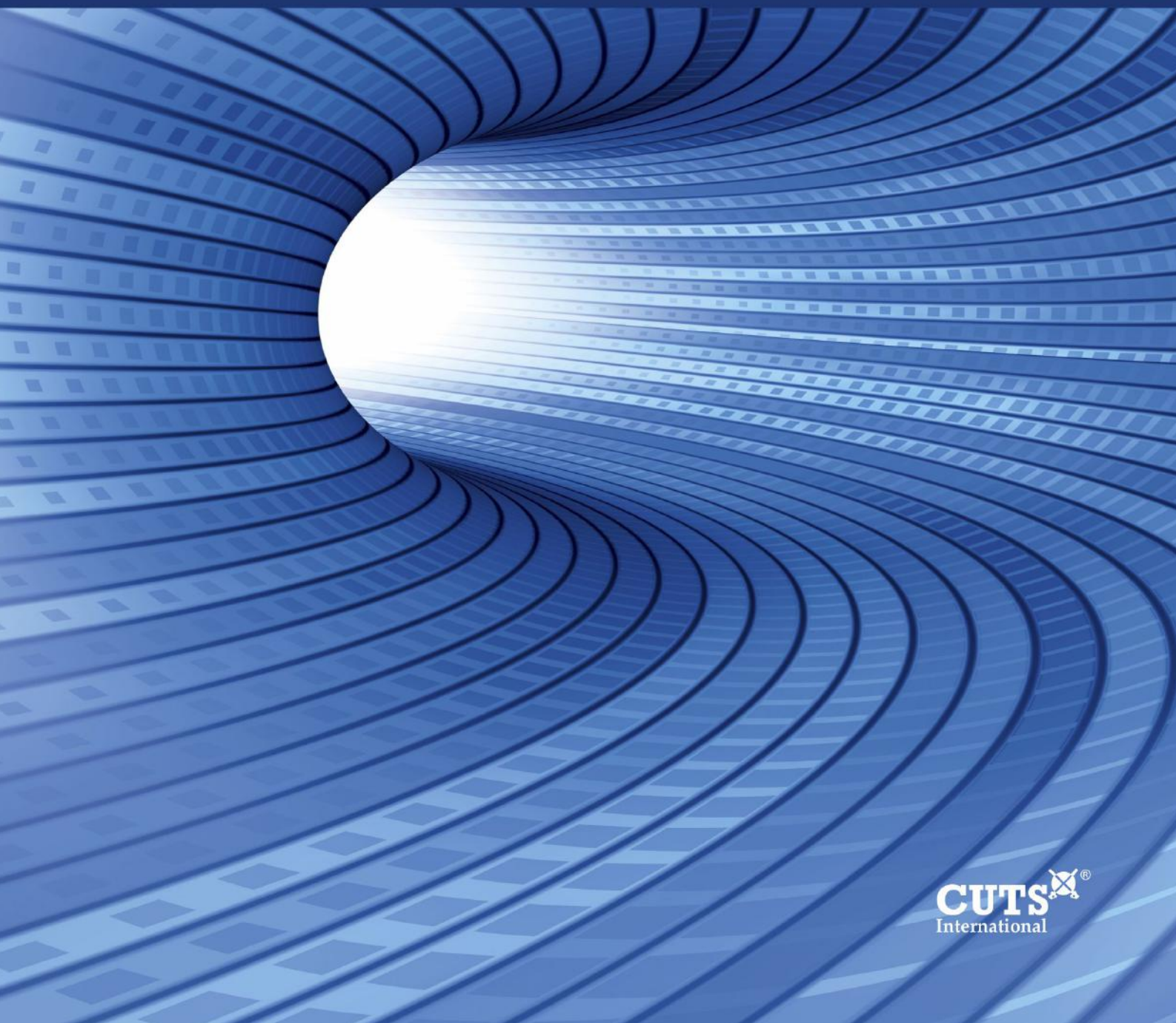


# Variable Geometry

Perspectives on the WTO

Ministerial Conference in Nairobi





Variable Geometry  
*Perspectives on the WTO Ministerial  
Conference in Nairobi*

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## Acknowledgements

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Following the much appreciated compendium on the World Trade Organisation (WTO) Cancun Ministerial titled “We’ve been here before” and Hong Kong Ministerial titled “Hanging by a Thread”, CUTS International is pleased to continue this series for the 10<sup>th</sup> WTO Ministerial Conference held in Nairobi, Kenya from 15-19 December 2015. This compendium brings together articles from leading newspaper and media sources published before, during, and after the Nairobi Ministerial that represent a variety of viewpoints, analysis, and geographies.

We have included the Nairobi Ministerial Declaration as well as the six decisions making up the ‘Nairobi Package’. Additionally, a comparative table has been created highlighting changes between the original draft declaration, three revisions, and the final adopted declaration to allow readers to understand the evolution of negotiations that trade ministers undertook in Nairobi.

Special thanks must be given to our colleagues: Kyle Robert Cote and Smriti Bahety, who reviewed and compiled the articles out of the abundant commentary, print and online, from around the globe analysing the WTO Nairobi Ministerial, bringing this compendium to fruition.

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- AllAfrica
- The Manila Times
- Indian Express
- The Kathmandu Post
- International Centre for Trade and Sustainable Development
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- Forbes
- Eurasia Review
- First Post (India)



## *Preface*

### *Happiness and unhappiness were evenly distributed in Nairobi*

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With the success of Bali Ministerial Conference in 2013 and the excitement of having the first WTO Ministerial Conference in an African country, there was much to be expected of trade ministers in Nairobi in December, 2015. The fact that multilaterally agreed trade decisions came soon after the adoption of the Sustainable Development Goals agenda in New York and a Climate Change deal in Paris augurs well for the global community. They underline the virtues of arriving at negotiated deals, howsoever imperfect they may appear.

Indeed, in Nairobi it was seen that trade multilateralism can constructively bring nations of diverse characters and interests together to debate important issues. While concluding the Ministerial, Kenya's Foreign Affairs and Trade Minister Amina Mohamed underlined that for the first time there was a convergence of interests of the developed and developing world. However, as one trade minister observed, "Happiness and unhappiness were evenly distributed in Nairobi."

Such convergence did not strike as potently in the Declaration's reaffirmation of continuing the Doha Development Round as it was admitted that some members wish to continue the Round while others, potentially through a new 'architecture', wish to work on new issues. In an international organisation founded on consensus, this kind of 'variable geometry' is a cause of concern for many, especially in developing and least developed countries.

Nevertheless, significant decisions were made to the benefit of developed and developing as well as least developed countries. Other than decisions on electronic commerce, implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and a work programme for the advancement of small economies, three major decisions were taken on agriculture. On the contentious issue of a permanent solution on public stockholding of food grains for food security purposes, it was agreed that negotiations should be concluded swiftly. This means developing countries, including through the G-33 group, can push for such a permanent solution even if there is no progress in other areas in the WTO.

Overall, the Nairobi Ministerial witnessed the continuation of the battle on various fronts of the international trading system. Importantly, it came to be about some emerging countries pushing against those who wish to concentrate on new issues and wanted them to commit to the Doha Round trade liberalisation agenda, particularly those areas that are so vital for the poorest and most vulnerable of our global community. Given the compromise language in the Nairobi Ministerial Declaration, it will be interesting to see how negotiations will intensify or not in Geneva.

This collection of articles and analysis, in a sense, reflects on these contemporary as well as long standing debates surrounding the WTO, Doha Round, and the international trading system as a whole. While work continues in Geneva, it is critical to reflect and understand where we came from and what challenges lie ahead of us. This compendium attempts to provide such a reflective source.

**Pradeep S Mehta**  
Secretary General, CUTS International



Part I  
Pre-Nairobi

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## 1

## *In the Lead up to Nairobi, is there Hope for Global Trade Governance?*

*Anabel Gonzalez\**

*The Trade Post (World Bank), July 12, 2015*

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The World Bank Group has often argued that delivering outcomes in WTO negotiations around the core issues of the Doha Round is critically important for developing countries. Let's take one example: with three-quarters of the world's extreme poor living in rural areas, fulfilling the Doha Round mandate on agriculture could make a real contribution to the Bank Group's goal of ending extreme poverty by 2030.

But recent news reports on global trade talks suggest that WTO Members are finding it hard to develop a shared vision on key issues and are unlikely to deliver significant progress at the upcoming WTO Ministerial Conference in Nairobi from December 15-18. Efforts are being made to produce outcomes on important issues like export competition in agriculture but large gaps remain before the Ministerial Conference.

This continued impasse on the Doha Round is indeed a significant missed opportunity, but should this be cause for despair about the future of global trade governance? We don't think so. There have been developments in the global trade agenda that are worthy of our attention, which should provide some hope in the lead-up to the Nairobi conference that with political will, it is possible to move forward. Here are five of these developments:

**Trade Facilitation Agreement:** The legal entry-into-force of the Trade Facilitation Agreement is coming closer, with 53 Members having ratified. Efforts by the Bank Group and other partners to support implementation are in good shape as

illustrated by a recent event at the WTO which showcased the progress made so far on assistance for implementation. To date, the Bank Group alone has worked with 40 countries to help prepare for implementation, and projects are underway in 27 of these to help them meet the standards set by the TFA.

**Information Technology Agreement (ITA):** After a breakthrough in July this year, WTO Members will hopefully formalise agreement in Nairobi to further liberalise tariffs on information technology-related goods by expanding the ITA. As a 'critical mass' plurilateral agreement, the new tariff reductions, covering US\$1.3tn in trade, would apply to all WTO Members, not just those taking part in the negotiations. Other than giving a much-needed boost to global trade, the expanded ITA could bring significant development gains by reducing the cost of e-commerce and improving access to technology that can profoundly change the development prospects of the world's poor.

**Environmental Goods:** Negotiations on lowering the cost of trade in environmental goods have also been moving ahead, with Members likely to mark this progress and prepare for the next phase at the Nairobi conference. Even a modest outcome would provide potentially important development benefits, supporting the growing South-South trade in environmental technology. It's also significant that, like the ITA expansion negotiations, both the US and China are

participating – a critical relationship for improving the future of global trade governance.

**Accessions:** The recent conclusion of WTO accession negotiations by Afghanistan and Liberia – countries facing immense development challenges – is good news for their economic prospects. As colleagues Mona Haddad, Claire Hollweg, and Alberto Portugal showed in a contribution to a recent publication on WTO accessions, joining the WTO has significant positive impacts on trade performance and FDI, while also providing an impetus for wider structural reforms. The accession of these countries is also important for the multilateral system, bringing it closer to universal membership. Along with other partners, the Bank Group is working with both governments on post-accession assistance to help both countries take advantage of the opportunities created by WTO membership.

**LDC Services Waiver:** Significant progress is being made to help Least Developed Countries (LDCs) make the most out of the LDC services waiver agreed at the 8th WTO Ministerial in 2011. Nineteen WTO Members have followed through on announcements made in February this year that they would give preferential treatment to service suppliers from LDCs. The formal commitments they have made cut across most sectors and modes of service supply, and have come from a wide range of developed and

developing economies. Ministers are expected to decide on the next steps at Nairobi. The World Bank Group is preparing new analysis for LDCs on how to maximise the gains of the waiver, and we hope this will be only the first step toward a wider effort for upgrading LDC services capacity so they can take advantage of market opportunities.

Of course, not all these negotiations and processes are over - each one continues to need strong political will and hard work to bring them to conclusion. The same political will and hard work will be needed to decide on a strategic vision for the future of the WTO and the Doha Round, amid a more complex world of trade governance where the WTO co-exists with the Trans Pacific Partnership, other ‘mega-regional’ agreements, and the wide range of existing regional integration mechanisms.

The five developments above signal that progress can be made despite what the headlines read. They also underline the stake that all countries continue to have in the global trade agenda – from small, least-developed countries like Liberia and Afghanistan to the major economies at the centre of the ITA expansion and environmental goods negotiations. It’s worth keeping this in mind in the lead-up to – and after – the Nairobi Ministerial Conference, as WTO Members look for new ways in the years ahead to strengthen the multilateral system and its relevance to the global economy.

\* *Senior Director, World Bank Group Global Trade and Competitiveness*



## 2

## *Destruction of US Credibility at WTO*

*Timothy A. Wise\* and Biraj Patnaik\*\**  
*LiveMint, September 08, 2015*

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The tenth ministerial conference of the World Trade Organisation (WTO) is already mired in discord, with negotiators unable to agree on a mandated post-Bali work programme.

At issue are US and European Union (EU) proposals to scrap the texts agreed to thus far in this interminable round of trade negotiations. Yet again, the developed world led by the US and the EU are pitched against developing countries led by India, China and Indonesia, who have over the past two years tried unsuccessfully to move towards the promise – made at the ninth ministerial conference in Bali in 2013 – of a permanent solution to the public stock-holding issue in food security, while advancing the stalled Doha development round.

The irony that a country such as India, which witnessed more than a quarter of a million farm suicides between 1996 and 2014, has to fight to retain its farm subsidies, which are a fraction of what the US and the EU provide their farmers, is not lost on most observers. Nor is US intransigence in refusing to consider a proposal from the group of 33 countries (G-33) to resolve the stockholding issue simply by bringing the WTO agreement into line with 21st century prices.

The 2014 US farm bill is one of the main reasons the US government is walking away from the post-Bali agriculture negotiations. Studies show that the US is likely to exceed the subsidy limits agreed in Doha negotiations in 2008, and it will probably exceed even current WTO limits.

### **US Congress thumbs its nose at WTO**

The 2014 farm bill, which takes effect this crop year and will be in effect for five years, is decidedly more trade-distorting than its predecessor. It eliminates direct payments to producers, which were considered less trade-distorting than price or production-based programmes. It replaces them with production and price-based programmes that offer producers of supported commodities a choice between payments to compensate for low prices (price loss coverage or PLC) or payments to compensate for revenues lower than the recent five-year revenue average (agricultural risk coverage or ARC). On top of that, producers get subsidised crop insurance from the federal government, and special or different programmes support dairy, cotton and other crops.

How do these programmes work? Producers opt in to one of the programmes for each crop for the five-year terms of the farm bill. The price-based coverage is much like the US's previous countercyclical payments (CCP), setting a price trigger and compensating producers when prices fall below that level, up to a fairly high limit. Wheat producers, for example, would be covered for prices below the PLC price of US\$202 per tonne.

The revenue-based programme, ARC, pays producers if their crop revenues fall below historic averages for their area based on yields and prices. The programme uses the previous five years as the baseline, years in which prices and yields have

been unusually high. That makes producers eligible for an almost absurdly high level of support, levels that will, however, evaporate if there is a long run of low prices. In the early years of this farm bill, though, ARC coverage is high, particularly for corn and soybean, with effective support prices of US\$179 per tonne and US\$388 per tonne compared with PLC support prices in 2014 of US\$146 per tonne and US\$309 per tonne. Not surprisingly, most corn and soybean farmers opted for ARC over PLC.

Why does the 2014 farm bill limit the US government's negotiating room in the WTO? According to projections from researchers at the University of Missouri, farm supports are likely to remain at or above current levels, leaving the US little room to agree to proposed cuts. Projected outlays for 2014 crops are around US\$12bn.

More important, virtually none of the US support under these new programmes would fall in the Green Box, exempted from limits based on the assumption that they are minimally trade distorting. Both programmes are, indeed, tied to specific crops, prices, or levels of production, so they will be disciplined as Amber Box support subject to reductions under the current WTO agreement.

Under the proposed Doha agreement, based on the texts agreed in 2008, the new programmes will likely fall in the Blue Box, which will be subject to new caps. The US limit will be US\$4.7bn. They will also contribute to the new limits on overall trade distorting support (OTDS), which for the US will be US\$14.5bn. And with the so-called *de minimis* exemption reduced from 5 to 2.5 per cent of the value of each crop, more of that trade-distorting support will count against the US limits.

The University of Missouri researchers ran a series of 500 simulations for the next 10 years comparing the results to the proposed Doha limits as if the agreement were in effect as of 2014. They found that in 34 per cent of those simulations, the US exceeds its reduced Amber Box allowance in at least one year. Worse, nearly 99 per cent of the simulations showed Blue Box caps being surpassed in at least one year. OTDS limits were nearly 100 per cent likely to be breached in at least one year, with a 40 per cent probability that they would be exceeded in any given year.

In other words, if the US agrees to the 2008 Doha text on agriculture, it is virtually assured to be in violation of its commitments because of the 2014 farm bill.

## US loses credibility in Doha negotiations

US intransigence in following through on the commitment in Bali to negotiate a permanent outcome on India's programme of administered prices and stockholding for food security looks all the more hypocritical in light of the 2014 farm bill. University of California professor Colin A. Carter wrote in a 2014 commentary, "The provisions of the 2014 Farm Bill... may well have cost the United States any credibility in future agricultural trade negotiations in the Doha round."

The US government was already hypocritical in calling out India for a programme that uses all the same policy measures the US used in its earlier history. It was hypocrisy as well to call for close disciplines on payments to some of the poorest farmers in the world in order to feed some of the hungriest people in the world when US farmers are far better off and recipients of US government food assistance get four times the amount of food. And it was further hypocrisy to call India's programme highly trade-distorting when very little of the procured food finds its way into export markets while, by contrast, the US exports a significant portion of nearly every supported crop.

But the 2014 farm bill adds a new layer of hypocrisy to US claims. Consider that the new legislation increases support prices by one-third or more. And consider what that means for US maize. The support price under the PLC programme is up 41 per cent and at US\$146 per tonne is now higher than the current market price for maize by US\$2 per tonne. That would trigger payments if applied to 2014 prices and production. But most maize farmers opted for revenue insurance, which has a 2014 supported price of US\$179 a tonne, a US\$35 per tonne subsidy. Projections suggest that payments to maize farmers for the 2014-15 crop year will be more than US\$6bn.

Now, imagine if payments to US maize farmers were subject to the same archaic WTO discipline the US is insisting on for India, calculating the supposed subsidy not on the basis of current market prices but compared with the stipulated 1986-88 reference price, with no adjustment for inflation. That already high US subsidy, when compared to the reference price of US\$92 per tonne, would appear to be US\$87 a tonne and a ridiculous US\$32bn, just for the US maize crop.

Of course, the US subsidy is not that large. Neither is India's for rice or wheat. But the US hypocritically holds India to that archaic calculation of its subsidies while not having to do the same for its far larger and more trade-distorting farm supports.

### **Will the Doha Round survive Nairobi?**

The Barack Obama administration is relentlessly pursuing two large trade agreements—the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). These allow for far greater trade liberalisation in market access and investment rules than what the Doha round offers while excluding US agricultural subsidies from the discussion. The US is simultaneously pushing the WTO to move beyond the Doha round to the so-called Singapore issues of government procurement, trade and competition and trade and investment.

The Narendra Modi government successfully called the bluff of the developed world after Bali by threatening not to ratify the trade facilitation agreement unless the “constructive ambiguity” of the peace clause, which left India and other developing countries vulnerable to being dragged to the dispute settlement mechanism at the WTO, was clarified. India rightly recognises the temporary gains from the Bali agreement and is

clear-eyed that the DDA can only be concluded by addressing all issues of the 2008 Doha Framework. Since Bali, India has gained strong allies, with backing from China and Indonesia. Brazil, too, is insisting on respect for the 2008 negotiated texts.

Despite the unity of the developing world, the road to Nairobi remains uphill. Kenya, which is projecting the Nairobi ministerial conference as the first African one, wants to make it successful, and that could mean settling on a less ambitious outcome. Even though many African countries are united behind the G-33 proposal, it is possible that the US and EU may (again) drive a wedge, like they did by pushing a minimalist package for least developed countries (LDC) at Bali, unless India and China step up the diplomatic effort. The India-Africa summit in New Delhi in October may offer India another chance at making a decisive push to get African countries to close ranks at Nairobi.

In the meantime, India must not succumb to US pressure to reduce domestic support to farmers or replace the public distribution system with cash transfers in order to be WTO-compliant. India's national food security law promotes security not only by providing subsidised food to the poor but by supporting poor farmers with stable and profitable prices, just as the US did in its early farm programmes when it had a large and poor farm population.

The developed world certainly dominates the global market for hypocrisy, and the US Farm Bill, passed by a Congress unconcerned with the rest of the world, is a case in point. Hopefully, the developing world can hold firm to join India in defending public stockholding programs for food security and in reviving the promise of development embodied in the Doha development round.

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\*\* *Principal Adviser to Commissioners of the Supreme Court in the Right to Food case*

## 3

*Time to Eliminate Harmful Fisheries Subsidies*

*Oby Ezekwesili,\* Jose Maria Figueres\*\* and Pascal Lamy\*\*\*  
The Japan Times, October 05, 2015*

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The just-adopted Sustainable Development Goals (SDGs) are expected to herald the start of a new era in global development, one that promises to transform the world in the name of people, the planet, prosperity, peace and partnership.

But there is an ocean of difference between promising and doing. And, while global declarations are important – they prioritise financing and channel political will – many of today’s pledges have been made before.

In fact, whether the SDGs succeed will depend to a significant degree on how they influence other international negotiations, particularly the most complex and contentious ones. And an early test concerns a goal for which the Global Ocean Commission actively campaigned: to “conserve and sustainably use the oceans, seas and marine resources for sustainable development.”

When political leaders meet at the 10th WTO Ministerial Conference in Nairobi in December, they will have an opportunity to move toward meeting one of that goal’s most important targets: prohibition of subsidies that contribute to overfishing and illegal, unreported and unregulated fishing by no later than 2020.

This is not a new ambition; it has been on the WTO’s agenda for many years and it has been included in other international sustainable development declarations. But, even today, countries spend US\$30bn a year on fisheries subsidies, 60 per cent of which directly encourages unsustainable, destructive or even illegal practices. The resulting market distortion is a major factor behind the chronic mismanagement of the world’s fisheries, which

the World Bank calculates to have cost the global economy US\$83bn in 2012.

In addition to concerns about finances and sustainability, the issue raises urgent questions about equity and justice. Rich economies (in particular Japan, the US, France and Spain), along with China and South Korea, account for 70 per cent of global fisheries subsidies. These transfers leave thousands of fishing-dependent communities struggling to compete with subsidised rivals and threaten the food security of millions of people as industrial fleets from distant lands deplete their oceanic stocks.

