that resulted in the Convention to Combat Desertification (CCD). While North-South differences were expected, what made the CCD process successful is that despite considerable differences between developing countries it is argued that there were no ‘signs of the much-prophesized eventual breakup of the G77’.¹⁸ Even the move by the European Union to support the desertification convention on the basis that the South would then support the forest convention, which could have resulted in division across regional lines within the G77 and China, only saw greater solidarity among these developing countries.¹⁹

Within the context of the climate change negotiations, divisions within the multilateral forum have raised questions concerning the relevance of this multilateral Group and its ability to play a role in shaping international negotiations. In the first instance it can be argued that the challenges facing developing countries, which saw the rise of the G77 initially, continue to underpin its relevance. This includes continued inequality, poverty, the trade gap, and the need to highlight the plight of developing countries. For member states, the value of the G77 and China is the opportunity to participate in a coalition that presents a collective voice from the South as many developing countries remain politically vulnerable as they engage in international negotiations. Indeed, it was the numerical strength of the G77 and China, evident at the Warsaw negotiations, which saw issues of concern to developing countries prominent on the climate change agenda. So while the number of states that are members of the G77 and China may be construed as a hindrance, it is also significant in that they form a considerable proportion in the UN General Assembly

providing a platform for greater developing country agency (although this could be used more effectively).

There is also value in the G77 and China for smaller countries in terms of resources and capacity support. For example, while developed countries may have extensive negotiating delegations, which include specialists in numerous areas, developing countries do not always have the people to attend all the negotiations or have specialists within the numerous areas that the climate change negotiations cover from finance to the negotiations on reducing emissions from deforestation and forest degradation (REDD).²⁰

Shared interests present a further reason for the continuance of the G77 and China. As Dlamini Zuma noted as Chair of the G77 and China, this grouping 'ensure[s] that the interests of developing countries were protected and reflected'.²¹ Despite nuances in positions within the Group, members all agree on the broad principles that underlie developing country positions. Firstly, they need to ensure the continuance of the multilateral process under the UNFCCC. Secondly, they need to preserve the principle of common but differentiated responsibility and respective capabilities with the continued emphasis on the fulfilment of commitments under the Kyoto Protocol by developed countries. Thirdly, development (and ensuring sufficient carbon space for development) is critical for developing countries as they address their own domestic challenges of inequality and poverty. Finally, technology transfer and access to finance that is new, additional and scaled up, as well as capacity building are seen as critical if developing countries are to achieve their socio-economic priorities while addressing the challenges of climate change (mitigation and adaptation).²²

The challenge is to maintain sustained engagement. For instance, despite the success in pushing through the CCD, as Najam points out, 'the G77 is inherently risk-averse and seeks to minimize its losses rather than to maximize its gains'.²³ Internal constraints also undermine the agency of the multilateral Group, including the challenge of agreeing on concepts and how they should be defined, sporadic attendance of meetings, a shortfall in resources to engage in discussions between sessions in order to develop a common position, and the sense of 'mistrust' when larger emerging countries take on a leadership role.²⁴

WHAT ROLE FOR THE G77 AND CHINA AFTER 50?

In 2014 the G77 and China marked its half century as a platform for promoting solidarity, equity and justice. A year on and the group faces tough negotiations on the future of the international climate change and development regime. There is, however, little to indicate a more proactive role for the umbrella group. As Najam argues, after the success in pushing forward the Convention to Combat Desertification, 'the G77 slid back into its familiar posture of a low-key negotiating collective, maintaining a united stand without the need for much formal coordination and reasserting

well-established and unsurprising arguments on a short menu of well-rehearsed concerns'.²⁵ The return to the familiar broad role of the G77 and China position is apparent too within the UNFCCC context.

While divisions within the group have been patent in the climate change negotiations, the importance attributed to the unity across numerous negotiation platforms currently trumps any prospect of states 'going-it-alone'. Nevertheless, the latent potential of the Group as a formidable bloc within the negotiations is dependent on its own role conception, a challenge for a loose and reactive group of diverse states. Without a more focused role conception, this larger multilateral bloc may be overwhelmed by growing regionalism and issue specific groupings as negotiations increasingly move beyond a simplistic North-South binary. Sustainability of the G77 and China will then depend on the strategic value the Group offers to its members. Where this value lies needs to be unpacked by its members, assessing and addressing the strengths and weaknesses across the various platforms in which the Group now engages. This will need to include a serious discussion of the current geo-political dynamics and the role played by the larger emerging economies in promoting or distorting the position of developing countries.

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SPEKTOR, M., 2014. *18 DIAS – QUANDO LULA E FHC SE UNIRAM PARA CONQUISTAR O APOIO DE BUSH*. RIO DE JAINERO: OBJECTIVA.

