



Country Update

The WTO Nairobi Package: What are Stakeholders' Takes?

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Introduction

The Tenth Ministerial Conference (MC10) was held in Nairobi, Kenya from 15-18 December 2015. This was the first time, since the establishment of the World Trade Organisation (WTO) in 1995 that a Ministerial conference is being held in Africa. It should be borne in mind that the Ministerial Conference is the topmost body of the WTO under the governance structure set up by the “Marrakesh Agreement Establishing the WTO”, and has the authority to take decisions on all matters under any of the Multilateral Trade Agreements.

Ironically, the MC10 was held in Africa at a time when there is a growing political division over the continuation of stalled Doha Development Agenda (DDA) negotiations, as well as the uncertainty over the negotiating function of the WTO. The slow progress of the Doha round has resulted to the multiplicity of mega regional trade agreements.

Main issues deliberated upon

Selected issues of the Doha Development agenda

Preparations for MC10 focused on a selected number of issues that are part of the Doha Development Agenda (DDA) In particular, concentrated on export competition in trade in agricultural products and a number of other important issues to least-developed countries (LDCs).

Accessions to the WTO

MC10 was also the occasion to formalise the accessions of two least-developed countries, namely Liberia and Afghanistan, to the WTO. This brought the total number of WTO members to 164.

Financial support to the poorest trading nations

The EU and some EU Member States also announced their pledges for the phase II of the Enhanced Integrated Framework (EIF), the multi-stakeholder partnership aimed at supporting LDCs to mainstream trade into their national development plans and implement priority trade projects. 15 countries pledged US\$90 million, which however is still far shorter than the estimated US\$274-320 million to run the programme in the next seven years

Summary of main outcomes

LDC Issues

Rules of Origin and LDCs' issues: A decision on preferential rules of origin for LDCs finally emerged after various consultations. The text outlines requirements for preference-granting countries in areas such as the determination of substantial transformation, cumulation, simplification of documentary requirements and implementation, flexibilities, and transparent.

LDCs Services Waiver: A decision was reached to extend the current waiver period under which non-LDC WTO members may grant preferential treatment to LDC services and service suppliers until 31 December 2030. The period has been extended for 15 years until 31 December 2030. The waiver also allows WTO members to deviate from their most-favoured nation obligation under the General Agreement on Trade in Services (GATS).

Agriculture

Removal of export subsidies: The Developed

Countries (DC) committed to abolish farm export subsidies with immediate effect, and allowed LDCs to do so by 2018. This was applauded by the WTO Director General, Roberto Azevedo, referring it to “the most significant outcome on agriculture”

Public Stockholding: The decision commits members to engage constructively in finding a permanent solution to this issue. Under the Bali Ministerial Decision of 2013, developing countries are allowed to continue food stockpile programmes, which are otherwise in risk of breaching the WTO's domestic subsidy cap, until a permanent solution is found by the 11th Ministerial Conference in 2017.

Special Safeguard Mechanism (SSM): It was generally agreed that developing members will have the right to temporarily increase tariffs in face of import surges by using an SSM, while negotiations on the mechanism continue in dedicated sessions of the Agriculture Committee.

Cotton

Market access: It was decided that cotton from LDCs to be given duty-free and quota-free access to the markets of developed countries — and to those of developing countries was declared that they are able to do so — from 1 January 2016.

Export Competition: decision mandates that developed countries prohibit cotton export subsidies immediately and developing countries to do so at a later date.

Stakeholder perspectives on the “Nairobi package”

Overall perception of the Tenth WTO Conference

There was a general feeling from several stakeholders that the Nairobi package didn't live up to its expectations, though there were indeed some gains that is beneficial to LDC group. With reference to grievance from the civil societies, there was a sense of increase in divergence of thoughts among/between the developed and developing countries on the future functionality of the WTO's multilateral trading system.

“The post-Nairobi work programme still remains weak and fragile, with very few 3 items of developmental concerns to Africa, and other LDCs. With the new 21st Century trade and development agenda currently shaping the world, it is high time to find conclusive ways and strategies of fusing the outstanding DDA issues, with new issues, as a sudden conclusion of the DDA has far reaching implications on agriculture, TRIPS, and other developmental concerns of WTO members”

Main gains/losses for Africa from the Nairobi package

In spite of a general discontent among stakeholders at large, there was still a sigh of relief on some gains that as a continent and LDCs, we stand to gain. The gains and losses are as follows:

Gains

The relaxation of the rules of origin of products will indeed be very beneficial to African LDCs.