West Africa, where fishing can be a matter of life and death, is being particularly hard hit. Since the 1990s, when foreign vessels, primarily from the EU and China, began to fish on an industrial scale off its shores, it has become impossible for many local fishers to make a living or feed their families.

From 1994 to 2005, Senegal’s catch fell from 95,000 to 45,000 tonnes, according to government estimates, and the country lost half of its fleet of traditional wooden pirogues. As the fish stocks collapsed in 2005, 5,000 people decided to put their redundant fishing boats to a different use, by fleeing to the Spanish Canary Islands. A year later, more than 30,000 others made the same perilous journey an estimated 6,000 drowned. Senegalese and Mauritanian fishermen and their families are also among the thousands of people risking their lives to get to Europe today.

On the high seas, the distortion is even larger. According to fisheries economists, subsidies by some of the world’s richest countries are the only

reason large-scale industrial fishing in areas beyond coastal countries' 200-mile exclusive economic zones is profitable. But fish do not respect international boundaries, and it is estimated that 42 per cent of the commercial fish being caught travel between countries' exclusive zones and the high seas. As a result, industrial fishing far from shore undermines developing countries' coastal, mostly artisanal, fisheries.

Eliminating harmful fisheries subsidies by 2020 is not only crucial for conserving the ocean; it will also affect our ability to meet other goals, such as our promises to end hunger and achieve food security and to reduce inequality within and among countries.

The credibility of both the WTO and the newly adopted SDGs will be on the line in Nairobi. The Global Ocean Commission has put forward a clear three step program to eliminate harmful fishing subsidies. All that is needed is for governments finally to agree to put an end to the injustice and waste that they cause.

Fortunately, there are encouraging signs. Nearly 60 per cent of the WTO's membership supports controlling fisheries subsidies, with support from the African, Caribbean and Pacific Group of developing countries – together with the EU's contribution to improve transparency and reporting – giving new momentum to the effort.

Among the initiatives being put forward in advance of the Nairobi meeting is the "NZ +5 proposal." Co-sponsored by New Zealand, Argentina, Iceland, Norway, Peru and Uruguay, the plan would eliminate fisheries subsidies that affect overfished stocks and contribute to illegal, unreported and unregulated fishing.

The Global Ocean Commission urges the remaining 40 per cent of the WTO's members – and especially the biggest players currently blocking this process – to accept the relatively modest proposals on the table. A sustainable future for our planet and its oceans depend on it.

\* *Former Nigerian Education Minister and Cofounder of the anti-corruption organisation Transparency International, is a Global Ocean Commissioner*

\*\* *Former President of Costa Rica and co-chair of the Global Ocean Commission*

\*\*\* *Former Director-General of the WTO and a Global Ocean Commissioner*

## 4

*The Long Arms of Trade**Shalini Bhutani\***India Together, November 04, 2015*

**G**lobal trade has real impacts on the lives, livelihoods and liberties of people and all else on Earth. Yet, only a handful of people engage in the making of trade rules, leaving the space open for trade negotiators, foreign diplomats and big businesses to set the terms.

The rules for global trade are currently made under the WTO and its agreements. The WTO succeeds the General Agreement on Tariffs and Trade (GATT 1948-1994), which was meant to bring peace and prosperity to the world post the Second World War.

We have seen two decades of the WTO (1995-2015). The Organisation celebrated twenty years at a Public Forum in early October held at its Secretariat in Geneva on the theme “Trade Works”.

The question that squarely needs to be asked now is “For whom is trade really working?”

### **Development agenda**

The need to launch the WTO’s Doha Development Round (DDR) of trade talks in 2001 arose from the fact that trade rules were not working for the developing world.

Even though the task of correcting imbalances in the DDR itself remains, the DDR must neither be abandoned, nor its developmental goals diluted by any new expanded agenda for trade.

The US & EU have instead asked India and China to ‘recalibrate’ the Doha mandate, which could open the gates to issues that have been kept at bay thus far since 1996. Four issues had been introduced in the WTO agenda by the developed countries at the First Ministerial Conference held in Singapore in December 1996, namely trade and

investment, trade and competition policy, transparency in government procurement, and trade facilitation.

If the WTO is to stay relevant to the world, and not simply for trade, then it has to factor in the needs of those countries with either a medium or low human development index.

Moreover, the multilateralism that WTO purports to offer has to be an effective counterbalance to the several plurilateral negotiations and bilateral treaties that are being negotiated outside the WTO.

The new generation mega free trade agreements (FTAs) and bilateral investment treaties (BITs) go much beyond what the current WTO rules require and give much less policy space to developing countries. Both within the WTO and in the universe of trade treaties emerging outside it, sector-specific concerns must be addressed, for there is a lot at stake.

### **Trade affects jobs**

Trade rules in the manufacturing sector have a direct impact on jobs, incomes and labour rights. WTO negotiations to increase market access for industrial goods take place under the Non-agricultural Market Access (NAMA), where the base text is the Revised Draft Modalities Text (Rev.3) of 2008.

The industrial goods covered include fuels and mining products, fish and fish products, as well as forestry products. India is part of the NAMA-11 group of countries who would face job cuts by tariff reductions. For countries like India, market access issues under NAMA negotiations must be addressed from a holistic point of view

and not with a mere focus on tariff liberalisation.

India has reminded WTO members of the mandate in paragraph 16 of the Doha Declaration, which stresses that the negotiations must take into account the special needs and interests of developing and least-developed country participants, including concessions for less than full reciprocity in reduction of tariffs commitments.

Meanwhile trade unionists have been voicing their concerns on NAMA texts.

### **Trade affects services**

Services are the backbone of our societies and economies. Services liberalisation impacts ordinary people's access to essential services such as education, water and energy.

The General Agreement on Trade in Services (GATS) is one of the most far-reaching agreements of the WTO. Yet, given the lack of momentum in this area at the multilateral level, due largely to the dominant point of view of the developed countries, services liberalisation is being pushed autonomously and through FTAs/BITs.

This includes the US-led TPP, the EU-India Bilateral Trade & Investment Agreement (BTIA) and the 16-nation Regional Comprehensive Economic Partnership (RCEP) in Asia and Oceania.

It is therefore critical that any further commitment on services at the WTO or at a bilateral-level be subject to a broad democratic scrutiny. There must be an immediate withdrawal of the 'offer' made by the Government of India (GoI) to the GATS Council in sectors such as higher education and public health.

### **Trade affects farming**

WTO agreements in agriculture (AoA) and on intellectual property (TRIPs) have a direct bearing on seed sovereignty, farmers' freedoms and the right to food. Agriculture is a critical livelihood for over 65 per cent of Indian citizens, who are already in a highly vulnerable situation, as a result of various policy decisions taken since India signed onto the WTO in 1995.

Under the AoA, negotiations are restricted to tariff reductions, while the developed countries

refuse to reduce their trade-distorting farm subsidies. Moreover, India needs to remain persistent in its quest for the 'permanent solution' on food security. There is a need to keep up the pressure on the domestic government to agree to the demands raised by farmers' movements: Income Guarantee Act, increase in Minimum Support Prices and re-introduction of subsidies and incentives that promote agro-ecological food farming production.

### **Trade affects seeds, medicines**

The GoI must also insist on a genuine review of the WTO TRIPs Agreement and avoid going beyond it in its FTAs/BITs. To safeguard against 'biopiracy' in the South, the amendment of the TRIPs text proposed along with African and other countries must not fall off the agenda.

### **Trade affects the environment**

Any expansion in the volume of global trade and a free run to domestic and foreign investors to access raw materials will come at a cost to the planet and only exacerbate the problem of the climate crisis. This will have serious implications for environmental protection, ecosystems conservation and local peoples' control over natural resources.

Outside the WTO, environmental goods have themselves become the subject matter of free trade. Trade negotiations (launched in 2014) on an Environmental Goods Agreement (EGA) are ongoing between 17 WTO members, including China, Japan, USA & EU.

Till the EGA addresses non-tariff barriers and other issues, it will stay unattractive to developing countries, which might not have easy access to green technologies.

### **Trade rulemaking affects democracy**

WTO has emerged as a forum for global economic governance. This denationalises decision making and limits domestic policy space for national governments.

Within India, trade policy-making itself continues to be opaque, especially in case of FTAs and BITs. For the first time this year a new model of BIT text been made public for comments.

But generally the negotiating texts (as with the Regional Comprehensive Economic Partnership) are secret, consultations with affected groups are limited to the big industry bodies, and there are no publicly available impact assessment studies especially from a human rights or development perspective.

There is neither parliamentary monitoring, nor consultation with state governments. People must urge that the government open up the process to form credible positions before it engages in talks over either the WTO or the FTA/BITs. The rule-making processes on trade are not accessible to many. Those most affected must not be sacrificed at the altar of trade.

### **Will Nairobi work?**

The Tenth Ministerial Conference (MC10) of the WTO is to be held in Nairobi, Kenya through

15-18 December 2015 in the backdrop of a deepening global macro-economic and developmental crisis. The agenda of the MC10 must recognise the actual and potential adverse impacts of trade.

The work ahead at this multilateral trade forum must be oriented towards making a positive contribution to the real developmental needs of disadvantaged populations and local communities, irrespective of where they are in the globe.

India and the 160 other governments that are members of the WTO must do an honest assessment of the two decades of the body, and collectively determine its future course. We need to be aware that trade rules are at work in all aspects of our lives and they do not treat all on equal terms.

\* *Legal Researcher and Policy Analyst based in Delhi*



## 5

# *EU, Brazil Seek WTO Deal to Ban Agricultural Export Subsidies*

*Tom Miles\**  
*Reuters, November 17, 2015*

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The EU, Brazil and four other countries are proposing the WTO agree an end to agricultural export subsidies at a meeting next month, a diplomat familiar with the plan said on Tuesday.

The December ministerial meeting in Nairobi is at risk of having little to offer in terms of major trade agreements, and the proposal's backers, which also include Argentina, Uruguay, Paraguay and New Zealand, hope the WTO's 161 members will see it as a chance to chalk up a negotiating victory.

That in turn might help the stuttering momentum of global trade talks, which has prompted the US and other countries to press ahead with regional deals such as the Trans-Pacific Partnership.

The proposal was circulated to WTO members and will be presented by Brazil and the EU at a WTO meeting on Wednesday, the diplomat said.

"It's a historic move for this organisation because 30 years ago we decided to ban export subsidies for industrial products, and 30 years later we are going to do the same for agriculture."

The proposal revives a previous plan that was rejected at the end of 2008, while aiming to overcome US objections which were the main stumbling block at the time, the diplomat said.

But other potential opponents could be India, which uses export subsidies for sugar, and

Switzerland, which gives subsidies under its chocolate law. Others may feel it doesn't go far enough.

The proposal would ban subsidies within 11 years and introduce new rules and transparency requirements for state trading enterprises, non-emergency food aid, and export credits, guarantees and insurance.

The 11 year transition period comprises 3 years for developed countries, an additional 3 years for developing countries, and a further 5 years for subsidies related to transport and marketing of crops. The 2008 draft had an initial 5 year period for developed countries, making 13 years in total.

"Had (the 2008 proposal) gone through, the developed countries would already have banned export subsidies," the diplomat said.

Export credit repayment periods would be limited to 6 months, as in the 2008 version, but conditionally extended to 9 months.

The US had objected to changes to export credit rules because of the need to change US law, but the new proposal exploits the terms of a 2014 out-of-court settlement in a dispute between the US and Brazil over cotton.

"They could multilateralise that ... you don't need to change the law. That was precisely why we thought this was a fairly astute way in which you could get a compromise," the diplomat said.

\* Chief Correspondent, Reuters Geneva Bureau

## 6

*WTO Doha Round Issues: Time to Pull the Plug**Pradeep S Mehta\***Financial Express, November 21, 2015*

With the ensuing Nairobi Ministerial of the WTO, the Director General of the WTO, Roberto Azevêdo, said at a recent meeting of trade ministers from the African, Caribbean and Pacific Group of States in Brussels, that while there remains agreement that the Doha Round core issues such as agriculture, market access and services remain on the negotiating agenda, there is a clear divergence among members on how these negotiations should take place – whether under the present Doha framework or whether under some new architecture.

While developing countries such as India, Brazil and South Africa wish to keep the Doha Round open given that many of their developmental concerns have not yet been addressed, developed countries such as the US no longer see a future for the round in its current state. Although they agree on the importance of achieving the developmental mandate; their major sticking point is that the landscape of the global trading system has changed significantly since the round was launched. This is in particular reference to the rise of dominant emerging country players namely, India and China, and as such, they are of the opinion that much of what had been previously agreed needs to be reworked.

**Pull the Plug:** A cursory perusal of the history of trade negotiations reveals that missed deadlines are not a new phenomenon in the multilateral trading system. However, even by GATT standards, the Doha Round of negotiations have drawn on for longer than normal. While developing countries may be opposed to closing

the Doha Round in the light of the issues that still remain unaddressed, in the long term, choosing to remain dogged about keeping the Doha Round alive could do more damage than good to the multilateral trading system, and ultimately to the chances of fostering a strong development component within the global trading system.

With each unsuccessful ministerial conference, the growing sense of collective disillusionment with the WTO is beginning to permeate the trade policy landscape and one of the most often-discussed effects of this has been the proliferation of regional trade agreements. The recently agreed TPP agreement is one such example. As such, unless decisive action is taken, the WTO's negotiating arm faces the risk of being reduced to a functionless vestigial organ – a state which developing countries just cannot afford.

The negotiating arm of the multilateral trading system holds much more importance for developing countries given that outside the WTO they do not have the clout to negotiate on a level playing field with larger developed countries. There have even been instances in the past where smaller developing countries have turned and accepted FTAs with onerous provisions on agriculture and intellectual property rights that they had previously rejected at the WTO.

Furthermore, as the relevancy and the authority of the WTO as a negotiating body are increasingly undermined, this perspective could begin to jeopardise the other arms of the WTO. A glance at commentaries and op-eds on the WTO clearly indicate that the state of

negotiations is already beginning to influence the public opinion of the WTO as an institution as a whole. And while they may not be completely accurate given the WTO's other primary responsibilities, namely, dispute settlement, monitoring and evaluation, and capacity-building, these are being affected by its weakening credibility as a forum of trade negotiation.

**Long Term Perspectives:** The only practical solution to this problem may come through a compromise from both sides. For the sake of maintaining the legitimacy and credibility of the WTO, developing countries may have to consider forsaking their short-term ambitions to keep the Doha Round running for the sake of making progress in the long term.

However, relenting to the closure of the Doha Round would not mean conceding defeat. Perhaps it's time to end negotiation rounds completely and instead of a round of negotiations, implement a built-in agenda at the WTO consisting of existing issues of the Doha Round

and new issues. This built-in agenda would have to include the progress that has been made in the Doha Round including decisions taken at various ministerial conferences since Singapore.

Instead of putting a deadline to conclude everything at one time, members should consider a series of deadlines that are balanced with both developing and developed country group needs. More importantly, such needs are to be articulated in the built-in agenda in a manner that they become everybody's needs. That requires substantial technical assistance and capacity building.

Pragmatically speaking, opening up the negotiations to include new elements that developing countries have been opposed to, may be the only way to get developed countries to the negotiating table. While developing countries have expressed their opposition to bringing back the Singapore issues, perhaps it's worth reconsidering this stance in order to give them the much-needed bargaining power to begin to make substantive progress on development.

\* *Secretary General, CUTS International*

## 7

*We must have a Trade Deal**Cecilia Malmstrom\***Politico, November 27, 2015*

When it comes to global summits on major challenges, 2015's meetings in New York on the UN Sustainable Development Goals and in Paris on climate change have so far taken the limelight. But December's 10th Ministerial Conference of the WTO in Nairobi deserves equal attention. It will mark the WTO's 20th anniversary and will be the first such conference to take place in Africa. But it also deserves attention because it has important problems to solve. Not everything is going as it should in the WTO, and that's a problem for a global economy dependent on trade.

The WTO's main tasks are negotiating the opening of new markets and setting the rules of world trade. With no end in sight for the Doha Round, it currently is not doing very much of either.

Since the WTO's creation in 1995, it has been a valuable international arena for dispute settlement, for containing protectionism and ensuring coherence of global trade rules. But in terms of concrete agreements, its only major achievement is the 2013 Trade Facilitation Agreement concluded in Bali. It's a vital step forward, but not enough to show for 20 years of work.

To make matters worse, the Trade Facilitation Agreement did not create the momentum we hoped it would, and too many WTO members have since then remained stuck in their old positions with no willingness to compromise. Even the important role of the WTO as an arena for settling disputes will be at risk if its rule-book is not adapted to today's realities. Thus, in Nairobi we need to free the machinery of the

WTO from the constraints that have been holding it back.

That means WTO members need to approach the ministerial meeting in Nairobi with a new mind-set. We should not focus on old discussions about whether the Doha Round is alive or dead. This is a false dichotomy.

To move ahead, the Ministerial Conference does need to take decisions on parts of the Doha Round. The EU pushed hard for a comprehensive Doha deal to be concluded at Nairobi, but it has unfortunately become clear that WTO members will not be able to accomplish this. We therefore need to chart a more productive path forward.

After Nairobi, the WTO will have to continue its work on unresolved issues. That includes issues, such as trade-distorting domestic support in agriculture, that need a multilateral solution. This would respond to the key request of developing countries, who rightly want to see historical distortions on world agriculture markets tackled. Issues like this can be solved if we can respect fundamental principles of the WTO, like flexibilities for developing countries when they are needed, and bring a fresh approach.

But we must also begin to move beyond the Doha Round. At Nairobi we should agree to begin conversations, and at some point negotiations, on issues that are not covered by the Doha mandate but pose real challenges for today's global trade. We must also look at more flexible ways to negotiate in the WTO. These would be major steps forward for the system.

The reality is that trading partners continue to develop responses to global trading challenges, and this will not stop. But today this only happens

in an expanding web of bilateral and regional trade agreements. More of this work needs to be brought back under the helm of the WTO.

Taking that step, however, depends on WTO Members also producing results in Nairobi itself. If we cannot deliver real economic value and address development challenges, countries will increasingly conduct their trade negotiations elsewhere.

But there are areas where a result is within reach. And the most important of these is the subsidising of agricultural exports.

This is an important long standing issue for development that needs a coherent, balanced and multilateral solution. And the EU has shown that we are prepared to lead efforts to find it. That's why we, together with the government of Brazil, have decided to table a formal proposal for a solution.

The EU and Brazil has recently tabled a proposal for discussion at the WTO to phase out all forms of export subsidising, directly or indirectly, of agricultural exports. This is vitally important in order to restrict unfair competition and distortions in the domestic markets of vulnerable developing countries, as well as on the global market.

Our proposal is comprehensive. It makes no sense to target just one type of measure while allowing other trade distorting practices to continue unabated. Hence, we not only address agricultural export subsidies, but also export credits and other similar measures.

There are good chances for success, that remain before December's meeting in Nairobi. We came close to a deal in 2008 and all but a few

WTO Members agree that compromise is the right basis for negotiations. Our proposal updates it to today's realities, and makes an honest attempt at finding a compromise that takes into account the concerns of our partners.

Moreover, the fact that Brazil and the EU — frequently on opposing sides in the WTO — are working together is a strong sign that broad consensus can be found. It also shows that the EU is prepared to make a strong contribution to a Nairobi deal. This would not have been possible without the EU's major agricultural reforms of the last decade. The potential is there for a significant contribution to an ambitious development-friendly package.

But the EU believes the Nairobi meeting can also do more to benefit the poorest and most vulnerable countries. We could ensure duty-free and quota-free access to our markets for products from the world's poorest countries. We could also streamline the complex rules of origin that often make it difficult for countries to take advantage of access like that. A Nairobi package could also include new measures to eliminate distortions in the trade of cotton. Finally, we could agree on ways to improve access for services exporters in the poorest countries to markets around the world.

There is limited time left to reach agreement. But an outcome that addresses some real problems like these and helps put a re-energised WTO back at the centre of the international trading system is still possible. The EU is committed to doing what it takes. We call on all WTO members to do the same.

\* *European Trade Commissioner*

## 8

## *India for Protection of Poor Farmers' Interests at Nairobi WTO Meet*

*Arun S\**

*The Hindu, November 29, 2015*

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India, at the forthcoming Nairobi meeting of the WTO, will put “all its energies” on pushing through a plan meant to protect the interests and livelihood of poor and vulnerable farmers, government officials who didn’t want to be identified told *The Hindu*.

Roberto Azevedo, WTO Director General, recently said that the negotiations to firm up rules to liberalise global trade are currently “stuck” due to member countries finding it “difficult to reconcile their views” on a host of issues.

The Indian position echoed the one recently proposed by the G-33 on an effective Special Safeguard Mechanism (SSM). The G33 is a coalition of 48 nations including India, Indonesia and China, which took up the issue of developing countries getting considerable flexibility in limiting market opening of agriculture sector.

The SSM is a trade remedy that would allow developing countries to temporarily hike import duties on farm products to counter sudden import surges and price falls, thereby, protecting the interests of poor farmers. The same issue had led to the breakdown of a WTO ministerial meeting in July 2008.

It has been generally agreed that the developing countries could have an SSM, but developed countries including the US have opposed a proposal to enable developing countries to raise tariffs (using SSM) over and above the duty commitments made by them (developing countries) in the farm sector during the earlier Uruguay Round of WTO global trade

negotiations. The Uruguay Round took place before the current Doha Round talks that began in 2001. The new SSM proposal was to include provisions to empower developing countries to impose additional duties (temporarily) on agriculture products when their imports breach specified ceilings on price or volume

India wants this SSM proposal to be taken up on a “high priority-basis” during the WTO ministerial meeting at Nairobi (Kenya) slated to start on December 15, official sources said “There will not be any compromise on this (SSM) issue as it involves protection of poor farmers, which is of course a politically sensitive matter. It has to be given priority at the Kenya meet,” an official said.

However, the developed world, including the US, EU, Australia, along with leading agriculture producer and exporter Brazil, has expressed their disagreement with the proposal. The negotiations are over the extent to which different categories of (developing) countries will be allowed to hike duties (using the SSM) beyond their ‘bound tariff’ — or the duty ceiling as per their WTO commitments.