ISBN. 9788539005819. 470 pages.

As Brazil is facing a political and economic crisis at home, a fascinating new book looks back at Brazil's most dramatic power transition since democratisation three decades ago. *18 Dias – Quando Lula e FHC se uniram para conquistar o apoio de Bush* (roughly *18 days: When Lula and Fernando Henrique Cardoso worked together to obtain support by President Bush*) by Matias Spektor, Professor of International Relations at the Getulio Vargas Foundation and columnist at *Folha de São Paulo*, who uses the unique moment after Lula's historic victory in 2002 as a starting point for an excellent analysis of presidential diplomacy and Brazil's place in the world. Divided into eighteen chapters that each describe one day of the transition, the book covers a broad array of themes that influenced Brazil's international positions at the time.

The outgoing President Fernando Henrique Cardoso faced a dilemma. Brazil had made great progress during his eight years in power, but the economy was still vulnerable and fear by US policy makers and investors of Lula had the potential to throw the Brazilian economy into crisis and undo Cardoso's achievements. To protect his legacy, Cardoso had to convince the United States that Lula, his political enemy, had only the best intentions. This led to an unprecedented degree of across-the-aisle co-operation during the power transition, a scenario hardly imaginable in today's polarised political climate.

Perhaps the only problematic aspect of *18 Dias* is its title, which fails to do justice to the book's ambition and scope. Far from merely telling the story of the power transition from Fernando Henrique Cardoso to Lula, Spektor's book is both a *tour de force* of Brazilian diplomacy of the 1990s and a thought-provoking piece of global history at the turn of the century, weaving together a large number of seemingly independent strands that provides the reader with a vivid impression of global political dynamics at the time. Throughout the book, Spektor jumps from one country to another and describes parallel events, powerfully showing that nothing at the time occurred in isolation.

The multitude of issues affecting Fernando Henrique Cardoso and President-elect Lula in October and November 2002 was maddeningly complex, including problems with the United States, Venezuela, Colombia and others. Discussing them, *18 Dias* elegantly does away with countless myths that dominate the foreign policy debate in Brazil until today. Many readers will be surprised to learn that Brazil-US ties under Cardoso were far from smooth. Despite their excellent personal relationship, Cardoso and Clinton disagreed on countless issues, such as how to deal with the civil war in Colombia. Things did not improve when Clinton left office, and Cardoso remained skeptical of the United States' proposal to liberalise trade in the Western hemisphere. In the same way, Spektor shows that Lula and Dirceu, despite their anti-American rhetoric, were keen on establishing a strong relationship with President Bush, and that the incoming Partido dos Trabalhadores (Workers' Party) government had no interest in alienating the United States.

The book's most impressive achievement is its capacity to provide the reader with a surprisingly detailed idea of what it was like to be a leading foreign policy maker at the time. *18 Dias* contains behind-the-scenes information that reads like an insider's account, yet it does not suffer from the inevitable one-sidedness that dominates books written by former diplomats or presidents. It took the author a few years to interview all major players involved, including both Cardoso and Lula, as well as the leading US foreign policy makers such as Condoleezza Rice. Careful to offer a balanced account, Spektor writes that given the current polarisation in Brazilian politics he expects 'all sides to be equally frustrated by the book'. Yet, for those who care about gaining an unprecedented glimpse into a crucial episode of Brazilian diplomacy, the book will be anything but frustrating. Quite to the contrary, *18 Dias* is a must-read and certain to turn into a reference work for years to come -- there is no comparable book as yet of this crucial period in Brazilian foreign policy.

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RELIGION WITHOUT REDEMPTION: SOCIAL CONTRADICTIONS AND AWAKENED DREAMS IN LATIN AMERICA. BY LUIS MARTINEZ ANDRADE. 2015. PLUTO PRESS: XI–159.

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The purpose of this piece is not so much a review as an appreciation of a thought-provoking work on colonial conquest and the spurring of economic capitalism in Latin America. Andrade's work breaks with convention by not jumping on the usual bandwagon of relaying the dynamics of European colonialism and how the capitalist economic enterprise gained a foothold in Latin America, but rather, on how capitalism is also tied closely with religion. Roman Catholicism, Latin America's dominant religion, paved the path for colonial conquest to rear its head not only as an instrument of dominance and subjugation of the conquered, but as a tool that served the capitalist economic interests of Portugal and Spain.

In this work, the author offers a great deal of education, as he dispenses with commonly held assumptions about colonialism's seminal point, and to an extent what it was purposed to achieve. Hence, the author casts light into the political economy of Latin America on the eve of the 16th century until European colonial masters claimed control of the region. It is against this backdrop that the triad of colonial/modern/



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Christian is introduced in this book within the context of developments concerning the Atlantic trade route as the key theme that flows throughout the entire thesis.