Based on this decision; it implies that LDCs will enjoy duty-free access if only 25 percent value is added in their respective countries. This implies that, a product will qualify as “made in an LDC” even if manufacturers use imported materials up to 75 percent of the final value of the product.

The extension of the services waiver will allow African services and exporters to get preferences to access markets of developed economies and some developing economies, hence deviate from their Most-Favoured Nation obligation under the General Agreement on Trade in Services (GATS). However, LDC exporters will need to be competitive in a global market against the Worlds' leading service providers. They are ought to meet requirements such as educational qualifications and certifications, quality standards, and other regulatory conditions in their targeted markets.

Losses

The DDA losing its grounds against new emerging development issues due to the MC10 divided Ministerial declaration, as some developed nations start to call off continuation of negotiations on the agenda.

Potential benefits to Tanzania from the Decisions adopted by MC 10

At the moment, most of the Non-State Actors (which include CSOs and Private Sector) have not yet come out to demonstrate their perceptions or give their opinions on the WTO MC10 decisions. This is largely because the process is perceived to be a public sector assignment and most private sector players are not aware of what is happening. However, the

following is a feedback gathered from some individuals in the private and public sector as well as academia.

On export competition, the following comment was presented:

“If the implementation of the agreed text is done faithfully, there will be limited surge of competitive imports of goods in our domestic markets. The reason is, in the recent years, we have witnessed increase in export of subsidized goods especially from Asian economies like India, Thailand and Pakistan.”

With regards to the extension of the services waiver, there was a mixed feeling from the respondents. On the one hand, those in the Private sector at first expressed lack of awareness on such a decision but also felt it's a very good opportunity for them to exploit the developing economies' services market. On the other hand, concern was raised on the capacity as well as fear of stringent rules that may be imposed by developed countries once implementation begins:

“I was not aware if Tanzania had this opportunity due to the WTO meeting... although indeed is a good opportunity, I fear we don't have the right capacity to exploit this market. I am also sure, once this starts being implemented, the developing countries will erect new strict NTBs and other requirements that will make it very difficult for us to exploit.”

Feedback from those in the public sector was expression of joy that at least the period has been extended to allow the country enhance supply side performance, especially in trade in services, so as to equip the private sector with required skills and knowledge a bid to meet the international standards.

Recommendations to policy makers and Geneva Ambassadors

Whether the DDA should be continued in its current format or should it be given a new framework?

Be that as it may, with the difficult history of Doha and the bulging portfolio of issues for a possible future negotiating agenda, what would be realistic options of the way forward? One would argue that t Doha should be consigned to the dustbin of history and start again. While those who are keen to modernise the WTO's negotiating agenda might find this very attractive, there are at least three reasons why it may not be feasible.

First, there has been a huge investment in political credibility in completing Doha since its adoption in 2001. Secondly is the very certainty that even coming up with any “new” agenda will not avoid addressing “old” issues like agriculture that have proved to be the stumbling block in Doha. Thirdly is the difficulty that would arise in trying to define the new negotiating agenda itself – a difficulty which might not be insurmountable but which would undoubtedly take considerable time to overcome (Harbinson, 2009).

With this, it is highly recommended that the DDA to be continued but in a manner that will fuse the outstanding issues with the new issues such as Climate Change. However, the very essence of 'Development' as part of the agenda should not be neglected as this is what serves to protect the LDCs and developing countries.

Most important issues to focus in the WTO negotiations in 2016

With increasing multilateral trade agreements, it is apparent to say that a work plan on future

trade negotiations needs to be put in place. With the World agreeing on the Climate deal 'text' in COP21 Climate talks, it is conceivable that Trade related Climate Change issues be taken on board in the WTO negotiations so as to ensure a fair level playing field



CUTS International, Geneva

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The PACT EAC2 project is undertaken with funding support from the Swedish International Development Cooperation Agency (Sida).