Official sources said the developing countries including India had, during recent discussions at the WTO, wanted an “effective” SSM for “addressing volatilities and instabilities causing import surges and price depressions.” The developing nations added that if these import surges and price depressions were “not immediately and effectively addressed as they

occur, (they would) undermine poverty reduction efforts, livelihood and food security, and rural development in WTO Members.”

The volatility in global prices of agricultural items, the developing countries claim, is caused by many factors, including huge subsidies given to the farm sector in developed countries. Developing countries members, including India, said that therefore, an effective SSM was “very

important” for them. The developed countries instead want discussions on SSM to be linked to the issue of greater market access in farm products, the sources said. Another item that India wants to be taken up on priority at the Nairobi meeting is that of arriving at a permanent solution to the issue of public food stockholding in developing countries for the purpose of food security.

\* *Special Correspondent, The Hindu Business Line*

## 9

## *We are at the End of the Line on the Doha Round of Trade Talks*

*Michael Froman\**

*Financial Times, December 13, 2015*

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Trade ministers will gather to engage once again in the Doha Round of talks which, for all the initial hopes it represented, simply has not delivered. If global trade is to drive development and prosperity as strongly this century as it did in the previous, we need to write a new chapter for the WTO that reflects today's economic realities. It is time for the world to free itself of the strictures of Doha.

While these talks have drifted, other efforts have raced ahead. Leading a group of 12 nations, the US recently concluded the Trans-Pacific Partnership, which raises standards and tackles emerging issues across nearly 40 per cent of the global economy. Meanwhile, the US and the EU are moving forward with the world's largest bilateral agreement. Trade initiatives outside the WTO have become the norm, with hundreds of agreements signed by scores of countries since Doha was launched.

Experience, however, suggests that the WTO can deliver with pragmatic approaches. Ratification of the Trade Facilitation Agreement, which would benefit developing countries even more than rich ones by streamlining the flow of goods across borders, is within reach. An expansion of the Information Technology Agreement promises to eliminate hundreds of tariffs on US\$1tn of technology products, from MRI machines to semiconductors. Also encouraging is progress on an agreement that would liberalise trade in environmental goods.

So, two-way deals are working. Regional pacts are working. Groups of countries have struck sectoral deals. Only multilateralism — the

attempt to reach a comprehensive global deal — is stuck. Getting it unstuck begins with acknowledging that Doha was designed in a different era, for a different era, and much has changed since.

When Doha was launched in 2001, the focus was on US and EU agricultural subsidies, which have since been cut. Now, some emerging markets are the biggest providers of agricultural subsidies but would be exempt under Doha from cuts. If you are a poor farmer facing a global market distortion, it does not matter where the subsidies causing it came from. Artificial distinctions between developed and emerging economies make no economic sense.

Today, Doha negotiations remain deadlocked. After 14 years, including the past two years of intensified engagement, there is no light at the end of the tunnel. Cecilia Malmström, EU trade commissioner, and many others have been clear about the need to chart a more productive path.

That route forward is a new form of pragmatic multilateralism. Moving beyond Doha does not mean leaving its unfinished business behind. Rather, it means bringing new approaches to the table. Doha issues are too important to leave to the Doha architecture that has failed for so long.

Freeing ourselves from the strictures of Doha would also allow us to explore emerging trade issues. Many developing countries have encouraged new discussions on issues like ecommerce and the needs of small businesses.

One way or the other, WTO ministerial conference in Nairobi will mark the end of an era. The US is still working to secure a package



of measured but meaningful results, but what cannot be achieved in Nairobi will not be achieved by trying again with the same failed approach. Pretending otherwise would intensify the search for solutions outside the WTO, raising questions about its relevance in trade negotiations.

With global growth slowing and uneven and many traditional economic tools constrained, trade policy has an outsize role to play in spurring inclusive growth. Multilateralism still promises the greatest economic gains in theory. To realise those gains in practice, we need the courage to look, think, and act beyond Doha.

\* *US Trade Representative*

## 10

## *The United States tries to Euthanise the Doha Round*

*Daniel W Drezner\**

*The Washington Post, December 14, 2015*

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One of the truisms of the postwar multilateral trade negotiations is that each “round” of trade talks has been longer than the previous one. The Uruguay round, which led to the creation of the WTO, lasted eight years. The current Doha round began in November 2001. The last serious effort to complete the round collapsed in the summer of 2008; the negotiations are now on year 14 with no end in sight.

The Doha round became something of a punching bag for those who like to slag on global governance. I wrote a book about post-2008 global governance called “The System Worked,” and even I had some fun at the Doha round’s expense.

I bring this all up because US Trade Representative Mike Froman dropped a bomb in Monday’s Financial Times, just before the next WTO Ministerial meeting in Nairobi. Froman’s op-ed contains a rather serious proposal with respect to Doha: kill it. Kill it with fire:

Trade ministers from around the world will gather to engage once again in the Doha Round of talks which, for all initial hopes it represented, simply has not delivered. If global trade is to drive development and prosperity as strongly this century as it did in the last, we need to write a new chapter for the WTO that reflects today’s economic realities. It is time for the world to free itself of the strictures of Doha....

So, two-way deals are working. Regional pacts are working. Groups of countries have struck sectoral deals. Only multilateralism – the attempt to reach a comprehensive global deal – is stuck.

Getting it unstuck begins with acknowledging that Doha was designed in a different era, for a different era, and much has changed since.

To be clear, Froman is not calling for the shelving of the WTO (indeed, one of the biggest misperceptions of the WTO is that it’s just about the trade rounds) but rather, a different way of negotiating within the WTO. In plain language, Froman wants an approach that does not require consensus on everything before anything can be accomplished.

Shawn Donnan reports in the FT that the global reactions to Froman’s announcement will be somewhat variegated:

Countries such as Brazil, China and India and many of the WTO’s African members insist the [Doha] round needs to continue, because the Doha Development Agenda (DDA), as it is formally known, includes issues of vital importance to poorer countries, such as efforts to rein in agricultural subsidies in rich economies like the US and EU....

In the lead up to gathering, other big advanced economies such the EU and Japan have sided with the US in its push for a new approach to negotiations after the Nairobi meeting and a shift to more focused discussions on specific sectors rather than a monolithic global agreement.

Although those advanced economies and other supporters such as Australia and New Zealand, represent a majority of the global economy and world trade, they remain a minority in the 160-member WTO, in which decisions are made by consensus.

So we can learn a few things from this announcement and its reaction.

The first is that the US really likes the Bretton Woods institutions... until the transaction costs of negotiating within them get too high. Which is just a wee bit hypocritical. After all, the US has frowned on China setting up financial institutions outside the IMF's purview. This op-ed is the US's way of saying that Washington is perfectly fine pursuing this approach on the trade front, because it can't get what it wants through the multilateral trade round.

The second thing is that the developed economies' support for the U.S. position suggests that key players in the developing world have overplayed their hand. Five or 10 years ago, there is no way the US makes this announcement without catching all kinds of hell. At year 14,

however, it seems that everyone is tired of trying to negotiate trade deals with India recalcitrant WTO members. To be clear, there should be a bargain that can be completed. The fact that it's come to this is a partial indictment of the developed economies for not giving more on agricultural subsidies — but it's also an indictment of developing country trade negotiators showing little recognition of what is politically feasible.

The third thing is that the USTR is taking a big risk here. The US logic is that with the TPP and the TTIP in the works, the US can just walk away from Doha. Except that there's no guarantee that Congress will ratify the TPP, and no guarantee that the T-TIP negotiations will even be completed anytime soon. Or, to put it in tweet form:

\* *Professor of International Politics at the Fletcher School of Law and Diplomacy at Tufts University and a Regular Contributor to PostEverything*

## 11

## *Deep Divisions Overshadow WTO Talks in Nairobi*

*Deutsche Welle (Germany's international broadcaster)  
December 15, 2015*

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A rift between industrialised and emerging economies on how to liberalise global trade is set to dominate a WTO meeting in Nairobi, with some urging the WTO to abandon talks and start fresh.

Starting in Nairobi on Friday, the four-day ministerial meeting is intended to unblock the Doha round of talks on free trade and development that was started in 2001.

But on the eve of the conference in Kenya's capital, US Trade Representative Michael Froman warned that the talks aimed at lowering global barriers to trade had little prospect of success.

"It is time for the world to free itself from the strictures of Doha," he wrote in an opinion piece published in the British *business daily* Financial Times.

The Nairobi meeting comes two years after ministers from WTO member countries reached a landmark deal in Bali on overhauling global customs procedures – the first multilateral agreement concluded by the WTO since its inception in 1995.

But there are few signs that countries will be able to build on the momentum gained in Bali to carve out even a limited deal in Kenya.

### **Elusive global deal**

Negotiators will mainly focus on a deal regarding agriculture export competition and trade development in the world's poorest nations.

But EU Trade Commissioner Cecilia Malmstrom warned the European parliament

that "prospects for even this more limited package are very uncertain, even gloomy."

"Developments in Geneva, have dramatically deteriorated in recent days, all but confirming that we are facing a very difficult Ministerial Conference in Nairobi," she said.

The 162 countries which make up the WTO set trade rules among themselves in an attempt to ensure a level playing field and spur growth by opening markets and removing trade barriers, including subsidies, excessive taxes and regulations. But lacking progress has led countries to increasingly pursue bilateral or multilateral trade deals, casting a dark cloud over the relevance of the WTO.

According to Malmstrom, the conference was "vital" for the future of the WTO, and failure to reach agreement could prove "very dangerous for the whole multilateral system."

### **Rich-poor divide**

The trade talks that began in Doha have been riven by a rift between rich and poor WTO member states. They never recovered from a collapse in negotiations in Geneva in 2008, which was caused by a dispute over a provision that allows developing countries to erect protective import tariffs on farm goods.

However, many of the world's poorest nations, notably from Africa, continue to insist on special safeguards to protect their agricultural sectors.

Liberian President Ellen Johnson Sirleaf, for example, told the news agency Reuters in an

interview ahead of the meeting that many of the developing countries, including Liberia, believed “it is time to support agriculture.”

Sirleaf also said African countries must continue to push for reducing subsidies by wealthy countries for cotton production and other areas of farming. Such support made it impossible for developing nations to compete, she said, adding: “We hope - I’m not sure that I can say with confidence it will happen - that the reduction in subsidies for farmers in developed countries will take place.”

### **Developed or developing?**

But observers say it would be politically impossible for most Western countries to make those concessions, which are hugely popular in the nations that have them.

In Nairobi, there’s also bound to be a controversy over which countries actually qualify for concessions under a WTO list of developing countries. Some WTO members are calling for a revision of the list, questioning special treatment for countries such as China and Brazil.

US Trade Representative Michael Froman lamented that some emerging markets have today become the biggest providers of agricultural subsidies, but are still allowed to circumvent the rules.

“If you are a poor farmer facing a global market distortion it does not matter where the subsidies causing it came from. Artificial distinctions between developed and emerging economies make no economic sense,” Froman wrote.

## 12

## *Why Fish Need the World Trade Organisation to Survive*

*Amina Mohamed\**

*Huffington Post, December 12, 2015*

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As the WTO 1<sup>th</sup> Ministerial Conference to be held in Nairobi approaches, it is as well to think about some of the issues in play, especially those of particular importance to Africa.

One such issue, perhaps not commonly perceived as relevant to the WTO, is the increasingly parlous state of the global fish economy. Fish are the most traded food commodity in the world, registering transactions worth over US\$130bn every year.

They are a vital source of income. More than 800 million people - or over 10 per cent of the world's population - derive a livelihood from the sector.

Looked at through a developmental lens, the fish economy also plays an important role as a source of nutrition. Fish are sometimes referred to as "rich food for poor people" - a testament to their high protein and micronutrient content.

In natural resource economics, commodities like fish are rather colourfully referred to as fugitive. Fugitive resources are those that nobody can quite claim as their own. Even if nations can exert enforceable rights over their territorial waters, they cannot herd fugitive fish.

This results in indistinct property rights and leads to distorted incentives that are playing havoc with the sustainability of fish resources.

Two core problems have emerged. The first is that governments who can afford to do so lavish subsidies on their fisheries sectors. This leads to overcapacity and overfishing. Experts estimate that some 60 per cent of existing stocks are

overexploited. That means they risk depletion and eventual extinction.

The second problem has come to be referred to as illegal, unreported and unregulated (IUU) fishing. This blight hits poor countries that lack effective means to protect their seas (in some cases fresh waters) and the livelihoods that depend on them.

Fishing of the IUU variety is corrosive on multiple levels - social, economic, environmental and political. It has been estimated to account for up to a third of catches globally.

Both excessive subsidisation and IUU represent threats to sustainability and fishing economies as never before. This is where counter-action by the WTO should come in. Fishing subsidies, including to IUU activities, are an integral element of the Doha Round multilateral trade negotiations launched in 2001.

Those negotiations have been pushed by WTO members with significant actual or potential fishing economies. A proposal for consideration at Nairobi has been tabled by the African, Caribbean and Pacific (ACP) states and Peru. The authorship of the proposal speaks to clearly perceived national interests.

It calls for a prohibition of subsidies conferred on fishing vessels engaged in IUU fishing or the extraction of fish whose stocks are suffering from overfishing. The prohibition would be accompanied by important transparency obligations to ensure enforceability.

Opposition to these proposals typically emanates from countries that have built up large fishing fleets that wander far and wide, sometimes legally and sometimes not. There is an irony to this opposition, born of the short-termism driven so often by an obsession with electoral cycles.

In reality, the big fishing nations will take hits both as producers and consumers if they are allowed to run fish stocks down below recovery levels, as they likely will on the present trajectory. And everyone else will also take hits, especially the poorer nations with less capacity to defend their interests and to adjust as the fishing economy shrinks.

The WTO is pivotal in preventing such a calamity, along with the United Nations Food and Agriculture Organisation and the Regional Fishing Commissions. The fugitive character of the threatened resource and the nature of the policy instrument – subsidisation – make it very difficult to address the problem regionally or preferentially. The challenge is global in nature and places the WTO at the centre of the action.

The WTO could also be instrumental in improving aspects of trade administration to control IUU fishing. Measures such as proper trade documentation, certification, traceability and adequate trans-shipment regulations are crucial to shedding light upon and controlling the fishing shadow economy.

If the WTO rises to the occasion, development opportunities take on a new lease of life. These would require infrastructure investment, including the establishment of cold chains. Some 30 per cent of the global catch is lost to post-harvest disposal. In addition, fishing communities would need to learn more about sustainable approaches to resource management.

Mahatma Gandhi said, “There’s enough on this planet for everyone’s needs but not for everyone’s greed”.

Let us hope that the WTO meeting in Nairobi can lead the way in building durable solutions to an impending man-made catastrophe.

\* *Cabinet Secretary for Foreign Affairs and International Trade, Republic of Kenya*

## 13

## *WTO Nairobi Meeting: A Turning Point for World Trade*

*Jean Kimani\**

*The East African, December 15, 2015*

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The hosting of 10<sup>th</sup> WTO Ministerial Conference in Africa, could not have come at a better time. Expectations are high that this meeting will provide fresh impetus to international trade and presents a unique opportunity for Nairobi to be remembered in the annals of multilateral trade negotiations.

The Ministerial Conference, the top decision making organ of WTO, will be held in Nairobi on December 15-18 with over 6,000 delegates expected to descend on the Kenyan capital for the three-day event.

Although the decisions are made by consensus at the WTO ministerial conference, Kenya and indeed Africa are confident of a positive outcome not only for country but for continent and developing countries indeed.

It is hoped the outcomes will be those that raise the standards of living of all members through reduction or elimination of trade obstacles, tariffs and non-tariff barriers. Indeed this has been the commitment of the Government of Kenya when it offered to host the ministerial conference.

It was in Morocco in December 1994 when the Agreement for establishment of WTO was signed. At exactly 20 years since its inception, therefore, it is only a good idea to host the meeting in sub-Saharan Africa where it was born.

Its success will determine the future role of WTO as the forum that sets the rules of international trade in goods, services and intellectual property while lifting trade barriers and ensuring transparency in international trade.

### **Expanded Trade**

The Nairobi MC10 could well be the turning point to revive the DOHA round and complete the negotiations, and also moving forward the post-Bali work programme.

More than anything else a major outcome from Nairobi is that of expanded trade. Recent history has proved that since the East African Community Customs Management Act (2005) came into force, trade between the five EAC member states has grown by over 50 per cent.

Moving further outward the Common Market for Eastern and South Africa (COMESA) is today Kenya's largest export destination accounting for over 28 per cent of total export by value.

Recent development of the establishment of the Tripartite Free Trade Area (CFTA) bringing together COMESA, EAC and Southern African Development Community (SADC), will have a total of population over 600 million people. Closely following is the EU which accounts for over 25 per cent of Kenya's export by value and volume.

With rising incomes in this region, we are on the threshold of increased purchasing power and greater market for our products. The WTO talks offer the global community an opportunity to increase more open trade that is the true avenue for fighting poverty.

The Nairobi meeting will be chaired by Kenya's Cabinet Secretary Ambassador Amina Mohamed. An accomplished diplomat and negotiator, Mohamed was the first African to



chair the Council of the International Organisation for Migration.

In 2005- 2006 she became the first African to chair the WTO General Council a role which she was described as running the Council “with steel fist and a velvet glove”.

These skills will be well used in managing through these delicate negotiations. She will be ably assisted by vice chairpersons from Costa Rica, Italy and Philippines.

\* *Kenyan High Commissioner to Botswana*



Part II  
Nairobi



## 14

# Opening Remarks at WTO MC10

*HE Uhuru Kenyatta\**  
*December 15, 2015*

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Ladies and Gentlemen,

I know many of you have travelled from afar to attend this important Conference. This is a clear demonstration of the importance you attach to this event.

A very warm welcome to all the Heads of State and Government, as well as Heads and Representatives of multilateral and Civil Society Organizations who have joined us for this auspicious occasion. As we say in this part of the world, KARIBUNI SANA.

For those of you visiting Kenya for the first time, take a few days after the Conference and enjoy Kenya's beauty and hospitality.

Let me also take this opportunity to commend Mr. Roberto Azevedo, the Director General of the WTO and his able team, for their vital role in the consultations that preceded this conference.

Excellencies,

Ladies and Gentlemen,

This is the 20<sup>th</sup> year of the WTO. We are pleased that you chose to celebrate this Anniversary in Africa, and in Kenya.

As we look forward to the next twenty years of our collective effort to build prosperity, we should get encouragement from the achievements of the WTO. Africa, and indeed the whole world, eagerly awaits the completion of a framework for a new order of sustainable development.

That ambition, which once seemed distant, is now within reach given the singular achievements as a multilateral community we have seen this year.

In July 2015, in Addis Abba, Ethiopia, we had a successful Third International Conference for Financing for Development, arising from the Monterrey Consensus. It was followed by the

adoption of the 2030 Agenda on Sustainable Development Goals in September, in New York, by the world leaders. Subsequently at COP 21, in Paris, France, we reached a historic agreement to combat climate change.

Indeed, year 2015 is a year in which we have displayed unparalleled cooperation in agreeing on a number of collective approaches to some of the most pressing problems facing humanity.

The spirit that has allowed us to come together and achieve measures that many thought impossible should be present at 10<sup>th</sup> WTO Ministerial Conference. The hope for millions of people in increased prosperity on the basis of trade and exchange, is in your hands.

The outcome of this meeting will positively touch on many other pressing challenges such as insecurity, instability and inequality. It is, therefore, my earnest encouragement to all negotiating teams represented here today to seize this moment. Reach for mutually beneficial compromise, and allow yourself no result except success.

Distinguished Delegates,

There is no doubt that the WTO has made major contributions to the growth and stability of the global economy.

It has helped boost international trade, resolved disputes among Members, and supported Developing Countries, in particular the Least Developed Countries, to integrate into the multilateral trading system. The growing Membership of the organization is a strong endorsement of its continuing relevance.

As we celebrate the 20<sup>th</sup> Anniversary, we need to reflect on and address the challenges encountered.

This will be critical in ensuring that WTO effectively plays its role of promoting global trade that is supportive of sustainable and shared development across the world by increasing the number of developing countries able to fully reach their potential.

We must remember that globally, the consequences of lack of adequate economic opportunities are a leading driver of the social and political instability, which helps drive extremism and violence.

The deliberations of this Conference, therefore, are important in unlocking the economic potential of many countries, with positive benefits for all of us. It will win millions of supporters for the global order at a time when it is under increased pressure than it has been for decades.

Excellencies,

Ladies and Gentlemen,

We note that this Conference is taking place at a time when world trade has slowed, and the world economy is experiencing weak growth.

This context suggests that the WTO has an important role in contributing to the recovery of global economy by taking measures that promotes growth of trade.

In this respect, the WTO should continue to assist countries in undertaking domestic structural reforms aimed at modernization, diversification and improvement of business environments.

Distinguished Delegates,

Holding this Ministerial Conference in Africa is a good opportunity to highlight the growth potential of Africa and, indeed, of the Least Developed Countries.

As the continent with the lowest participation in global trade, and the world's youngest and fastest growing populations, the world will change for the better from an Africa that trades more goods and services with more markets.

Africans are showing that they are ready to be part of the global economic transformation toward inclusion and sustainability.

Today, Africa is one of the fastest growing regions. In 2014, six of the world's ten fastest growing economies were African.

Africa is now a arising and emerging continent, with an abundance of opportunities, optimism and dynamism.

In volume terms, Africa's exports of goods grew by 500 per cent, between 1995 and 2013, while inward Foreign Direct Investment (FDI) grew from US\$9bn in 2000 to 57.2bn in 2013, an over 600 per cent increase. In addition, investments in Africa record higher rates of return than in any other region.

Yet, the Continent is still faced with serious challenges of poverty. African leaders are determined to tackle them, but to succeed we need the goodwill and the support of the rest of the world. A global trade system that allows us to seize opportunities is a fundamental part of our drive to solve challenges such as poverty, insecurity, and environmental destruction.

In addition, the global trade system will enable sustained and inclusive economic growth that allows us the means to deliver solutions at the scale they are so urgently required.