This trinity, however, was despotic, unrelenting, and evil in nature as it laid the foundations for the stratification of society in which the European *homo economicus* amassed wealth at the expense of the indigenous society, which was subject to a bigoted economic structure. Herein, it becomes apparent that the grotesque nature of this trinity not only shook the foundations of the indigenous society, but it also sought to replace it irrevocably with a capitalist system that pledged allegiance to the settler community in Latin America, which in turn served as economic intermediaries of the colonial metropole in Europe. The relationship between the coloniality of power, modernity, and conversion of the 'unsaved' to Christianity is mutually symbiotic in nature. Moreover, this relationship was inextricably intertwined, so much so that the line dividing the three became opaque and inseparable. Simply put, the capitalist economic project could not exist without colonial domination, the expansion of the Christian faith, and the pursuit of modernity, and neither could it do without the former.

One of the biggest problems of decolonial studies is the dearth of the discourse challenging the popular narrative that it was Europe that discovered Latin America. In this work Andrade recounts the story behind colonial conquest of the Atlantic trade route by the European explorers by way of debunking the myth of Latin America's existence as a conquered society. On this point, Andrade comes out most strongly as a critical theorist by way of pitting the popular narrative on Latin America's existence against historical facts. Christopher Columbus's discovery of Latin America is therefore discounted as a mere fallacy here. Indeed Andrade argues, and provides evidence beyond refute, that China gained conversance and control of the Atlantic trade route long before the Europeans came to the knowledge of it. However, China's decision to abandon its maritime project in this region of the world led to a noticeable power vacuum in the market economy. Little wonder Europe saw the filling of this void as a once in a lifetime opportunity to wield control of one significant trade route.

However, the ultimate arrival of Portugal and Spain served as the starting point of an 'old world system' that did not flinch to configure the structural foundations of economies of the conquered/peripheral societies to remain perpetually subservient to those of the core in the metropole. This 'old world system' is the reason there is structural inequality as it drives a wedge between the *haves* and the *have-nots* by virtue of its intent to differentiate between various societies on the basis of 'race' and ostensibly class. Herein we discover that 'race' and class in Latin America share seismic overlaps as the divide between the settler community and the indigenous society continues unabated. What a shame it is that the very foundations of the 'old world system' continue to cast a long shadow on economic alignments in this part of the world, with the indigenous society placed at the bottom of the economic pile

while the European settler community retains old patterns of colonial opulence and comfort without much effort by the political powers that be to reverse this imbalanced system.

Herein, Andrade opines, albeit implicitly, that perhaps a different economic system would have emerged had the European colonial project not gained a foothold in the region. In this book, it is quite clear that Andrade attributes the cracks that have beset the global economic system to the very emergence of 'old world system' that was started initially by Spain and Portugal. The arrival of additional colonial players at the turn of the 19th century (with England, France and Germany in the front lines) was a watershed since it cemented the very foundations of capitalism laid by the aforementioned colonial players before them. These cracks are exposed by the persistence of gross inequality between rich nations in the northern hemisphere and poor ones in the South. That 20 per cent of the world population continues to own 90 per cent of the world's economic resources bears testament to the flaws of the 'old world system' precipitated by the colonial capitalist enterprise.

In this work, Andrade closes ranks with the Marxist school thought, especially structural Marxism. He is sceptical about the efficacy of the State serving as an agent of change by purporting that the State is more often than not in cahoots with the market in perpetuating structural inequality across virtually all societies in the global South. The Roman Catholic Church, the key agent that set colonialism and capitalism on a path towards the marginalisation of the powerless societies, should consider the opportunity to be a force of good, and not for evil. This will be a deliberate act on the part of the church to atone for the sins committed by those who came before them as well as doing right by the people who remain embroiled in the quest to shed the church's unpalatable legacy. It is opined in this case that the 'new' church is more inclined to act as an effective agent of change than the State since it can mobilise people across the class spectrum.

In this five-chapter volume, Andrade has produced a *magnum opus* of high scholarship indeed, one which challenges conventional wisdom on the very nature of colonialism in the part of the world where it was accorded its DNA, Latin America. This work is without doubt an excellent contribution to the field of decolonial studies as it is set to rekindle the debate around colonialism's legacy, and the lessons it casts in the quest to address structural inequality in the global South. The fields of developmental studies, economic history, and political economy will also benefit immensely from this work, providing a strong theoretical exposition for those wishing to explore the reinforcing relationship between colonialism, capitalism, and the expansion of the Christian faith. While the author zooms in on Latin America, there is no doubt that this work serves as a prompt for reflections on its legacy in other parts of the world.