For our part as Africans, even as we seek a deeper more beneficial role in the global economy, boosting regional integration is a priority. We know that increasing trade between ourselves will boost our economic growth, and create jobs for our youth.

The building blocks for this integration are the regional economic groupings such as the East African Community. These blocks will eventually give way to larger groupings such as the African Continental Free Trade Area.

This process is complementary to our engagement with the WTO which supports domestic economic and trade reforms, development of multilateral trade rules, greater market access and investment, regulatory cooperation, and good governance.

Excellencies,

Ladies and Gentlemen,

The slow progress in concluding the Doha Round has given impetus to a multiplicity of mega free trade agreements.

This does not augur well for an open and transparent, all inclusive, and rule based Multilateral Trading System.

The WTO Ministerial Conference in Bali, Indonesia, in December, 2013 was the first under the Doha Round that succeeded in concluding negotiations in a limited number of areas including the Trade Facilitation Agreement.

The Agreement is a positive contribution that removes unnecessary barriers and harmonizes related standards.

We need to build on it, and agree on tangible outcomes here in Nairobi in order to give credibility to the WTO as a rule based organisation.

You will find Africa ready to do all we can to ensure the success of this Tenth Ministerial Conference.

Our countries firmly believe in the multilateral trading system's ability to deliver meaningful outcomes for our growth, development and poverty reduction strategies.

We, therefore, must deliver for all, and especially for Africa and the Least Developed Countries.

Excellencies,

Ladies and Gentlemen,

The agriculture negotiations in the Doha Round are the ones from which developing countries can derive most gains. Agriculture is particularly important for Africa considering that majority of the population depends on it for food, livelihood, and employment.

However, distortions in this sector have continued to prevent it from realising its full potential. Africa's farmers simply cannot compete against heavily subsidised farmers in developed countries.

In this connection, the Doha Round of negotiations in agriculture provides us with the best opportunity to address the distortions and align global trade with our development goals. I urge all of you to accelerate toward a positive end to our long journey of establishing a fair and market oriented trade in agriculture.

Excellencies,

Ladies and Gentlemen,

Finally, let me take this opportunity to thank all the negotiators in Geneva, who have worked hard to get us to this stage. I have been informed that, while divergent positions still persist on several fronts, great effort is being made to reach agreement. I urge you all to exercise flexibility in the spirit of compromise.

I am confident that you will rise to the occasion and demonstrate that this organisation can deliver successful outcomes for the global economy and sustainable development. We owe the world and our young people that much.

I thank you all.

\* *President of Kenya*

## 15

## *Hopes of a Global Trade Deal remain low as WTO Meets in Nairobi*

*Larry Elliott\**

*The Guardian, December 15, 2015*

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Trade ministers have their work cut out to solve the 14-year impasse between the developed and the developing world in the Doha round of talks

Fourteen years of tortuous global trade talks will end in failure unless there is a sudden and unexpected end to the impasse between developed and developing countries that has bedevilled negotiations.

Hopes are low of a breakthrough at the WTO Ministerial meeting that begins in Nairobi on Tuesday, with the US openly calling for time to be called on the Doha round of talks that began in the Qatari capital in November 2001.

Michael Froman, the US trade representative, has said the attempt to secure a comprehensive global deal was stuck. "Getting it unstuck begins with acknowledging that Doha was designed in a different era, for a different era, and much has changed since," he wrote in an opinion piece published in the Financial Times.

"It is time for the world to free itself from the strictures of Doha."

There has been little or no progress in the Doha round since 2008, when developed and developing countries found themselves at odds over whether poor countries should be allowed to increase tariffs to support their farmers if food imports rose sharply.

The US believes that since the last trade round was concluded more than 20 years ago a group of developing countries – including China and India – have made such rapid progress that they

should no longer be given the preferential treatment reserved for poor nations.

WTO Director-General Roberto Azevedo has said one of the pivotal questions facing member nations when they gather in Nairobi is whether or not to carry on negotiating under the current system.

Despite a clear indication from the US and Europe that they want talks to start again from scratch and to include new issues, such as rules for investment, Azevedo appealed for one last push from trade ministers on the Doha round.

He admitted that there was currently no deal on offer in Nairobi but added "We do still have the chance of delivering some significant elements in the extremely limited time available.

"So I would urge you to seize this last opportunity to show the flexibility and political will that we need."

When launched in 2001, the Doha round was the most ambitious set of negotiations since the modern multilateral trading system was set up after the second world war. It included agriculture, manufacturing, services and trade rules, and the assumption was that rich western countries would open up their markets to agricultural goods in return for better access for their manufactured goods and service sector companies.

But slow progress in the early years of the talks stalled with the onset of the global recession in 2008. The collapse of the Doha round is likely to prompt the US and the EU to pursue bilateral trade agreements such as the TTIP.

\* *Economics Editor*



## 16

*Africa: The Nairobi Ministerial – Time to Pull the Plug on the Doha Development Round?*

*Azwimphele Langalanga and Cyril Prinsloo\**  
*All Africa, December 17, 2015*

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The WTO is holding its 10<sup>th</sup> Ministerial Conference in Nairobi, Kenya. While a deal promoting the interests of developed countries, known as the DDA, has been in the making for nearly 15 years, negotiations have been deadlocked.

The irreconcilable differences in positions of WTO members mean that any significant progress to concluding the Doha Round of negotiations is unlikely. After months of deliberations in Geneva, WTO Director-General Roberto Azevêdo noted in a statement that ‘we currently...have no deliverables for Nairobi - either on the potential outcomes that we identified, or on the Ministerial Declaration.’<sup>1</sup>

This despondency comes at a time when the WTO should be celebrating its 20th anniversary, as well as the first time the organisation’s highest decision making body will meet in Africa. Considering that the DDA would have mostly benefited African countries, maybe it is indeed natural to pull the plug on the round on African soil.

The WTO was created to establish a framework to lower international trade barriers by establishing a rules-based system for its 162 members. The Doha Development negotiation round was launched in the Qatari capital almost fifteen years ago. At its inception, member states hoped that the round would promote the interests of developing countries primarily through eliminating trade barriers and farming subsidies in developed markets.

Farming subsidies are of particular importance to developing countries, as emerging economies would have a competitive advantage in agricultural trade, were it not for agricultural subsidies and trade barriers restricting competitiveness and access in developed markets. However, agricultural sectors in developed markets typically have strong lobbying forces, which hinder any change to the *status quo*.

Ultimately this has been the key point of contention within the negotiations of the DDA: despite the “development” discourse, negotiations remained largely dominated by traditional economic powers (such as the US, EU and Japan) who seek greater market liberalisation in developing countries, while unable or unwilling to eliminate domestic farming subsidies.

Rising powers from emerging markets (e.g. China, India and South Africa), however, have refused to budge on their demands for developed countries to phase out their domestic agricultural support programmes. This emergence of multiple and more assertive voices has prolonged the conclusion of the round.

Given that negotiations on the DDA have lasted for more than a decade, one of the key challenges it has to deal with is the changing nature of business. Global trade is increasingly characterised by global value chains, a process where different stages of production across a value chain occurs in different countries. This change in global trading dynamics present new challenges related to competition, investment,

intellectual property rights and product regulation and standards. In contrast, the DDA remains concerned with “traditional” trade issues such as tariffs on goods, anti-dumping measures, rules of origin and subsidies.

These “new” trade issues are of concern especially for business communities and failing to adequately address these will increasingly alienate businesses from the multilateral process.<sup>2</sup>

Driven by the deadlock in negotiations, key developed countries have instead opted to seek preferential trade deals outside of the WTO framework, through mega-regional preferential trade agreements such as the TPP and the Transatlantic Trade and Investment Partnership.

While these agreements have managed to overcome the limits set by the DDA on addressing ‘new’ trade issues they tend to be dominated by developed countries. And while the TPP and TTIP combined, for example present 70 per cent of global GDP, they present less than 70 per cent of global population, significantly reducing the voice and participation of developing countries.<sup>3</sup>

Against this backdrop of DDA stalemate and changing global trade dynamics, the draft Nairobi Declaration outlines three possible options for outcomes in Kenya: confirmation of the importance of the DDA and future WTO

declarations and decisions; admission of the divergent views and inability to reach a consensus; and an option to continue discussions with the aim of resolving disputes by 2016.<sup>4</sup>

For African countries, a negotiated outcome within the WTO would be the best outcome. Given the collective bargaining power of developing countries in the WTO, developing countries would be better placed to negotiate any deals within this forum. Resolving the current impasse is thus imperative to the best outcome for developing countries. The majority of countries, both developed and developing, are not opposed to reaching an agreement on the Doha-issues, but instead are frustrated by the lack of progress.

Despite the Director-General Azevêdo’s earlier sombre statement he encouraged member countries that ‘we do still have the chance of delivering some significant elements in the extremely limited time available. So I would urge you to seize this last opportunity to show the flexibility and political will that we need [to conclude the DDA].’<sup>5</sup>

It would be interesting to see if the countries will be brave enough to pull the plug on the DDA or they will continue pedalling to the future.

\* *Researchers in the Economic Diplomacy Programme in 2015, SAIIA*

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## Endnotes

- 1 [https://www.wto.org/english/news\\_e/spra\\_e/spra99\\_e.htm](https://www.wto.org/english/news_e/spra_e/spra99_e.htm)
- 2 <http://www.ictsd.org/bridges-news/bridges/news/bridges-daily-update-1-divides-run-deep-as-ministers-arrive-at-nairobi-wto>; [http://www.wto.org/english/news\\_e/spra\\_e/spra99\\_e.htm](http://www.wto.org/english/news_e/spra_e/spra99_e.htm)
- 3 PN and MD
- 4 <http://www.ictsd.org/bridges-news/bridges/news/bridges-daily-update-1-divides-run-deep-as-ministers-arrive-at-nairobi-wto>
- 5 [https://www.wto.org/english/news\\_e/spra\\_e/spra99\\_e.htm](https://www.wto.org/english/news_e/spra_e/spra99_e.htm)

## 17

# *US Corporate Cotton vs African Cotton Farmers at the WTO*

*Marie Clarke\* & Aftab Alam Khan\*\*  
Huffington Post, December 17, 2015*

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Social movements have long criticised the WTO and its predecessor, the GATT, as being opaque venues where rich countries consolidate power and rig trade rules in their favour, at the expense of the developing world.

In fact, the WTO can be credited for the growing inequality between nations, both in terms of share of global trade and gross revenue. Rich countries are in the minority, however, they have set the agenda. They set up large negotiating teams that carry the vested interests of their corporate sectors, and when all else fails – they have used promises of development aid and ‘political favours’ to twist the arms of developing countries, pitting them against one another in order to ensure that rich country corporate interests carry the day.

Perhaps the best example of this is the issue of cotton subsidies.

The US chooses to protect the interests of 20,000 rich cotton growers at the expense of the lives and livelihoods of millions of farmers and their children in West Africa.

Unless African nations and other least developed countries stand as a block to shift the power balance, inequality will grow.

Cotton is a major source of livelihoods for poor farmers in the West African countries of Burkina Faso, Mali, Benin and Chad, known in WTO negotiations as the Cotton 4 (C-4). They have been feeling the direct impact of the subsidies provided to cotton growers in the US, which suppress cotton prices and result in lower incomes for African cotton farmers.

This is not a new issue

Developing countries have been long calling for rich countries to practice what they preach, and remove subsidies or allow them to support their own farmers. Over a decade ago, the US agreed to resolve the issue of cotton subsidies ‘ambitiously, expeditiously and particularly’.

But the US did not take action. Instead, it took advantage of its financial and political power, choosing to ignore the impacts it was having on the lives of some of the poorest people on the planet. Repeated demands from C-4 countries, numerous protests and campaign actions by West African farmers and their supporters across the world, and even a case brought by Brazil at the WTO, could not stop the US from artificially suppressing cotton prices. And at this year’s talks, the US refuses to even discuss the issue of cotton.

In fact, Brazil won a case against the US cotton subsidies at the WTO, yet the richest country in the world is successfully playing with the rules. While promoting itself as WTO compliant, the US supports its cotton growers to the tune of US\$1.5bn annually as estimated by International Centre for Trade and Sustainable Development. This suppresses world cotton prices at least by seven per cent - or a loss of US\$3.3bn for cotton producing countries. Among them are the four poorest countries in West Africa, which will lose US\$80mn per year.

An organisation like the WTO will be judged by its ability to address inequalities between members through its rules and regulations. The cotton subsidy issue was described as a ‘litmus

test' for development commitments made during the Doha Round in 2001.

But inaction in the last 10 years may turn this issue into a litmus test for the relevance of the WTO as a global organisation to regulate the global trade in a just and fair manner.

Only two months ago, the US joined countries from around the world in signing the Sustainable Development Goals, which clearly state that unequal growth between nations is not

sustainable in the long term for any country or the planet. It is time for the US to come to the negotiating table in good faith – without abusing power or influence – to resolve this issue.

If the US won't budge, African countries and other developing nations must stand together as a block to defend their sovereignty to take measures to protect their farmers. If we don't level the playing field, we will all lose.

\* *Executive Director, ActionAid, US*

\*\* *International Advocacy and Policy Manager, ActionAid International*

## 18

*Final WTO Note Omits Farm,  
Food Security Clauses**D. Ravi Kanth\***LiveMint, December 17, 2015*

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**P**M sought solution on public stockholding for food security, safeguard mechanism in agriculture for developing countries

India's sherpas at the just-concluded G20 meeting in Antalya, Turkey, have failed to incorporate Prime Minister Narendra Modi's call for a permanent solution on public stockholding for food security and a special safeguard mechanism in agriculture for developing countries in the leaders communiqué, according to people familiar with the development.

The sherpas, led by the *NITI Aayog* chief Arvind Panagariya, also failed to include Modi's strong message that "the DDA of 2001 is not closed without achieving these fundamental principles".

A sherpa is a personal representative of a head of state at the summit.

Modi emphasized these two issues at the African leaders' meeting in New Delhi on 29 October. He said, "We should also achieve a permanent solution on public stockholding for food security and a special safeguard mechanism in agriculture for developing countries."

These two issues are central to the Nairobi ministerial meeting beginning on 15 December.

But India's sherpas, including Panagariya and economic affairs secretary Shaktikanta Das, did not fight to incorporate Modi's calls during elaborate talks for drafting the leaders' communiqué at Antalya, according to people familiar with the development who declined to be named.

Instead, the sherpas merely let the language insisted on by the major industrialized nations dictate the final communiqué on the activities at the WTO and the Nairobi Ministerial.

Consequently, the Antalya statement of the Group of 20 advanced and emerging countries contained weak and ambiguous language as to what members of the WTO must accomplish at their tenth ministerial conference in Nairobi, Kenya.

"We are committed to working together for a successful Nairobi ministerial meeting that has a balanced set of outcomes, including on the DDA, and provides clear guidance to post-Nairobi work," the leaders said in paragraph 12 of the communiqué.

The leaders did not specify what would constitute "a balanced set of outcomes" at a time when WTO members remain sharply divided on the proposed outcomes.

While India and China, along with an overwhelming majority of developing and poor countries, have demanded a special safeguards mechanism and a permanent solution for public stockholding programmes for food security at the Nairobi ministerial, the US and the EU, with other industrialised and some developing countries, have ruled out any outcome on these two deliverables.

Even Brazil, which forged the G20 coalition of developing countries during the Doha negotiations in 2003 for bringing a developmental dimension to global farm trade, has now joined

ranks with the US and the EU to oppose demands raised by Indonesia, India, China and other developing countries on a special safeguard mechanism and public stockholding programmes for food security.

In an inexplicable development, Brazil and the EU circulated a joint negotiating proposal for the first time in the Doha negotiations that seeks outcomes in the export competition pillar that covers elimination of export subsidies, stringent disciplines for export credits, food aid, and state trading enterprises.

The proposal by Brazil and the EU seeks major 'adjustments' in the revised 2008 modalities to ensure the US is let off the hook in disciplining its trade-distorting export credits and food aid, according to several trade envoys familiar with the proposal. They declined to be identified.

Last Friday, Brazil, the EU and the US rejected India's demand for an outcome on a special safeguard mechanism at the Nairobi meeting on the ground that issues concerning market access for agricultural products will not be discussed at the Nairobi meeting.

At that meeting, India asked the chair for Doha agriculture negotiations Ambassador Vangelis Vitalis of New Zealand: "Is it not equally fundamental to pull out one of the pillars of the agriculture negotiations thereby disturbing the balance of give and take that existed in Rev. 4 as Rev. 4 is being taken as the basis for the export competition discussions?"

The Rev 4 refers to the 2008 revised draft modalities for agriculture.

"How politically possible will it be for us to present a package, which involves payments in all areas and gains in none," India asked at the meeting.

Against this backdrop, the G20 leaders' statement appears wishy-washy, without reflecting the demands of a large majority of countries at the WTO, said a trade envoy who asked not to be identified.

Further, the communiqué merely said, "We will also need to increase our efforts to implement all the elements of the Bali package, including those on agriculture, development, public stockholding as well as the prompt ratification and implementation of the Trade Facilitation Agreement."

This is an erroneous message, according to the envoy, as the issues for the Nairobi meeting are not merely about the implementation of the elements of the Bali package but more importantly, about concluding binding decisions in several areas.

These decisions include duty-free and quota-free market access for the poorest countries, simplification of preferential rules of origin for the least-developed countries, resolution of problems encountered by the cotton-four countries (Benin, Burkina Faso, Mali, and Chad), and a permanent solution for public stockholding programmes for food security. All these issues are being set aside because of intense opposition from the US, the EU, Japan, Canada and other industrial nations.

The US, the EU and Japan have also stated their goal to close the Doha negotiations at the Nairobi meeting.

The G20 communique merely said the Nairobi meeting will provide "guidance to post-Nairobi work" instead of reiterating that "the DDA of 2001 is not closed without achieving these fundamental principles".

## 19

### *DG Azevêdo's address to the WTO MC10 closing ceremony*

*Roberto Azevedo\**  
*WTO, December 19, 2015*

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Madam Chair,  
Distinguished Ministers,  
Chairman of the General Council –  
Ambassador de Mateo,  
Excellencies,  
Ladies and gentlemen,  
Congratulations on the Nairobi Package.

Two years ago in Bali we did something that the WTO had never done before — we delivered major, multilaterally-negotiated outcomes.

It took 18 years. It took a lot of hard work. It took flexibility, creativity and political will.

In Nairobi, we saw those same qualities at work. And today, once again, we delivered.

The decision you have taken today on export competition is truly historic. It is the WTO's most significant outcome on agriculture.

The elimination of agricultural export subsidies is particularly significant.

WTO members — especially developing countries — have consistently demanded action on this issue due to the enormous distorting potential of these subsidies for domestic production and trade. In fact, this task has been outstanding since export subsidies were banned for industrial goods more than 50 years ago.

Today's decision tackles the issue once and for all. It removes the distortions that these subsidies cause in agriculture markets, thereby helping to level the playing field for the benefit of farmers and exporters in developing and least-developed countries.

This decision will also help to limit similar distorting effects associated with export credits

and state trading enterprises.

And it will provide a better framework for international food aid — maintaining this essential lifeline, while ensuring that it doesn't displace domestic producers.

You have also taken important steps today to improve food security, through decisions on public stockholding and towards a special safeguard mechanism.

And you have agreed a package of specific decisions for LDCs.

This contains measures to enhance preferential rules of origin for LDCs and preferential treatment for LDC services providers.

And it contains a number of steps on cotton, such as eliminating export subsidies, and providing duty-free-quota-free market access for a range of LDC cotton products immediately.

In addition, we have approved the WTO membership of Liberia and Afghanistan. And I think we are all committed to supporting these two LDCs to boost their growth and development.

We also saw continued commitment to help build the trading capacity of LDCs through the excellent support shown at the EIF's pledging conference.

And, finally, a large group of members agreed on the expansion of the Information Technology Agreement. Again, this is an historic breakthrough. It will eliminate tariffs on 10% of global trade — making it our first major tariff cutting deal since 1996.

So I want to congratulate you all.

This is the product of your hard work and commitment — and our shared belief in the art of the possible.

While we celebrate these outcomes, we have to be clear-sighted about the situation we are in today.

Success was achieved here despite members' persistent and fundamental divisions on our negotiating agenda — not because those divisions have been solved.

We have to face up to this problem. We have to address it.

The Ministerial Declaration acknowledges the differing opinions. And it instructs us to find ways to advance negotiations in Geneva.

Members must decide — the world must decide — about the future of this organization.

The world must decide what path this organisation should take.

Inaction would itself be a decision. And I believe the price of inaction is too high.

It would harm the prospects of all those who rely on trade today — and it would disadvantage all those who would benefit from a reformed, modernized global trading system in the future — particularly in the poorest countries.

So we have a very serious task ahead of us in 2016.

But today we mark this success.

I would like to pay sincere tribute once again to the government and people of Kenya for hosting us. Your hospitality has been warm, and your dedication to the task in hand has been complete. We are truly in your debt. Thank you Kenya.

I pay tribute to President Kenyatta for his leadership, for gracing us with his presence, and for his continuous support.

I want to thank my wife and my family. They're not here with me, but they're in my heart always.

To the minister-facilitators, chairs, ambassador-facilitators and friends, I express my sincere thanks for your tremendous efforts, and for steering us to where we are today.

I also extend my appreciation to all WTO members for their engagement.

And to the Secretariat for their hard work and dedication.

And, of course, I would like to express my deepest gratitude to Cabinet Secretary Amina Mohamed. Your guidance, support and tireless commitment have been inspiration to us all.

So thank you, Amina. It gives me great pleasure to present you with this ceremonial gavel as a token of our thanks.

I'm delighted that we have given you some good reasons to use it.

Ministers, Excellencies,  
Ladies and gentlemen,

We came here determined to deliver for all those we represent — and particularly for the one billion citizens of this continent.

At the outset I warned that we were not looking at a perfect outcome. And what we have delivered is not perfect. There are still so many vital issues which we must tackle.

But we have delivered a huge amount. We have shown, once again, what we can do when we work together.

The decisions you have taken in Nairobi will help to improve the lives and prospects of many people — around the world and here in Africa.

And it was tough. The process was not perfect, we know that.

But when we left Geneva, the international media had already written their headlines:

'WTO talks break down'

'Another failure at the WTO'

That's exactly how it was in Bali. And we saw it again this year.

Well, we're getting used to proving those catastrophic headlines wrong.

In the past, all too often, WTO negotiations had a habit of ending in failure

But, despite adversity — despite real challenges — we are creating a new habit at the WTO: success.

Congratulations to all of you.

Thank you very much.

\* *Director-General, WTO*



## 20

*More work needs to be done**Voltaire Palana\***The Manila Times, December 19, 2015*

President Benigno Aquino 3<sup>rd</sup> urged fellow member economies of the Asia Pacific Economic Cooperation (APEC) to meet a self-imposed deadline five years from now for free and open trade and investments within the region.

“Nearly two decades since our last hosting, APEC returns to the Philippines in a milestone year for the world. This year, we are five years away from the Bogor goals of 2020...,” Aquino said at the 23<sup>rd</sup> APEC Economic Leaders’ Meeting at the Philippine International Convention Center.

He also reminded APEC of additional commitments that Pacific Rim leaders needed to consider, including the United Nations’ (UN) Sustainable Development Goals, upcoming climate change talks in Paris, and the Bali Package agreed under the WTO.

The Bogor Goals, which were accepted by APEC leaders in 1994, sought to achieve free and open trade and investment in the region by 2010 for industrialized economies and 2020 for developing members.

An assessment conducted as the first deadline was reached showed substantial progress by both industrialised and developing economies, but found that more work needed to be done with regard to meeting the 2020 goal.

The latest assessment made in 2014, meanwhile, declared: “In general, the analysis of the information shows that progress has been uneven across APEC economies and across areas.”

“It is clear that more work needs to be done. While several areas such as services, customs procedures (time to trade) government

procurement, competition policy, regulatory reform, intellectual property rights and mobility of business people, among others, showed encouraging results since the previous assessment conducted in 2012, other traditional areas such as tariffs, non-tariff measures, standards and conformance and customs procedures (cost to trade) experienced very modest progress or setbacks.”

In the 2014 report, the Philippines was said to have made progress in a wide range of areas, but the assessment also noted that high tariffs remain for agriculture goods classified as sensitive and that several areas are still off-limits, or are restricted with regard to ownership stakes, to foreign investments.

In his speech, Aquino noted gains made in the Philippines under his administration and said that the country’s hosting of this year’s summit built on prior APEC achievement.

He told leaders that they had the duty to define what needed to be done with regard to meeting commitments, saying: “As regional economic integration continues to take form, APEC’s role – when viewed through the prism of inclusive growth—will be defined not only according to the future of economies but also of the people that drive economic growth.”

With regard to goals outside the 21-member forum, Aquino noted that the UN-sponsored Conference of Parties or COP21, set to start at the end of November in Paris, hoped to make a “lasting impact on climate change.”

The Bali agenda, meanwhile, will be pushed during the WTO Ministerial conference in Nairobi, Kenya next month, he said.

Earlier, Trade Secretary Gregory Domingo said participation in initiatives such as the US-led Trans-Pacific Partnership, the Asean-centric Regional Comprehensive Economic partnership and other bilateral and regional trade agreements would be building blocks in meeting APEC's goals.

These, along with the Latin American trade bloc called the Pacific alliance, are proposed pathways to achieving the Free Trade Area of the Asia Pacific, a study on which is due next year.

APEC's 21 member economies —the US, Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan; Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russia, Singapore, South Korea, Taiwan, Thailand and Vietnam —control half of world trade and account for 60 per cent of the global economy.

\* *Reporter*

## 21

# *Trade Talks Lead to ‘death of Doha and Birth of New WTO’*

*Shawn Donnan\**

*Financial Times, December 20, 2015*

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The WTO is facing the biggest shake-up of its agenda in a generation after its members in effect abandoned the long-stalled Doha round.

For the first time since the round was launched amid great fanfare in 2001, the WTO’s 164 members, ending a conference in Nairobi, declined to “reaffirm” Doha’s mandate.

They also opened the door to discussing new issues and focusing more on delivering smaller packages of trade reforms. Agreements included a global ban on farming export subsidies that Roberto Azevêdo, the WTO’s director-general, called the “most significant” achievement on agriculture in the organisation’s history.

The new line in Nairobi, said one senior trade official, amounted to “the death of Doha and the birth of a new WTO”.

It also marked a victory for the US and EU, who alongside other developed economies have argued that clinging to the long-stalled Doha negotiations was making the institution irrelevant in a changing global economy.

For 14 years of its 20-year history its negotiations have been conducted — many would say frozen — under the Doha round banner, and since 2008 the view of many outside the WTO’s Geneva headquarters has been that Doha ought to be buried.

That frustration has led to a push for large regional and sectoral trade agreements. In October, the US administration concluded negotiations with Japan and 10 other economies on a vast new Pacific rim pact: the Trans-Pacific Partnership.

It is also negotiating a similar agreement with the EU, and leading other sectoral talks in Geneva on the global trade in services and environmental goods.

That has also had an effect on the WTO. Under Azevêdo, the onus is on what is achievable and delivering smaller packages of reforms.

In Nairobi, ministers agreed on the ban on agricultural export subsidies, and concluded long-running discussions on liberalising the global trade in IT products.

Those deals followed the conclusion in 2013 in Bali, Indonesia, of an agreement to remove red tape and speed the flow of goods through borders.

“We know that we can negotiate,” Azevêdo told the Financial Times. “What we need is an agenda.”

However, the WTO is still divided over its priorities, and Azevêdo said tough negotiations lay ahead.

The US hailed the Nairobi decision, saying it had cleared “the road to a new era for the WTO”. IT tariffs slashed in biggest WTO deal since 1996. The agreement eliminates restrictions on the US\$1.3tn trade

India, which has been the most vocal advocate of sticking with Doha, bemoaned that “some members” had blocked its continuation. It said it was a “significant departure from the fundamental WTO principle of consensus-based decision-making”.

Some of the fundamental problems facing the negotiators have not been resolved. The Chinese economy has changed significantly since 2001

when the Doha talks were launched. But it is still classified as a developing economy and exempt from many obligations — much to the annoyance of Washington.

The tension is akin to that in UN-sponsored climate talks. This month's climate agreement in Paris was reliant in many ways on developing

countries such as China recognising that the world had changed since the Kyoto protocol of 1997, which bound advanced economies but not emerging ones.

But at the WTO, that is something developing nations have failed to do.

\* *World Trade Editor*

Part III  
Post-Nairobi

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## 22

# *WTO's Doha Round Actually Manages Something: Abolition of Agricultural Export Subsidies*

*Tim Worstall\**

*Forbes, December 20, 105*

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The WTO's Doha Round of negotiations has often seemed like going absolutely nowhere. There are two major reasons for this: one is the decidedly democratic nature of the forum, where every country has one vote and also an absolute veto. One country can simply say no and that's that: it's not the majority that decides what is to happen. The other reason is that the simple stuff about trade has already been done.

The lowering of tariffs on goods and services for example, the simplification of certain non-tariff barriers like customs processes and so on. However, they do still, in this latest round of negotiations, appear to have pulled something out of the hat: a ban on agricultural export subsidies.

This is being lauded as being just great for certain exporters who traditionally have not been subsidised: and that's true, it will be. It will also not be all that good for those who used to be subsidised (say, Thailand's rice exports recently, India's sugar exports) and that's fine. Consumers of some products will lose the subsidies to their consumption which is a pity but not a great problem, because the people who will really gain from this are the poor suffering taxpayers of the countries that used to offer the subsidies. And as is the way with these things, it has often been poor people in poor countries paying taxes to subsidise exports to richer people in richer countries. Whatever we might think about having a system of subsidies at all, that's just not the way we would want one to work.

Yes, free trade is better than managed, market prices lead to a better allocation of scarce resources than planning and subsidies do, but even if you don't agree with that the Indian taxpayer subsidising sugar exports for the, say, Saudi consumer is simply ridiculous, given that the average Indian is significantly poorer than the average Saudi.

This is thus good news:

WTO member countries agreed to abolish agricultural export subsidies after five days of talks in Nairobi, but failed to make progress on the long-stalled Doha Round of negotiations aimed at lowering global trade barriers.

The 162-member body, meeting in Africa for the first time, on Saturday said a deal had been reached on the issue of farm export subsidies, with developed nations committing to remove their subsidies immediately and developing nations set to eliminate theirs by 2018.

Who specifically benefits and by when is less important than this removal of one of the major distortions in the world market in agricultural goods:

The elimination of export subsidies for agricultural exports is a watershed for world trade that will help boost dairy prices, Fonterra says.

A WTO Ministerial conference held in Kenya and attended by New Zealand Trade Minister Todd McClay has agreed on the WTO Nairobi package, which will eliminate the ability of WTO members to subsidise their agricultural exports.

That is an outcome successive New Zealand governments have sought for decades, with trade envoys identifying agricultural subsidies, along with tariffs, as one of the biggest obstacles to free trade.

Fonterra chairman John Wilson said the historic breakthrough would be good news for dairy farmers.

Yes, it will be good news for New Zealand dairy farmers who are among the most productive in the world: and who also have not been subsidised in decades. Their production will replace some of those subsidised exports and the real gainers will be those taxpayers who no longer have to pay those other subsidies.

An historic breakthrough in global trade negotiations will see US\$15bn worth of agricultural export subsidies abolished around the

world, boosting the competitiveness of Australian farmers immediately.

The deal is being hailed as “most significant outcome on agriculture” in the WTO’s 20-year history, and one that re-establishes the WTO as the preeminent global trade body.

That’s US\$15bn that will be saved by taxpayers. Or, to make the same statement in another way, that’s US\$15bn that politicians would not be lifting from the citizenry’s pockets in order to blow on an economically entirely wasteful activity.

This is good news: and thus we should do more of it. Like, perhaps, just get on with banning all export subsidies altogether. All they do is make producers and foreigners richer at the cost of the domestic taxpayer. Why would we want to do that in the first place?

\* *British-born Writer and Senior Fellow, Adam Smith Institute*



## 23

*The WTO Struggles in Nairobi**Greg Rushford\***Wall Street Journal, December 21, 2015*

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The WTO's Ministerial conference in Nairobi brought one bit of good news. After five days of wrangling, the 164 member countries announced that they had agreed to phase out export subsidies for agricultural products. That's a small but worthy accomplishment that had eluded the global trading system for five decades.

Otherwise there wasn't much reason in Nairobi to cheer. The deep divide between rich and poor countries on trade persists. There is serious doubt that the WTO will ever again be able to negotiate meaningful multilateral trade liberalisation.

While the Americans, Europeans and Japanese succeeded in killing off the economically outdated Doha negotiations that date to 2001, they offered no new road map, nor did the Indians, Chinese and some Africans who still pretend that the Doha patient still has a pulse. Accordingly, the Geneva-based WTO remains an institution with an uncertain future.

In the past 20 years, the WTO has completed one multilateral trade negotiation. At the 2013 Bali meeting, members agreed to give the world's poor nations something called trade-facilitation assistance. That aimed at smoothing the flows of goods across presently clogged borders: modernising inefficient customs procedures by introducing electronic payments and tracing, and so forth. As Hong Kong's chief representative to the WTO, Irene Young, reminded everyone in Nairobi that deal "is expected to reduce average trade costs by more than 14 per cent, an impact possibly greater than the elimination of all remaining global tariffs."

But the Bali deal hasn't yet been implemented, as only 63 of the 108 necessary WTO members have ratified it. As WTO Director General Roberto Azevêdo told reporters in Nairobi, one successful multilateral negotiation in 20 years "is not good enough." At the WTO's closing ceremonies Saturday at the Kenyatta International Convention Centre, Azevêdo referred to the continuing impasse between the rich and poor countries, noting "the world must decide what path this organisation should take."

The fundamental problem is weak political leadership that is mired in parochial protectionist politics, especially in capitals such as Beijing, New Delhi, Pretoria and Washington. In 1948, when the WTO's predecessor organisation, the GATT, was launched, there was a shared consensus that the gradual dismantling of trade barriers was the goal.

From 1948 to 1995, when the GATT morphed into the WTO, seven rounds of multilateral trade liberalisation slashed tariffs to an average of 5 per cent from 40 per cent. But nowadays, the GATT/WTO could more aptly be dubbed the General Disagreement on Tariffs and Trade. Few still believe in the WTO's core multilateral negotiation function.

Some poor countries such as India never really believed. In Nairobi, India's main goal was the opposite: demanding that the rich countries slash their trade barriers, while raising its own. India already has authority to raise its average agriculture tariffs to more than 100 per cent, yet still demands an additional "special safeguard mechanism" rights.

India was unable to play its customary role as a wrecker, as spoiling the only WTO ministerial meetings ever held on African soil would have been unthinkable. Besides, India lost the support of traditional allies like Brazil, who demanded more access to protected Indian markets.

The Chinese also were focused almost exclusively on restricting agriculture imports and on continuing the Doha negotiations as planned in 2001. That's because back then, China was promised preferential treatment as a poor country.

Other examples of economic short-sightedness are depressingly petty. Pakistan came to Nairobi angry that a South African cement cartel has persuaded Pretoria to slap more than 60% tariffs on Pakistani cement imports. Meanwhile, the Pakistanis were against a proposal to give Bangladesh duty-free treatment for Dacca's clothing exports. African countries like Lesotho, which have been granted preferential tariff-free

treatments on their clothing exports to the U.S., also piled on Bangladesh.

So did the Americans, who remain in thrall to their own protectionist textile lobby. Meanwhile, South Africans came to Nairobi with assurances they would stop blocking American poultry imports—hoping that would persuade US President Barack Obama from denying them preferential access to American markets.

Even sadder, when the Philippines offered an excellent idea to streamline export opportunities for small entrepreneurs, the usual nay-sayers—including Bolivia, Cuba, India, and South Africa—shot it down. Don't give the capitalists anything until our demands for additional protection are met, they insisted.

US Trade Representative Froman made a fine speech to his colleagues in Nairobi. It's time for WTO members to stop playing cynical games, he said. He meant the other guys.

\* *Editor, Rushford Report (an online journal on the politics of trade)*

## 24

# *Nothing at Nairobi: WTO Ministerial Leaves India and Developing Countries in the Lurch*

Seetha\*

*First Post (India), December 21, 2015*

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So, finally all that the tenth ministerial meeting of the WTO at Nairobi had to show for itself was that the DDA or the Doha Round just narrowly escaped being junked altogether.

The ministerial declaration, adopted after some delay and amid much acrimony didn't abandon the DDA (which was a real apprehension for India and other developing countries), but the reaffirmation was not unanimous.

The declaration noted that many members reaffirm the DDA while others do not but that "nevertheless, there remains a strong commitment of all Members to advance negotiations on the remaining Doha issues". This is neither here nor there, especially when this statement is preceded by a mention that some members "believe new approaches are necessary to achieve meaningful negotiations" and that "members have different views on how to address the negotiations".

This is the first ministerial declaration has acknowledged sharp differences on something so core – the very nature of a round. WTO ministerial declarations are always consensus documents and even one country can hold things up. Clearly, despite a day's delay, there was no meeting ground at all between the developing countries (which wanted an unambiguous reaffirmation of the DDA) and the developed countries (which want the Doha Round to be scrapped and a new Round to be initiated, with new issues).

In fact, the Nairobi ministerial also leaves a window open for the inclusion of new issues –

investment, competition, transparency in government procurement, to name just three – that developed countries have been pushing for and developing countries have been resisting. It doesn't name these issues but there is a mention that some members "wish to identify and discuss other issues for negotiation; others do not. Any decision to launch negotiations multilaterally on such issues would need to be agreed by all Members."

So much for all the hype about this being the first ministerial held in Africa and hence the importance of it delivering on the Doha Round and addressing issues of concern to developing countries. So much for all the talk about solidarity among developing countries making them a formidable bloc to reckon with. India has expressed its disappointment with the declaration.

What did the developing countries – especially India – get out of the ministerial? Of the six items of the so-called historic Nairobi package, two were of particular interest to India – a permanent solution to the issue of public stockholding for food security and special safeguard measure (SSM) to protect farmers from import surges. At various public fora and in interactions with the media in the run up to the ministerial, commerce minister Nirmala Sitharaman and commerce secretary Rita Teotia had indicated that India would play hard ball on these two issues.

They may have but it clearly didn't yield results. On both issues, the ministerial decisions only kick the ball further. On public stockholding, the decision is to start serious efforts in various

WTO to negotiate and adopt a permanent solution.

A quick recap on this issue. Countries can give subsidies and maintain buffer food stocks only up to a certain limit, since these are seen as distorting world trade in food grains. India and many developing countries are in danger of breaching this limit, which makes them liable to be taken to the WTO's dispute settlement mechanism. They have, therefore, been seeking more elbow room, something developed countries (who also heavily subsidise their agriculture) have been unwilling to give.

At the ninth ministerial in Bali in 2013, a peace clause was negotiated which said that countries in danger of breaching the WTO limits on subsidies would not be liable to any action till a permanent solution to the problem is worked out. This solution was to be worked out by 2017.

Initially, there was ambiguity about whether the peace clause would cease in that year, but last year India refused to agree to a protocol on a Trade Facilitation Agreement (TFA) till the peace clause was made indefinite – that is, till a permanent solution was found. This was agreed to in November 2014 and it was also decided that work on negotiating a permanent solution would begin. There has been no progress on that.

In the light of this, the Nairobi ministerial decision on public stockholding is akin to running in the same place. Bali promised a solution by 2017; two years have gone by with no movement.

Ditto for the ministerial decision on SSM. Here too, all that has been decided is that developing country members will have the right to have recourse to a SSM; the contours of any SSM are to be negotiated. This means there has been no progress on this from the Hong Kong ministerial in 2005.

One ministerial decision that is extremely detailed relates to export competition and it sets out conditions for provision of subsidies and credits for agricultural exports. On the face of it, this favours developing countries which get time till end 2018 to eliminate their export subsidy while developed countries have to eliminate theirs immediately. But experts on agricultural negotiations insist that the ministerial decision is riddled with provisions that give a lot of flexibility to the developed countries and reduce flexibilities available to the developing countries.

At a meeting on agriculture negotiations at Nairobi, Sitharaman had flagged the “sudden inexplicable zeal” to push export competition at the cost of other agriculture related issues and that new concepts and definitions were being introduced at a late stage which would require extensive domestic consultations. But clearly India's objections were not taken seriously.

From a theoretical, market economy perspective, it may be possible to find fault with the stand taken by developing countries. But multilateral trade negotiations are not about theory; they are about bargaining to further national commercial and economic interests. Developed countries may slam developing countries for being protectionist but their protectionism is equally rigid and their economic clout enables them to bargain harder and more effectively. Nothing brings this out better than the Nairobi Declaration.

The very equivocal reaffirmation of the DDA may have saved the WTO for now, but the forced and very first compromise declaration does not augur well for its future.

\* *Author/Writer, Firstpost*

## 25

*India Eclipsed at WTO Ministerial**D. Ravi Kanth\***LiveMint, December 21, 2015*

In the final analysis it is clear that India failed in its objectives to secure credible outcomes on its demands.

Finally, the curtain has been brought down on the 10th ministerial meeting of the WTO in Nairobi. Trade ministers from 162 countries seemed suitably exhausted, but most were also left disappointed, many for being left out of the key negotiations.

Barring five countries — the US, EU, Brazil, China and India, who negotiated among themselves the final outcome based on their respective national interests — the others were left guessing about the outcome of the emerging world trade order. Those excluded could be seen pacing around in the cafeteria as the discussions drew on agonisingly.

The closed-door negotiations among the five trade ministers, an African trade envoy opined, was akin to what the European colonial powers had accomplished during the partition of Africa in 1881-1914.

Unlike then, the Nairobi meeting was different, in which the US and the EU were ably assisted by Brazil, a developing country, as they set about forging a new global trade agenda, particularly favourable to them. They succeeded in bypassing crucial aspects of the DDA launched in Doha, Qatar, in 2001. Ironically, the US and the EU had launched the round immediately after the 9/11 terrorist attacks in the US, as a way to unite the world.

In the run-up to the Nairobi meeting, a large majority of developing countries led by India, China, South Africa, Indonesia, Ecuador, and Venezuela prepared the ground to ensure that the

Doha Round of negotiations are not closed by the two trans-Atlantic trade elephants. They also tabled detailed proposals for a permanent solution for public stockholding programmes for food security and a special safeguard mechanism (SSM) to protect millions of resource-poor and low-income farmers from the import surges from industrialised countries.

The proposal on a permanent solution for public stockholding programmes suggested easy options by expanding the agreement on agriculture to include market price support programmes that can be exempted from aggregate measurement of support calculations. The SSM proposal by India, along with the G-33 farm coalition led by Indonesia, set forth a transparent and effective instrument based on price and volume triggers to impose special safeguard duties.

In fact, on 19 October, Prime Minister Narendra Modi told leaders from Africa in New Delhi that “the DDA of 2001 is not closed without achieving these fundamental principles (at the Nairobi ministerial meeting)”. He said that Africa and India should together ensure that there is a permanent solution to public stockholding for food security and a special safeguard mechanism in place to address unforeseen surges in imports of farm products.

In the run-up to the Nairobi meeting, the two proposals were actively opposed by the US, which led a sustained campaign to ensure that there was neither an outcome on continuing DDA negotiations nor a deal on SSM and public stockholdings for food security.

Even while they mounted opposition, the US, the EU, and Brazil along with several farm-exporting countries accelerated their efforts to secure a substantive outcome on export competition at the Nairobi meeting.

Against this backdrop, commerce minister Nirmala Sitharaman's task was cut out when she landed in Nairobi. By convention, mercantile trade negotiations are based on the principle of give and take. Accordingly, each country agrees to undertake new commitments to liberalize existing rules or eliminate protective barriers in return for outcomes in its areas of interest.

Like others, India too was expected to settle for a trade-off. The trade-off involved securing a permanent solution to public stockholding programmes for food security and SSM, and reaffirmation to continue the DDA negotiations beyond Nairobi. In return, it would commit to a substantive agreement on export competition entailing a phase-out of export subsidies and reducing export credits.

Sitharaman did not mince her words in making out India's case; neither did she hold back her disappointment at the way things turned out. "It is regrettable that longstanding issues of interest to a large number of developing countries are being put aside for the future and new issues of recent vintage are being taken up with unusual enthusiasm," she said.

But what is inexplicable is that the commerce minister omitted mentioning India's demand for a permanent solution for public stockholding programmes for food security at a meeting convened by the facilitator, Joshua Setipa, Lesotho's trade minister. At the same time, she skipped the meeting convened by the facilitator at her request to discuss the SSM. The minister may have well missed out on an opportunity to make it clear that India would not sign on to any draft that ignored the agenda it had proposed.

In his draft issued on 17 December, the facilitator offered vague language on both the SSM and public stockholding programmes for food security without proposing any time-frame

for their resolution. Sitharaman duly protested and submitted two proposals together with China and Turkey to ensure that there are clear outcomes at the 11th ministerial meeting in 2017. These proposals also mentioned the DDA negotiations in passing.

During her meeting with the US Trade Representative, Ambassador Michael Froman, in Nairobi, she conveyed categorically that India will need reaffirmation to continue the DDA negotiations until all outstanding issues are resolved. Of course, Froman declined.

According to a person present during the negotiations, among the five countries on the final day, India was unable to forcefully defend positions it had articulated over the past two years. India apparently yielded ground during the marathon negotiations when there was an exchange of proposals with the US, the EU and Brazil — all three refused to accommodate any language on the SSM because of the absence of market access negotiations. Eventually, they agreed to remove the DDA and make a reference to the 2005 Hong Kong Ministerial Declaration. They were unwilling to accommodate India's demand for a definite time-frame on the SSM and public stockholding programmes for food security.

Then China joined India in fighting another battle on the post-Nairobi work programme for reaffirming to continue the DDA negotiations. The US and the EU vehemently opposed it and only agreed to insert the term "Doha" instead of DDA negotiations. In the process, the US and the EU managed to secure language on new approaches and new issues with few caveats.

In the final analysis it is clear that India failed in its objectives to secure credible outcomes on its demands for SSM, permanent solution for public stockholding programmes for food security and the reaffirmation to continue the DDA negotiations. Perhaps, this is the first time that India left a WTO ministerial meeting so diminished.

## 26

*Message from Nairobi**Vivek Dehejia\***LiveMint, December 21, 2015*

**H**aving killed a consensus-based process, the US will seek to assert itself in the twilight of its ascendancy

In the twilight language of international negotiations, a declaration of “success” at the end of a ministerial summit sometimes means just that and sometimes means exactly the opposite. The game gets really pro when important concepts, agreements and mechanisms are couched in three-letter acronyms or abbreviations, which only a few specialist negotiators and area experts understand—even there, one is sometimes doubtful—and which serve usefully to obfuscate, fudge or otherwise bamboozle the public, the pundits and (one fears) sometimes the politicians themselves who sign on the dotted line.

As for the 10th Ministerial Conference of the WTO, which just concluded in Nairobi, the fog of spin and counter-spin is already so thick that even a digitally enhanced Star Wars lightsaber has little hope of penetrating it.

Scan the news headlines under a Google search, and you will read soothing headlines such as that “modest success” was achieved; that the final ministerial declaration vindicated the position of advanced economies such as the US; that it vindicated the position of emerging economies such as India; and that the event was an utter failure.

**What’s the truth?**

Cutting through the fog as he usually does, the sharpest and most succinct analysis of what actually went down came from Shawn Donnan of the Financial Times. In his final bulletin from

Nairobi, he wrote: “Trade ministers from around the world have put what may be the final nail in the coffin of the long-stalled Doha round of negotiations, clearing the way for the WTO to start focusing on smaller agreements with a better chance of success.” Boom.

The most important decision, or non-decision—in this world of Orwellian doublespeak one is never quite sure what to call it—was the failure of the final ministerial declaration to “reaffirm” a commitment to the DDA, which was affirmed at the end of the Doha Ministerial Conference of the WTO as far back as November 2001, when smoke was, as it were, still rising from the embers of the World Trade Center in New York.

The actual language agreed upon, as reported in this newspaper, reads, in part, that the signatories “recognize that many Members reaffirm the DDA, and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and reaffirm their full commitment to conclude the DDA on that basis. Other members do not reaffirm the Doha mandates, as they believe any approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations. We acknowledge the strong legal structure of this Organization.”

In other words, the consensus—recall that the WTO operates on this principle, not on majority rule—was that no consensus was possible. But, given that the DDA has been reaffirmed at every ministerial conference since it was launched in 2001, what this means, in reality, is that the DDA

is dead. (Of course, like Mary Shelley’s monster, it may yet be reborn, in an ever more gruesome form, but I’m betting it’s now finally dead.)

India’s commerce and industry minister, Nirmala Sitharaman, was forthright in expressing her disappointment at the outcome, tweeting: “Utterly disappointed a unanimous reaffirmation of DDA hasn’t happened.” Quite; we all should be.

Also, be forewarned: In the coming days, you will read opinion pieces by learned trade experts, lodged in universities and think tanks in the US, and those shilling for the US from various perches in the emerging economies, including India, that India, and a few other recalcitrant holdouts, played spoiler and prevented the achievement of a fulsome agreement, thus forcing the hand of the US and other advanced economies to, in effect, pick up their marbles and play elsewhere, notably in mega-agreements such as the TPP and other preferential trade agreements that are on the anvil.

You will also read that India was at fault in holding out to protect our Public Distribution System (PDS) and that we would be better served

in moving towards a more market-friendly system of agricultural pricing and distribution. But I bet you will likely not read, for example, that restaurateurs in Vancouver, Canada, routinely drive across the border to the US state of Washington and illegally bring back truckloads of milk and other dairy products—even with the Canadian dollar worth a paltry 70 US cents—because, even with the risk of detection, fines and confiscation, this is a better bet than paying the grossly inflated prices inflicted by the Canadian “supply management” system. The reason, of course, is that market-distorting policies are kosher in rich countries but not poor ones.

With the DDA now buried, you can bet your bottom dollar (even an undervalued Canadian one) that the rhetorical and diplomatic pressure on India to fold our hand on a range of non-trade related “beyond the border” issues will only intensify.

Having killed a development-oriented, genuinely multilateral, consensus-based process, a weakening but still powerful hegemon, the US, will seek to assert itself in the twilight of its ascendancy.

\* *Columnist, Livemint*



## 27

# *What Next for Poor Countries Fighting to Trade in an Unfair World?*

*Kevin Watkins\**

*The Guardian, December 22, 2015*

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The Doha round's promise of better market access for the poorest nations, cuts in farm subsidies and fairer trade rules has come to nothing

The setting was a lakeside in Geneva and the cast was as international as it gets, but the Doha round of world trade talks was scripted straight out of *EastEnders*, the UK's long-running television soap opera: an endless recycling of worn-out story lines, interminable plots, and theatrical moments of hope punctured by comically predictable tragic outcomes.

Launched in 2001 and intended to deliver a bold new world trade order, the Doha talks have stumbled from one deadlock to another. WTO's 164 members ended their ministerial meeting in Nairobi with a communique that "declined to reaffirm" the Doha round – trade-speak for a death certificate.

To describe the achievements of the intervening 14 years as limited would be an epic understatement. The promise of improved market access for the poorest countries, deep cuts in agricultural subsidies by the rich world and fairer trade rules has come to nothing.

What went wrong?

It's all too easy to get sucked into the ephemera of the negotiations, the acronyms and the petty disputes. The real problems go far deeper.

European and American negotiators, and their emerging market counterparts, talk like free traders but act like old-fashioned mercantilists bent on opening up other countries' markets while offering as little as possible themselves.

Meanwhile, the rules-based, multilateral trading system is increasingly unable to rise to the challenge of supporting inclusive growth, eradicating poverty and tackling climate change.

If you think the denouement in Nairobi will change this, think again. Michael Froman, the US trade negotiator, has promised a new era for the WTO, with the focus shifting to regional and sectoral trade agreements. That's good news for vested interests in the corporate sector and bad news for everyone else.

The Doha round was an opportunity to tackle some of the fundamental inequities of the world trading system.

Take the long-running saga on farm subsidies. The \$6bn (£4bn) doled out to America's cotton farmers in 2014 – part of a \$41bn payout for agriculture – is undermining prices and markets for producers in west Africa. New legislation has changed the payment system for American farm subsidies (fewer direct transfers and more insurance), but the farm lobby is alive, well and reaping a bumper harvest of subsidies. And "free trading" Europe is spending \$86bn subsidising farmers.

Africa still accounts for less than two per cent of world trade. Improved market access and less export dumping by rich countries would help. But the deeper problem is a \$93bn gap in infrastructure financing – a gap that leaves African farmers without the roads, storage facilities and export infrastructure needed to exploit market opportunities.

In other areas, the rules behind the WTO regime seem increasingly irrelevant. At the Paris climate summit, governments pledged to keep global warming to 1.5C. That means keeping about three-quarters of known fossil fuel reserves in the ground. So how about a WTO prohibition and phase out of the US\$452bn in subsidies the G20 wastes on discovering and exploiting new fossil fuel reserves?

And why aren't governments joining up the dots between trade and tax? "Trade misinvoicing" (tax evasion to you and me) by multinational companies costs Africa about four per cent of GDP, or more than US\$40bn a year. Profits generated through trade are sent through tax haven circuits to rob the region of revenues needed for infrastructure, education and health.

Tax rules in the WTO could break the circuit. Yet the separation between trade and taxation, like the separation between trade and environmental sustainability, has become an article of faith.

As the Doha round is quietly discarded, the WTO is being overtaken by events. The US has been leading a drive towards bilateral, regional and sector-specific agreements, with the TPP – a 12-country Pacific Rim pact – the portent of things to come.

If you want to see the future of world trade as imagined by the US, read the TPP chapters dealing with investment, intellectual property, financial services and pharmaceuticals.

What's on offer is a charter for corporate self-interest giving immense power to multinational companies. Under the investor-state dispute settlement system in the TPP, companies can contest legislation and challenge governments through international arbitration panels. We are not dealing here with hypothetical threats. Philip Morris (unsuccessfully) sought to overturn Australian legislation aimed at curtailing smoking. Chevron brought a case against the Ecuador government after the company lost a court ruling on oil pollution costs, with an arbitration tribunal challenging the country's constitution. An investor dispute panel ruled against Canada's right to withhold a blasting permit from a US mining company operating in an ecologically fragile area.

The Doha soap opera deserved to be discontinued. But in a world threatened by unprecedented ecological pressures and rising inequality, we forget the importance of trade multilateralism at our peril.

We cannot afford a new order that puts corporate profit before people and planet.

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## 28

*Will the GATS close on Higher Education?**Shubashree Desikan\***The Hindu, December 30, 2015*

In a GATS regime, there would be no means of ensuring that only high-quality universities enter the fray to set up shop, nor would there be any means of controlling the cost of education they provide

After extended talks in Nairobi, India and other member countries of the WTO signed the ministerial agreement on December 19. At the forefront of the talks was India's struggle to get developed countries to agree to reduce their food subsidies, which are perceived to be adversely affecting farmers from developing nations. India and the US resolved differences over public stockholding of foodgrains, with the US agreeing to an indefinite "peace clause" which protects member countries from being challenged under other WTO agreements.

The document released by the WTO also states that developed countries will remove export subsidies immediately, while developing nations will do so by 2018. Almost everything that has been agreed upon has qualifiers and is time-bound, and all this will be discussed by experts. But what has been stunning in the agreement is the lack of dialogue and social concern about the GATS agenda — of offering for global trade, as commodities, services such as higher education; health; life insurance; research and development in the physical sciences, social sciences, humanities; and so on.

The WTO document refers to a waiver, according to which the non-least developed country (LDC) members can give preference to services and service providers from LDCs. This will be in place for another 15 years. India is

categorised as a developing country, a non-LDC. As of now, 35 countries which have been classified as LDCs by the United Nations have become members of the WTO, with Afghanistan being the latest to join as a member during the Nairobi conference.

Commerce Minister Nirmala Sitharaman has said that India has negotiated hard to ensure that the interests of the LDCs and the developing countries are kept at the centre of the WTO agenda. With India looking to play a greater role in the South Asian region, this might be a persuasive argument. But while this is laudable, there are other pieces to the puzzle that do not add up.

India has the youngest population in the world. With half its people below the age of 25, it faces the challenge of educating its youth and preparing them for taking up employment both within the country and outside. In this context, it has been mooted that the entry of foreign education providers would help in a big way.

Also, while such educational exchanges have already been happening, they have largely been unregulated. The usual argument favouring entry into the GATS rests on the need for foreign support in educating Indian youth and for regulating this as a trade. But much lies beneath these simple arguments. Talk of increasing the Gross Enrolment Ratio in Higher Education from the present 13 per cent to 30 per cent by 2020 may, for instance, remain a pipe dream.

A level playing field is what the GATS would enforce, but the field would be level only for the traders, not for society at large. In a country like

India where a large fraction of people are still first-generation learners, ensuring equitable development is paramount. Yet, when education is treated as a tradable commodity, there can be no concessions on social justice mores. The government cannot even continue to subsidise its own institutions or support needy students through scholarships or reservation policies, as those would be interpreted as unfair trade practices. Hard-won policies of equity and constitutional guarantees would be reduced to mere rhetoric. Any disputes that arise in this regime would have to be referred not to the judiciary but to the WTO's Dispute Settlement Body.

### **A horror story**

The middle class cannot be too overjoyed either that the flouting of reservation norms would mean greater opportunities for them. In a GATS regime, there would be no means of ensuring that only high-quality universities' enter the fray to set up shop, nor would there be any means of controlling the cost of education they provide. This has all the makings of a horror story in a country where education loans have become morale-sapping burdens in the process of acquiring the advantage of higher education, and student suicides happen frequently.

Developed countries with ageing populations, and which thus have a growing skill crunch, may

try to succeed in siphoning away students from the affluent section, who manage to acquire skills, for employment. This will come at a cost, as it would also exacerbate the brain drain issue.

These offers are not new; they were made in 2005. However, these issues have not been taken up for re-examination, and, as a result, they have slowly been relegated to the back seat of public discourse. To be sure, the GATS work on the principle of progressive liberalisation. It is unlikely that once an offer is made, it can be withdrawn in the next round of negotiations. Any withdrawal of, say, a sector or sub-sector, can only be compensated by making a comparable offer involving another sector.

The government has already been trying to introduce education reforms that indicate its own willingness to adopt the GATS agenda in education. These include the four-year undergraduate programme, the choice-based credit system, cutting down on the non-National Eligibility Test fellowships, and research funding. All of this has been met with opposition from the student community and educationists. But that was at a time when there was no international agreement binding the government from acting, or even rolling back decisions not popular with the stakeholders. All this leaves us with the big question: how can a democracy protest for its rights when its government has relinquished its power to concede?

\* *Assistant Editor, The Hindu*

## 29

*Global Trade After the Failure of the Doha Round**Editorial, New York Times, January 01, 2016*

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After 14 years of talks, members of the WTO have effectively ended the Doha round of negotiations. That was not unexpected given how fruitless these discussions have been. Now, world leaders need to think anew about the global trading system.

Countries had hoped that the talks, named after the capital of Qatar, where they began in late 2001, would substantially lower trade barriers, contribute to development in poor nations and tackle difficult issues like agricultural subsidies that were not resolved in earlier pacts, like the General Agreement on Tariffs and Trade.

Failure to achieve this ambitious agenda has undermined the credibility of the multilateral trading system and hurt the least-developed countries, which are desperate to export more of their goods to richer countries.

At a meeting of the WTO in mid-December in Nairobi, trade ministers from more than 160 countries failed to agree that they should keep the negotiations going. In recent years, it became clear that the talks, which were originally supposed to conclude in 2005, were paralysed because neither developed economies like the US and the EU nor developing countries like China and India were willing or able to make fundamental concessions.

At the start of the Doha round, American and European officials committed to producing a trade agreement that would promote development in poorer countries without asking them to reduce import barriers to the same extent as industrialised nations. But as developing countries, particularly China, began exporting far more than they were importing, wealthier countries started demanding that they also lower

import barriers and cut subsidies to their farmers. Not surprisingly, China and India refused, insisting on sticking with the original principles.

Many countries have been so frustrated by the Doha stalemate that they have been negotiating bilateral and regional trade deals. For example, the US recently concluded the TPP with Japan, Vietnam and nine other countries. America and the EU are also negotiating the Transatlantic Trade and Investment Partnership. China, which is not part of the Trans-Pacific Partnership, has signed many bilateral and regional agreements and proposed a 16-country trade deal that would include India and Japan.

Regional agreements can be useful if done right, but they threaten to segregate the world into overlapping trading blocs with different rules in areas like labour rights, environmental protection and access to medicines. And most such pacts — in which countries agree to eliminate tariffs for products made within the trading bloc — do not include the world's least-developed countries, like Bangladesh and Ethiopia.

Another approach is to pursue more limited pacts that include many or all members of the WTO. A good example is the Trade Facilitation Agreement reached in December 2013 in which all WTO members agreed to improve their customs departments, border crossings and ports. Under that agreement, less-developed countries will receive aid and technical expertise to help them upgrade their trading systems. Another worthwhile effort that began in 2014 with 14 WTO members, including the US, China and the EU, is designed to eliminate tariffs on environmental goods like solar panels and wind turbines.

While pacts focusing on specific issues are easier to negotiate, they can't cover the broader issues that countries, rich and poor, have to wrestle with. Trade increasingly determines how governments set social policies and labour conditions within domestic markets, and, of course, affects the future of the environment locally as well as globally. The Doha talks may be at a dead end but there has to be a place for global trade pacts that encourage development and sustainable economic growth.

## 30

# *The 10th WTO Ministerial Conference in Nairobi – a Successful Turning Point for the Multilateral Trading System*

*Amina Mohamed\**

*Huffington Post, January 07, 2016*

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At the start of 2015, the prospects for an ambitious and successful outcome in Nairobi were dim and ominous. The pundits had forecast failure. The membership proved them wrong. We succeeded. We reversed the fortunes of the WTO and placed it on a clear trajectory of success. There is more work to be done but in Nairobi there was a sea change for the future of the Organisation.

The Nairobi Ministerial was a negotiating Conference. It was neither ceremonial nor was it convened to endorse a predetermined outcome. Deadlock and unresolved issues were forwarded to Nairobi from Geneva. As we started the negotiations after the beautiful opening ceremonies the prospects were daunting. Some observers publicly declared that the omens for resolving the main issues around the Doha Declaration did not look good. Some even urged WTO Members to ‘confront the prospect of definitive failure’? But members were undeterred.

Kenya’s President, Uhuru Kenyatta provided leadership and direction in his message to the membership by calling for a strengthened, relevant WTO, solving global problems and contributing to recovery and growth in the global economy with a successful outcome in Nairobi.

As the first African Chairperson of a WTO Ministerial Conference and the first to be held in Africa, it felt like the metaphoric Atlas carrying the weight of the World and more importantly how it would impact Africa, other parts of the developing world and the global economy.

The countdown towards that meeting would always comprise, in equal measure, foreboding and many sleepless nights combined with hope and a determination to ensure success however limited it may be. I was advised on the probability of no outcome.

As a salvage measure, several ministers, friends of Kenya, suggested a chairman’s statement. The objective was to ensure that Kenya alone would not carry the cross of another failed WTO Ministerial. Although the odds were stacked against a successful outcome, Kenya was clear ab initio and in several key contacts around the world that Nairobi would be successful and that as chairperson I would not issue a Chairperson’s statement.

It had to be all or nothing. I was dead set against writing an epitaph. It had also become increasingly clear that Nairobi provided the unique opportunity needed for the renewal and reinvigoration of the WTO. An organisation that we all so passionately believe in. Above all failure was neither an option for the entirety of the African Union nor for Kenya and President Uhuru Kenyatta was clear on this.

The stalemate and inertia that had become commonplace had to be broken. The Jinx of no or minimum outcomes had to be banished. And “we would not declare victory in order to extract success from defeat” We needed to break the pattern of failure and It had to be executed in Africa, the so called weakest link in the rules-based Multilateral Trading System.

Nairobi was a classical negotiating situation. Chief negotiators came without revealing their bottom lines, largely restrained by domestic factors and pressures. Bridging those differences was considered by all trade experts to be impossible in the three day time available. The stakes could not have been higher. From clinching an elusive ITA to getting anything agreed on agriculture and the associated questions of public stockholding for food security and Cotton for the C4, to an equally challenging LDC package, or an acceptable future work programme for the WTO. And then there was the larger historic question of whether to reaffirm or not to reaffirm the Doha Round. It all seemed impossible.

But we rose to the occasion, designed a strategy and stuck to it with the assistance of a core group of Ministers, friends of the Chairperson and the Director General. I thank them for their contributions. We did not spare any effort nor waste any time. We had minimal sleep if at all and minimal nourishment.

For four days and three nights we negotiated and kept the entire membership informed and involved. There were no gaps. We could not afford them. The systemic support from the full spectrum of members in different formats and configurations was indispensable in the absence of which failure would have been certain. Their contributions were the litmus test of the premium they attach to the centrality of the WTO in global rule making. Doubts and questions about the superiority of the WTO in setting the bar for trade rules, vis a vis other arrangements were dissipated in Nairobi.

So what was achieved in Nairobi?

In all, the Nairobi meeting produced six Ministerial Decisions on agriculture, cotton and issues related to least-developed Countries.

First, a major breakthrough was reached in agriculture, with the immediate outlawing of export subsidies in developed economies and in developing countries by 2018 and LDCs by 2023. Export Credit and Food aid were also disciplined. This is a positive result for countries that rely heavily on agriculture for income and jobs. It represents a valuable leveling of the playing field and has the potential of lifting countless small holder farmers out of poverty. That is why the

deal on agriculture was so widely popular and supported.

Second, another breakthrough, associated with agriculture but stand alone in its significance for Africa was achieved on Cotton, for long a question that had divided the membership. On the domestic support aspect, the Nairobi package acknowledges reforms by members in their domestic policy and regulations on cotton and underscores the scope for further reforms. The actual breakthrough was on export competition on cotton where Ministers decided on the prohibition of export subsidies immediately by developed members and developing countries to do so at a later date.

Third also associated with agriculture, the Nairobi Package reaffirmed the Bali decision on Public Stockholding for food security purposes.

Fourth, in another significant outcome, members representing major exporters of IT products agreed, in the Information Technology Agreement, on a timetable for eliminating tariffs on various products, with all WTO members set to enjoy duty-free market access to the markets of the members eliminating tariffs on these products. Consequently, two-thirds of tariff lines will be fully eliminated by 1 July, 2016, with total elimination expected over three years. Affecting approximately 10 per cent of global trade. For many countries in Africa active in the ICT space this agreement is a huge plus.

The fifth outcome of significance is for LDCs, the Nairobi package contains decisions of specific benefit to LDCs such as, enhanced preferential rules of origin and preferential treatment for LDC services providers. MC10 decided on the facilitation of opportunities for LDCs export of goods to developed and developing countries pursuant to unilateral preferences.

No less important Nairobi advanced the strategic objective of the organisation of universality of membership by approving the terms and conditions of membership of Afghanistan and Liberia, two least developed countries.

We loosened the knot on the systemic question of the relevance of the WTO regarding the consideration of new issues. It is hugely significant that we accepted that some WTO members may



wish to raise other negotiating issues in the WTO. However, coupled to this recognition was the decision that a consensus would be required before the launch of these negotiations. This formulation protects all interests and is an important step forward for the institution.

Finally, substantively, Ministers confronted head on the major negotiating question of the continuity of the 14<sup>th</sup> year Doha Round mandate. The question was whether to reaffirm that mandate or not. There was an honest division among the members. As in all negotiating situations, where positions are unbridgeable the polar positions were acknowledged in the Nairobi

Declaration. As the Chairperson of the 10th Ministerial this outcome was not fatal for the WTO. As in the expression “reasonable individuals can disagree”.

It is clear to me that the successful results from Nairobi were not the end. The WTO has been reset and is now pointed in the right direction. We must now set ourselves to the huge task ahead of us. This requires leadership.

Coming on the heels of a successful COP 21, the WTO meeting in Nairobi has clearly demonstrated, the value and centrality of multilateralism.

\* *Cabinet Secretary for Foreign Affairs and International Trade, Republic of Kenya*

# 31

## *Trading Up*

*Mina Aryal\**

*The Kathmandu Post, January 13, 2016*

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Addressing supply-side constraints are the major challenges for Nepal's international trade

Jan 13, 2016- Delegations from all 162 member countries, 22 observer states, representatives of different intergovernmental organisations, accredited NGOs, and media, among others, participated in the Tenth WTO Ministerial Conference (MC 10) that took place, successfully, in Nairobi, Kenya in December. This was the first MC of the WTO in Africa and was inaugurated by Uhuru Kenyatta, President of the Republic of Kenya.

The Nepali delegation participated in the meetings of the trade ministers of Least Developed Countries (LDC) and Landlocked Developing Countries (LLDC), and held bilateral meetings with three neighbouring countries—India, China and Bangladesh. During the bilateral and other events, Nepal put forward the issue of the present obstruction on supplies, post-quake reconstruction and rehabilitation initiatives.

Nairobi package Viewing from the perspective of the LDCs, the outcome of the MC 10, also known as the 'Nairobi package', seems mediocre as it fails to address some of their major concerns. The Nairobi Package contains a series of six ministerial decisions on agriculture, cotton and issues related to LDCs. These include: commitment to abolish export subsidies for farm exports, known as export competition, public stockholding for food security purposes, a special safeguard mechanism for developing countries, measures related to cotton, preferential treatment for LDCs in the area of services and preferential rules of origin. Out of these six outcomes,

agreement on abolishing export subsidies for farm exports has been taken as the centre-piece of the Nairobi Package, which Director-General of the WTO, Mr. Roberto Azevêdo, termed as the "most significant outcome on agriculture" in the 20-year history of the organisation.

Under the decision of export competition, the developed members have committed to remove export subsidies immediately, except for a handful of agriculture products, and the developing countries will do so by 2018. Regarding the public stockholding for food security purposes, the MC 10 allowed to continue food stockpile programmes until a permanent solution is found by the 11th Ministerial Conference in 2017. Similarly, under the special safeguard mechanism, the developing countries and LDCs are allowed to raise tariffs temporarily, if imports increase unexpectedly and domestic industries are hampered badly.

Similarly, acknowledging the longstanding demand of the African cotton-producing countries to eliminate cotton subsidies, the decision came in their favour on the three pillars of market access, domestic support and export competition. Under market access, the cotton products of the LDCs are given duty-free and quota-free (DFQF) access to the markets of the developed countries.

The decision on preferential rules of origin clearly states that when applying an ad valorem percentage criterion, the LDCs are allowed to use non-originating materials up to 75 per cent of the final value of the product, which means only 25 per cent value addition are acceptable. Moreover, the decision has provided four

possibilities of cumulating for value addition, such as, cumulating with the respective preference-granting member, cumulating with other LDCs, cumulating with GSP beneficiaries of the respective preference-granting member and cumulating with developing countries of a regional group.

On the Preferential Treatment in favour of Services and Service Suppliers of LDCs, also known as LDC Services Waiver, the MC 10 extends the current waiver period of 15 years, until 31st December 2030. The waiver allows WTO members to deviate from the most favoured nation obligation under the General Agreement on Trade in Services. Moreover, the decision also instructs the Trade in Services Council of the WTO to encourage discussions among members to provide technical assistance to the LDCs aimed at enhancing the capacity of the LDCs in services trade.

Despite these achievements, the MC 10 was unable to build consensus on special and differential treatment proposal submitted by the G-90, an alliance of the LDCs, the African Caribbean and Pacific group and the African Union group.

## Nepal's case

However, Nepal could reap some benefits from the Nairobi package. Because of the four types of cumulation opportunities for the value addition purposes, under the preferential Rules of Origin provision, the export performance of Nepal could be enhanced. Several cases in different countries have proved that the DFQF market access for LDCs can be effectively utilised if it is accompanied by simple and transparent rules of origin. Elimination of export subsidies by the developed and developing countries may have positive impact on export performance of the LDCs, including Nepal, as the products of the LDCs are unable to compete with the subsidised products of the developed countries.

Moreover, the LDCs are not in a condition to provide subsidy for their agricultural products. Nepal could also benefit from the extended period of utilisation of services waiver offers and proposed provision of technical assistance, since it has enormous potential in the service sector,

including IT and tourism sectors among others. But most importantly, Nepal could increase tariff temporarily if domestic industries are hampered because of an import surge. This situation could lead to an increment in revenue and industrialisation.

Despite several opportunities available under the Nairobi Package, addressing supply-side constraints are the major challenges for Nepal's international trade. The major constraints in this respect are poor situation of trade related infrastructure, low level of production and productivity, insufficient testing labs including modern and multifunctional ones, low capacity to address Sanitary and Phyto-Sanitary (SPS) and Technical Barriers to Trade (TBT) related issues, institutional and human capacity limitations and so on. Primitive level of entrepreneurship, poor linkage between goods and services including participation in the global value chains, and weak coordination between and among the public institutions and business community are additional hurdles.

Moreover, negligence on acknowledging the crucial role of a strong trade ministry and technical competency of human resources involved in international trade is one of the main reasons why the country has not reaped as many benefits from WTO membership as have other LDCs.

Thus, to materialise the opportunities mentioned above, public-private dialogue has to be strengthened further to explore and capitalise on the cumulating opportunities under the preferential rules of origin in the areas of the products, processes and partners, to discover the areas to integrate Nepali industries into the global value chains in both goods and services, and to assess the areas of service trade that have comparative and competitive advantage. Intra-ministerial coordination is highly required to address the supply side constraints such as building trade related infrastructures, enhancing productivity and so on.

Accordingly, the Ministry of Commerce has to be strengthened, as in other countries, not only on paper but also in practice. Since international trade is high on the agenda of economic diplomacy, the focus equally has to be put on enhancing the trade negotiation capacity of the

country at the bilateral, regional and multilateral levels. Since negotiation on trade demands human resources with sufficient experience, in-depth understanding and knowledge of the technicalities of trade and strong dedication to the profession, the importance of human resources should not be neglected.

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## 32

## *How Kenya Confirmed the Deathbed of WTO Analysis*

*Horace G. Campbell\**

*Eurasia Review, January 14, 2016*

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When the WTO met in Seattle, Washington in 1999, the Africa paper (*The proposals were formulated as “Africa Group Proposals on TRIPs for WTO Ministerial” and presented by Kenya on behalf of the OAU. A similar paper was presented by Zimbabwe on behalf of the OAU to the Doha Ministerial meeting in 2001*) carefully prepared by the Kenya representatives to the WTO in Geneva had set the stage for the rejection of the strict intellectual property rights which the Western countries’ pharmaceutical companies desired. Sixteen years later at the 10th WTO Ministerial Conference that was held in Nairobi, Kenya, in December 2015, the US Trade Representatives had pressured the Kenyan leadership to exclude “African issues” from the agenda while simultaneously pushing through the expansion of the Information Technology Agreement (ITA), which benefits US corporations.

That Kenya could be caught in a position where it had to please the United States and thus turn its back on India, Indonesia, China and Brazil was an expression of the country’s lack of consultation with Africa and the other countries of the Global South that had been pushing for the DDA. At the end of the meeting, most international media outlets proclaimed the death of the DDA.

Both leaders of the ruling Jubilee party—President Uhuru Kenyatta and Vice President William Ruto – had embarked on a robust diplomatic offensive to escape the status of Kenya as a pariah state after both were indicted by the International Criminal Court (ICC). First, there

was the seeming rehabilitation of the leadership generated by the visit of President Barack Obama in August 2015, followed by Pope Francis’s visit in November.

The 10th WTO Ministerial Conference was supposed to showcase Kenya’s place as a diplomatic and commercial leader in Africa, but instead made Kenya appear naïve and weak. Since the era of plantation economies and trade in human beings when the Spanish Crown established the ‘Asiento’ to the French ‘Exclusive,’ the era of Rule Britannia up to the military management of international commerce by the US, the Western countries have always had their way when it came to trade.

When the WTO was formed there was a lot of buzz about trade liberalisation and how the policies of ‘globalization’ would (a) lift the standards of the quality of life of the impoverished billions in the world, (b) lead to full employment, (c) lead to the growth of real income and effective demand and (d) lead to the expansion of production, of trade in goods and services. The opposite has been true, and Thomas Piketty, in his book ‘Capital in the Twenty-first Century’, brought the figures to show how the world had become even more unequal since the era of economic globalisation. However, since the formation of the WTO, the political and economic balance in the world has changed. The role of the Global South in global trade and increased South-South trade led by nations such as China, India, Indonesia, and Brazil reflects the more prominent role of developing nations in the world economy.<sup>1</sup>

In Asia, the emerging nations created the Regional Comprehensive Economic Partnership (RCEP) – involving the ten ASEAN plus 6 nations (China, Japan, Korea, India, Australia and New Zealand). In Latin America the cooperation was being routed through Mercosur (The Common Market of the South) while in Africa, the African Union had designated 2017 as the date to realise the Africa Free Trade Area, 2019 for the African Customs Union, 2025 for the African Common Market and 2030 for the African Monetary Union, with the latter finalising the basis for the establishment of a common African currency. The Kenyan political leadership had paid lip service to the idea of integrating Africa and had pushed ahead with its limited Vision 2030 while rolling out infrastructure projects to reinforce the centralisation and concentration of wealth into the hands of a few in Nairobi.

Significantly, this was the first WTO Ministerial Conference to be held in Africa, and in many ways, it was one of those meetings where there could be no agreement on the communique before the meeting because of the intense differences over the refusal of the USA and the EU to agree to former commitments on matters of agriculture and food security for countries such as India. This meeting followed the more than 15-year efforts to restore multilateral trade cooperation. Since 2001, there had been negotiations with the former colonised peoples over the future rules in a round of negotiations that had been named after the city of Doha, Qatar.

From the moment of those negotiations in November 2001 until today there had been nothing but duplicitous back and forth between the North and the peoples of the South. The designation of these negotiations as the DDA has never seriously considered addressing the obstacles placed in the global trading system to foster real trading cooperation which support socioeconomic development in the South.

Even while these Doha negotiations were continuing, the US was involved in new trading arrangements in what was called the Trans Pacific Partnership (TPP). At the same time, the US was involved in collaboration with the EU to create the Trans-Atlantic Trade and Investment Partnership (TTIP). The US had embarked on the

forging of plurilateral agreements (*A plurilateral agreement is a multi-national legal or trade agreement between countries. In economic jargon, it is an agreement between more than two countries. Both TPP and TTIP are referred to as plurilateral agreements within the framework of the WTO*). Taken together, these two mega-regionals have changed the multilateral trading system that had been established in 1995 in the form of the WTO.<sup>2</sup>

Before the meeting, the representatives of the EU and the US called for the end of the DOHA Round negotiations, saying that because after a decade of negotiations between developed and development nations could not produce an agreement on issue areas defined by developing nations as critical for “development”, the international trade world has moved on and the WTO was becoming irrelevant. If the WTO is not the place for negotiating new rules for global trade which support the economic priorities of developing nations, as was agreed to in Doha when the “development” round was launched, what was the purpose of the 10th Ministerial meeting?

Why was Kenya so quick to agree to an agenda leading up to the Ministerial which continued to exclude the “African Issues” before the WTO? The outcome of the meeting and the declaration that was called the Nairobi Package was a slap in the face for the peoples of the South. It was especially egregious that the US used the 10<sup>th</sup> Ministerial meeting to seek to undermine the future of Pan African trading relations and to drive a wedge between the BRICS societies and those that the US want to manipulate in the Least Developed Countries. Before the meeting the WTO was in a comatose state and this commentary will argue that the 10th Ministerial meeting further hastened the demise of the WTO.

## **The WTO in the Era of Biotechnology and Information Technology**

The WTO was the successor organisation to the international platform that had been called the GATT. GATT had acted as a sister organisation to the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) to

provide a framework for the continued lopsided basis of international economic arrangements. For a brief period after 1973, the energetic forces from the Global South had pushed hard for the implementation of a New International Economic Order (NIEO – the idea of the New International Economic Order was articulated in the 1970s by the underdeveloped countries, through the platform of the United Nations Conference on Trade and Development (UNCTAD), and sought the restructuring of the international order with the goal of creating greater equity for developing countries on a wide range of trade, financial, commodity, and debt-related issues.

Members of the non-aligned movement had pushed hard in the Uruguay Round 1986-1994 for the poorer nations to play a more central role in international negotiations. This push was sufficiently vigorous to see the technical papers being developed by the United Nations Conference on Trade and Development (UNCTAD) and the establishment of the UN Centre for Transnational Corporations. The period of rabid neo-liberalism and the scuttling of all discussions of UN reforms limped along with the so-called Uruguay Round of the GATT until the US, Western Europe and Japan recovered their nerve and pushed through the formation of the WTO.

The six core areas for the WTO were:

1. an umbrella agreement (the Agreement Establishing the WTO)
2. goods and investment (the Multilateral Agreements on Trade in Goods including the GATT 1994 and the Trade Related Investment Measures, TRIMS);
3. services (General Agreement on Trade in Services, GATS);
4. intellectual property (Agreement on Trade-Related Aspects of Intellectual Property Rights, TRIPs);
5. dispute settlement (the Dispute Settlement Understanding, DSU); and
6. review of governments' trade policies (the Trade Policy Review Mechanism, TPRM).

But from the start of the WTO, the questions of Trade Related Intellectual Property Rights and Public Health became burning issues, especially in the face of the massive deaths from HIV/ AIDS.

The staid language that was presented on the goals of the WTO was an effort to neutralize the burning issues of bio-piracy that had emerged in the era of bio-technology and information technology. Representatives from the Global South objected to the push by the Northern corporates to isolate, identify, and recombine genes and in the process making the gene pool available as a raw source for future economic activity by the big pharmaceutical companies.

The Western corporations had argued that life can be made, life could be owned and the book 'The Biotech Century' by Jeremy Rifkin had outlined how the awarding of patents on genes, cell lines, genetically-engineered tissue, organs, and organisms, was giving the marketplace the commercial incentive to exploit the new resources. It was in this period of what Vandana Shiva called Biopiracy when the term "Globalisation" was deployed to diminish the calls for economic sovereignty in the Third World. Under the rules of the WTO, the globalisation of commerce and trade enabled the wholesale reseeded of the Earth's biosphere with an artificially produced bio-industrial nature designed to replace nature's own evolutionary scheme.

### **Africans Fight Back**

Using the platforms of the United Nations and the battles over the Convention on Biological Diversity (CBD), a common position was developed in Africa with respect to TRIPs and the patenting of life forms. At the Seattle meeting in 1999, the common African position written by the Kenyan delegation had fought to oppose the establishment of property rights over community held resources, traditions, practices and information.

Prior to the meetings in Seattle in 1999, the Africa group had produced a very detailed and clear position on why the direction of the WTO was undermining food security in Africa and posed a threat to the future of agriculture in Africa. From the start of the WTO to this day it was the position of the Africa group that at the core of the TRIPs legal framework was a threat to the societal values and interests of the peoples of the South.

The energetic work of these progressive forces had informed the Organization of African Unity (OAU) in crafting Model Legislation for the protection of the Rights of Local Communities, Farmers and Breeders, and for the regulation of access to biological resources. The technical language of this legislation was adopted by the OAU in Algiers in 2000 and later reaffirmed as a founding document of the African Union. For the meeting in Doha in 2001, this African position was reaffirmed in the document, Africa Group Proposals on TRIPs for WTO Ministerial. *Inter alia*, this document restated the position that,

“With regard to the protection of plant varieties, the TRIPs Council shall clarify that Members have the right to determine the appropriate sui generis system for the protection of plant varieties that is best suited to their interests. The implementation of this provision shall not prevent developing country Members from implementing sui generis systems that accord due recognition to farmers and local communities for their traditional knowledge, ensure food security and safeguard farmers’ livelihoods. Such sui generis systems shall also not undermine traditional farming practices, including the right of farmers to save, use, exchange and sell seeds, as well as, to sell their harvest. We further agree that the transition period for the implementation of Article 27.3(b) shall be extended for a further five years from the date its review is satisfactorily completed.”

When the African Union was formed in 2002, the basic position on TRIPs and the efforts to protect African farmers were retained with the AU reaffirming the sovereign rights of states over natural resources. The Africa position had been very influential in the mobilisation of the countries of the Global South for the Doha negotiations. The Africa position on TRIPs turned out to be one of the troublesome issues of the Doha Development round. The AU also reaffirmed the “African Convention on the Conservation of Nature and Natural Resource.”<sup>3</sup>[iii] In order to push ahead with its attempt to empower the pharmaceuticals and the seed companies, the EU and the USA offered trading agreements with Africans and in the WTO set aside the discussions under the umbrella of special safeguard mechanism (SSM) while

pushing ahead with efforts to “invade” the most rural areas of the planet with bio0prospectors and bio0anthropologists. By the time the US had established the Human Genome Project to advance the study of artificial intelligence, the trade representatives of the OECD were no longer interested in the Convention on Biological Diversity or treaties to preserve indigenous knowledge.

## WTO and Pseudo-Democratic Decision Making

When the WTO was formed in 1995, it was supposed to be an international body embracing all of the countries of the world that subscribed to the ideas of free and unhindered trade. Unlike the IMF, where the OECD countries dominated, the WTO was supposed to be the final arbiter in trade disputes where all decisions were in principle to be made by consensus. This decision by consensus belied the strategy of decision making in the ‘green room’ or the closed door meetings that were called by the Director-General. From its inception, the Director-General of the WTO has been a supporter of neo-liberalism. As the WTO says of itself, “the WTO is the only international organisation dealing with the global rules of trade between nations. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.”

This language had been agreed to in public but from 1995 until this point of the 10th Ministerial Meetings, the leaders of the US and the EU sought to bully, cajole and sabotage efforts to develop equitable international trade. Intellectuals (such as the late Norman Girvan, Martin Khor, Samir Amin and Yash Tandon) working through institutions such as the South Centre (in Geneva) and from the Third World Network (TWN) had been active in the negotiations and rightly argued that there can be no equitable trade without reforming the international financial architecture of the Bretton Woods system.

Scholars such as Samir Amin had opposed the neo-liberal position of the US and the role of the dollar in international trade and finance. The exorbitant privilege of the US dollar came under even greater scrutiny after the 2008 financial crisis



when the USA proceeded to print dollars under the policy of quantitative easing, adding about US\$4tn to the balance sheet of the Federal Reserve. The distortions of trade were reinforced by the distortions of financialisation in so far as trade follows finance and the US and the EU as creditors and holders of the dominant reserve currency status could always call the shots.

The combined powers of the EU, the US along with their domination of trade and finance via the dollar and the Euro had inspired greater cooperation among the poorer nations, with countries in Latin America seeking ways to trade outside of the dollar. The countries of the ASEAN nations had also embarked on new trading practices to elude the possibility of strengthening the US\$. It was not by accident that at the UNCTAD meeting in Accra, Ghana, in 2008 it was reaffirmed that the structural adjustment policies of the IMF hindered real transformation of the economies of the Global South. Scholars of the non-aligned world had been active in opposing the structural adjustment packages of the neoliberal policies that maintained the status quo of the Bretton Woods financial architecture, which extols privatisation alongside liberalisation and stabilisation.

The Accra Accord of UNCTAD in April 2008 comprised of text on four sub-themes: (1) enhancing coherence in global policy making, (2) trade and development issues, (3) enhancing the enabling environment to strengthen productive capacity; and (4) strengthening UNCTAD. The US and Europe were always against the strengthening of UNCTAD. The OECD states were jealous of the fact that UNCTAD had provided the kind of technical assistance necessary for the countries of the South to challenge the high-flying intellectual property rights lawyers of London, Paris, and New York.

In the book, 'The Poorer Nations: A Possible History of the Global South', Vijay Prashad outlined the delicate negotiations that had taken place between 2001-2012 over the question of what was eventually called the Doha Mandate. This was the position of the Global South that trade must support inclusive and innovative economic change, that trade could not be divorced from finance and that the state had to play a central role. The Doha Mandate stated

clearly that, "The State has the primary responsibility for its own economic and social development and national development efforts need to be supported by an enabling international economic environment. The state, having an important role to play, working with private non-profit and other stakeholders, can help forge a coherent development strategy and provide an enabling environment for productive economic activity." (Paragraph 12, Doha Mandate)

The important aspect about the Doha negotiations since 2001 was that the Global South had been able to maintain a firm and united position in the face of the multiple plans that had been unleashed by the Global North to divide the peoples of the Global South. Throughout the period since Seattle, it was the working understanding of the peoples of the South that the international framework for economic policy had to be people-centered. From the perspective of the North, the framework for international economic policies should be centered on international finance and the profitability of the financial moguls and multinational corporations.

Faced with the levels of organizing by the progressive members of the Group of 77, from the outset, the Northern corporations had sought to weaken the solidarity among the poorer nations by creating a division between the 'emerging nations' (such as Malaysia, Mexico, India, China, Brazil) and the Least Developed Nations. This divide and rule strategy had been first orchestrated after the 1973 oil crisis when Henry Kissinger sought to divide countries such as Algeria, Venezuela and Brazil on one side from Bangladesh, Haiti, Tanzania, Mozambique, Angola, Ethiopia and Zambia, on the other.

In 2015, to be a member of the LDC is to be judged to be a state where the per capita income was below US\$1,035. In 1997, the WTO had established a high-level meeting on trade initiatives and technical assistance for the LDCs to create for them an 'integrated framework' involving six intergovernmental agencies to 'help least-developed countries increase their ability to trade, and some additional preferential market access agreements.' However, in 1999, opposition from the labour organisations in the US that opposed NAFTA had aligned with the NGOs from the South and firm leaders of the LDC that

opposed bio-piracy. The environmental lobby had also emerged as a major political force, especially after the climate talks in Copenhagen in 2009 where there was the insistence that trade must consider the impact of global warming.

## **The Alliance of Progressives, North and South**

The South Centre in Geneva and the Third World Network had created a strong platform to expose the duplicitous positions that were being pushed by the transnational corporations from the North. The most egregious example was over the question of the manufacturing and trade of generic drugs in the midst of the HIV/AIDS pandemic. Kenya had been the playground of the pharmaceutical companies, and the fictional novel 'The Constant Gardener' revealed the complicity of the Kenyan leadership in allowing western pharmaceutical companies to use the Kenyan poor as guinea pigs.

Since that novel, the author John Le Carré has said that the truth (about using pregnant African women as guinea pigs for drugs testing) was even scarier than his fictive rendition. Since that time there has been studies that highlighted the fact that clinical trials were now an industry in Kenya. (See *The Clinical Trials Industry in Kenya*). While Kenya was violating its own undertakings about public health before the WTO, India, South Africa and Brazil formed a bloc of countries that worked hard to provide generic therapies for the poor. The role of Al Gore and Bill Clinton in fronting for US corporations in the case against Treatment Action Campaign (TAC) in South Africa now ranks high in the hall of infamy.

## **Agriculture as the Achilles Heel of the WTO**

Many younger readers will not remember that while the IMF and the World Bank were urging African countries to remove all agricultural subsidies, the subsidies paid to farmers in the state of Iowa (in the US) were more than the entire subsidies provided by all of the African governments for their farmers. It has been estimated that the US subsidised farmers to the tune of US\$41bn every year. Secondly, through

the Common Agricultural Policies (CAP), the EU provides massive subsidies to the farmers of Europe. That subsidy is estimated to be about US\$86bn per year. If the WTO is to be democratic, the removal of agricultural subsidies across the board must be a major issue.

The key question about international trade that has been on the negotiating table for decades was whether the agricultural subsidies provided to European farmers (CAP) comprised unfair competition. Samir Amin in the book 'The Liberal Virus: Permanent War and the Americanisation of the World' argued that the property rights regime and forms of agricultural production in the EU and North America threatened the very existence of the oppressed of the Third World.

"We are thus at the point where in order to open up a new field for the expansion of capital (modernisation of agricultural production) it would be necessary to destroy – in human terms – entire societies. Twenty million efficient producers (50 million human beings including their families) on one side and five billion excluded on the other. The constructive dimension of this operation represents no more than one drop of water in the ocean of destruction that it requires. I can only conclude that capitalism has entered its declining senile phase; the logic which governs the system is no longer able to assure the simple survival of half of humanity. Capitalism has become barbaric, directly calling for genocide. It is now more necessary than ever to substitute for it other logics of development with a superior rationality."<sup>4</sup>[iv]

For two decades the question of agricultural subsidies was front and centre of the negotiations of the WTO where the countries from the South argued that it was the obligation of governments to provide cheap food to the most vulnerable sections of the population at very low prices. The previous two Ministerial meetings of the WTO had been debating the position of India where the Indian government was stockpiling food and providing subsidies to the consumers through the public distribution system. Apart from providing subsidies to the consumers, the government of India also provided subsidies to the producers of food grains. The Indian government buys food grains from farmers at a minimum support price and subsidises inputs like electricity and fertiliser.

The 9th Ministerial meeting in Bali, Indonesia (2013) had ended without agreement because India wanted a permanent solution to the issue of public stock holding of food grains. The G-33 members including China have supported India's stand on the ability to subsidize agricultural production and distribute it to the poor at low cost. The OECD countries wanted India to open up its own stockpile to international monitoring. Indian diplomatic overtures within the corridors of BRICS and in the India-Africa summit have been to maintain that the question of food security for the poor remain a central pillar of the DDA. At the Third India-Africa summit in Delhi in India, in October 2015 prior to the 10th Ministerial meeting the Prime Minister of India had said, "We should also achieve a permanent solution on public stock-holding for food security and special safeguard mechanism in agriculture for the developing countries."

The US and the Europeans have worked diligently to come out with backroom deals and agreements such as the US Africa Growth and Opportunity Act (AGOA) or the Economic Partnership Agreements (EPA) that were meant to hinder real cooperation among Africans. Backroom and back door deals, undermining the technical capabilities of African negotiating teams and outright bribery, were the preferred tools of the West. More importantly, the most profitable aspect of the trade between the US and Africa was in armaments. According to the Stockholm International Peace Research Institute (SIPRI), arms sales from the USA to Africa grew faster than any other region of the world 2005-2014. AGOA and the US Africa Command were two sides of the US engagement with Africa.

This is not the place to offer a detailed critique of the AGOA policies that allowed certain goods from Africa to enter the US market duty free. Suffice to say that after fifteen years, this trading agreement between the USA and African countries did not change the status quo where the bulk of African trade with the USA comprised of petroleum products, minerals, and commodities such as tea, coffee and cocoa. A few states were able to produce textiles and export to the US market but the most important engagement of the US with Africa was via the military. This military relationship, which has

deepened under the guise of the global war on terror, ensured that the trade negotiators always had a route to bully leaders of Africa. There has been more than one occasion where African Trade representatives were holding the line of the Global South at meetings only to be told that they must change their position or the US Trade Administrator would ensure that there was a call from Washington to the Head of State.

After several rounds of talks, the language that was worked out was that instead of writing into the WTO that there should be total elimination of export subsidies, the US would agree to language where forms of subsidisation were to be defined as "legal-non trade distorting" or "illegal-trade distorting" and the former were to be gradually eliminated over time. This compromise was worked out so that the US could get the support of the EU on creating a WTO working group on bio-technology and genetically-engineered foods. Genetic-engineering companies such as Monsanto are at the forefront of pursuing an agenda of globalisation to be able to promote the interests of American agribusiness. Twenty years after the formation of the WTO, the leaders of the EU and the US have not only refused to budge on the question of the billions they spend annually on agricultural subsidies, but they have also sought to dictate and define as "illegal" what ways poorer countries such as India could provide support for their farmers in order guarantee a level of food security for their peoples.

## **The Doha Development Agenda**

Because trade cannot be separated from reality, this process of negotiations since Seattle in 1999 had to deal with the consequences of the global war on terror, the capitalist depression after 2008 and the current efforts by the US to create an alternative platform for the domination of the world economy by US-based multinational corporations. The first Ministerial meeting after Seattle had taken place in Qatar after the major World Conference Against Racism (WCAR) in Durban, South Africa. It was in Durban where the Caribbean and the Latin American states mobilized international public opinion to demand that current trade arrangements acknowledge past crimes against humanity, especially the

trading systems of the Transatlantic slavery, colonial trade and the lopsided nature of the international financial system. In Durban, as in Seattle, the US and the EU made it clear that the international meetings held under the auspices of the UN or the WTO were to serve the interests of US corporations.

In 1999, at the WTO meeting in Seattle, the US had promised that the subsequent meetings of the WTO would focus on issues that were of primary importance to the former colonial territories that were grouped in the Group of 77. A WTO committee on trade and development, assisted by a sub-committee on least-developed countries was mandated to examine the special needs of 'developing countries.' The responsibility of this Special Committee included implementation of the agreements, technical cooperation, and the increased participation of developing countries in the global trading system.

One important aspect of this Development Committee was that all WTO agreements contain special provision for developing countries, including longer time periods to implement agreements and commitments, measures to increase their trading opportunities and support to help them build the infrastructure for WTO work, handle disputes, and implement technical standards.

By the date of the November Ministerial meeting of the WTO at Doha, the discussion about the repair of the world trading system was quickly overshadowed by the events of the major attack on the World Trade Centre in New York City on September 11, 2001. That gathering was significant because prior to the meeting, the US had argued that in the face of a health crisis emanating from anthrax attacks, the USA could override the patent rights of the German manufacturer of the drugs that to treat those affected by the anthrax attacks. According to the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPs), member countries are required to recognise international patents on medicine. However, the rules also say that "this requirement may be waived by a member in the case of national emergency or other circumstances of extreme urgency". In waiving the Bayer patent, the US would be able to approach other companies to manufacture greater and cheaper

supplies of ciprofloxacin, as the drug is known generically. African states and India and Brazil had paid special attention to the double standards and hypocrisy of the trade representatives of the US.

By the time the WTO Fourth Ministerial Conference was held in Doha, Qatar, in November 2001, the representatives of the USA declared at that meeting that it was necessary to reconsider the demands of Seattle in light of the fact that the US was now involved in a war on terror. The US trade representative carried the George Bush line to the meeting that it was necessary for the world to support the US. The favoured line was, "You are either with us or against us." As a sop to the states that had been arguing for a New International Economic Order, the European states and the US promised to start a Development Round to address issues of improving living standards for the poorer societies.

According to the official web platform of the WTO, the aim of the Doha Round was "to achieve major reform of the international trading system through the introduction of lower trade barriers and revised trade rules. The work programme covers about 20 areas of trade." The Round is also known semi-officially as the DDA whose fundamental objective is to improve the trading prospects of developing countries.

The Doha Ministerial Declaration provided the mandate for the negotiations, including on agriculture, services and an intellectual property topic, which began earlier. Yash Tandon in the book, 'Trade is War: the West's War against the World' has traced in great detail the duplicity of the West and the strong arm tactics that have been used over the past fifteen years to block real negotiations while pressuring the poorer nations into Economic Partnership Agreements which in reality do little more than finance (via debt) sustainability of a low level equilibrium of poverty and underdevelopment.

## **Emergence of the South: RCEP and MERCOSUR**

While the West dithered on the rules of international trade and commerce, the axis of the world economy was slowly shifting to Asia and

Africa. In 2012, the 10 countries of the ASEAN nations along with China, Japan and South Korea established the Regional Comprehensive Economic Partnership (RCEP). RCEP includes more than 3 billion people, has a combined GDP of about US\$17tn, and accounts for about 40 per cent of world trade. In Latin America there was the emergence of Mercosur, but the real change in the global trade and commerce was the formation of the BRICS countries after the global financial crisis of 2008. Vijay Prashad summed up the importance of BRICS in the international trading system in this way:

“The BRICS bloc is a demographic powerhouse – it constitutes 40 per cent of the world’s population and sprawls over 25 per cent of the world’s landmass. Of the total world GDP, the BRICS produces a quarter. The five countries in the bloc are divided by culture –language, religion, and social mores. They are also differentiated by their economic trajectories – some of the states are governed by the logic of export oriented industrial production, while others are reliant upon raw material export. Such differences, however, do not reduce the political value of the bloc. In conventional terms, these are not minor states –three of the five are declared nuclear powers, two hold permanent seats on the UN Security Council and two others are aspirants for such seats. They have created, thus far, a multilateral platform. Their ambition is to use their combined weight as a counter balance to the habit of Northern primacy and as a forum to raise issues and analyses that are not able to rise to the surface. Assertion in the realm of intractable political arenas (even the Palestine-Israel conflict) and into the debate on financial reform as well as development strategy marks the BRICS attempt to make its presence felt on the world stage as a political platform.

But this level of assertion is constrained by hesitancy amongst the leadership of the states of the BRICS –they are uneasy with any challenge to the North. They prefer to operate passively, building trade relations amongst their countries, and with the potential BRICS Bank, forging a development program for the South that will rotate around their own growth agendas. There is no frontal challenge to Northern institutional hegemony or to the neo-liberal policy framework.

BRICS, as of now, is a conservative attempt by the Southern powerhouses to earn themselves what they see as their rightful place on the world stage.”

It was this alliance between the Global South that had pushed the Doha Mandate and held the West to this mandate up to the 9th Ministerial meeting of the WTO in Bali, Indonesia. Faced with the cohesion of the BRICS nations in the negotiations over the future of the international trade, the US moved to create new trading platforms such as the TPP and the TTIP. Inside the WTO, the USA sought to establish what it termed ‘plurilateral agreements’ with a minority of likeminded states. While negotiating these new trade agreements behind the backs of even the citizens and law makers in the USA, the Ministerial meetings of the WTO became deadlocked and this was the case for the 9th Ministerial meeting at Bali in Indonesia (2013).

Old questions of intellectual property and the patenting of life forms proved contentious along with the permanent question of the massive agricultural subsidies paid to farmers in the US and the EU. Because agriculture remains the lifeblood of the South, the challenges from the poorer nations on the question of food subsidies permanently threatened the WTO. African trade officials had fought the USA over the trade distorting cotton subsidies and the African Cotton-4 (Benin, Burkina Faso, Chad and Mali ) had rallied the African Union and had brought out the fact that the USA ignored the rules of international trade when it related to questions of subsidies for US companies and farmers.

Future work will outline the relationships between the US counter terror operations in Mali and Burkina Faso and the US support for the Comprehensive Africa Agriculture Development Programme (CAADP) to divert African energies from carrying forward the legal and political claims of African cotton producers. The US understood the potency of the Cotton-4 in Africa in so far as the Africans in Africa could have joined forces with African Americans who have been continuously disadvantaged by the subsidies to agribusiness and the impact of the US Farm Bill on Africans in the US. The question of US agricultural subsidies had touched on one of the most sensitive aspects of the US defence policies.

Countries such as India had created a solid bloc with Africa to oppose the double standards of the West and at the Bali Ministerial meeting, India had worked hard to ensure that it would be granted a permanent food security waiver to stockpile food as a hedge against famine and hunger. The Bali declaration had covered four broad areas: 'trade facilitation,' agriculture, cotton, and the LDC issues. The Bali communique was remarkable in its cover-up of the inconclusive treatment of agricultural subsidies. From 2013 to the time of the Nairobi meeting, the push of the North was to seduce the so-called LDCs with promises of market access and to break the solidarity between the Global South. One major argument was that countries of BRICS such as India, Brazil and China should no longer be classified as developing areas.

### **The Kenyan Trap**

The levels of capital accumulation in Kenya had reached the point where Kenya could boast as a society with African billionaires. Kenya had achieved a level of economic diversification with the top capitalists exploding in telecommunications, banking, real estate, light manufacturing, beside the older forms of wealth creation in tourism, import substitution industries, plantation agriculture, growing flowers and transportation. The wealth of the ruling class was sufficient to lift Kenya out of the group of Least Developed Countries. When the Pope visited Kenya in November 2015, he was not shy to distance himself from the political leaders of Kenya proclaiming that the exploitation of the poor was a "new forms of colonialism" that exacerbate the "dreadful injustice of urban exclusion." Pope Francis while speaking in one of the well-known poorer neighbourhoods of Nairobi had stated,

"I am here because I want you to know that I am not indifferent to your joys and hopes, your troubles and your sorrows. I realise the difficulties which you experience daily. How can I not denounce the injustices which you suffer?"

He continued by stating that such were the result of "wounds inflicted by minorities who cling to power and wealth, who selfishly squander while a growing majority is forced to flee to abandoned, filthy and rundown peripheries."

There was no double-speak here. Here was a clear statement on politicians who used power to enrich themselves.

In order to maintain economic and political power, violence in the electoral process had brought Kenya to the front of the international attention after 2008. It was after this post-election violence when the current President and Deputy President were indicted before the International Criminal Court. In the face of this indictment, Kenya developed a look-East policy and deepened its relationship with countries such as India, China and Iran. For two years after the elections of 2013 in Kenya, the public diplomacy of the leadership was to win friends and allies at the African Union and in the Group of 77. It was in this period of intense diplomacy when Kenya was chosen as the site for the 10th Ministerial Meeting.

But, the leaders of the USA and the EU did not sit quietly. As soon as it was clear that the political leaders in the Kenya political system were unprincipled, the western diplomats went to work. The Obama visit to Kenya and the inclusion of Kenya in the Power Africa project was one indication of the pressures on the Kenyan leadership. After the Global Entrepreneurship Conference in August 2015, various US transnationals such as IBM, Facebook, Starbucks and General Electric announced that they would open up new facilities in Nairobi. From Europe, it was made clear to the Kenyan exporters of flowers that if Kenya supported India and the so-called Doha Agenda, the floral business could be in trouble. Placing Kenya on the list of countries where European tourists should not travel was another weapon. Prior to the 10th Ministerial meeting, the government of France announced that it was safe for French tourists to travel to the Kenyan coast.

This kind of diplomacy set the stage for the 10th Ministerial meeting in Nairobi where before the meeting the USA made it clear that this meeting would drop the Doha development issues and the so-called Africa Issues. The US delegation had dictated to the Kenyans that the DDA should be kept out of the meeting and the political leadership of Kenya did not put up any resistance because, to them, their future before the ICC was more important than the welfare of over 3 billion

citizens of the Global South who suffer from the unfair trading practices of the Global North.

## **The WTO is Comatose**

Faced with the growth of BRICS and the RCEP, the US went about the creation of a new trading initiative called the Trans Pacific Partnership. The TPP groups the US, Canada and Mexico with Australia, New Zealand, Brunei, Chile, Japan, Malaysia, Peru, Singapore and Vietnam. Another preferential trade agreement is also being negotiated between the EU and the US in the TTIP. These two agreements are being built to strengthen the position of global capital and create an alternative institutional power base for big US capital within the system of multilateral trade and international law.

What is significant about these two agreements is that they both exclude India, Brazil, Indonesia and China. What the leaders of the USA and Europe have not grasped is the reality that trade wars and currency wars could not be divorced from the current capitalist recession. Working peoples all over the world are opposed to secret negotiations of the type that produced the TPP and it is in the midst of this crisis where the USA and the EU are placing the nails in the coffin of the WTO. Kenyan small farmers and Kenyan workers have been agitating for better living conditions and the 10th Ministerial meeting was held in Kenya during a period of a long drawn out industrial dispute over wages with the teachers of Kenya. All over the world workers are agitating for better conditions and in Africa worker militancy have risen in countries such as Ethiopia, Nigeria and Egypt. The textile workers of Egypt were the backbone of the uprisings in Egypt that toppled Hosni Mubarak.

The Nairobi Ministerial meeting was a clear example of how a weakened political leadership could capitulate before global capital to save their own interests, but the contradictions between the rich and the poor that Pope Francis addressed in Nairobi will have to be fought out long after the delegates have left Kenya. This struggle in the WTO is part of the wider struggle for the rights of working peoples.

The representatives of workers in the US in the Labour Advisory Committee on Trade

Negotiations and Trade Policy (LAC) have come out clearly against the secretive and anti-worker position of the TPP, declaring:

“On behalf of the millions of working people we represent, we believe that the TPP is unbalanced in its provisions, skewing benefits to economic elites while leaving workers to bear the brunt of the TPP’s downside. The TPP is likely to harm the U.S. economy, cost jobs, and lower wages.

The primary measure of the success of our trade policies should be increasing jobs, rising wages, and broadly shared prosperity, not higher corporate profits and increased offshoring of America’s jobs and productive capacity. Trade rules that enhance the already formidable economic and political power of global corporations—including investor-to-state dispute settlement, excessive monopoly rights for pharmaceutical products, and deregulatory financial services and sanitary and phytosanitary rules—will continue to undermine worker bargaining power, here and abroad, as well as weaken democratic processes and regulatory capacity across all 12 TPP countries.”

This clear statement is a reminder of the period before Seattle in 1999 when the workers in the USA who opposed NAFTA had joined forces with activists from the Global South. Kenya is now caught in a trap of its own making. At the 2015 Meeting in Nairobi, it was announced that there was Agreement on Landmark Expansion of Information Technology Agreement. This is the first major tariff-elimination deal at the WTO in 18 years. The US gloated that it had achieved its objective, but such shortsightedness cannot change the realities on the ground in Africa as this agreement (the ITA) was never defined by developing nations as one their priorities for the Doha Development Round.

Currently trade between African countries has been at about 10-12 per cent for decades. African trade comprises only 2 per cent of World Trade. Despite the high sounding words of the Millennium Development Goals and the new SDGs (Sustainable Development Goals), the reality on the ground among the most oppressed was that market fundamentalism strengthened the political and economic power of the West. The EPA and AGOA agreements have been signed to

keep African trade low, but the massive explosion of people-centered economic activities is creating a dynamic that is independent of governments such as that of Kenya.

The 10th Ministerial meeting ended by punting the delicate questions of food security and a communique published by the WTO called the Kenya Package again signalled the postponement of the 'Africa Issues' that had been on the table as the DDA since 2001. Of the four major outcomes of the meeting, the one takeaway was the International Telecommunications Agreement which suited the banks and telecoms sector of the West. The other three were the agreement on Trade facilitation, postponing the issues of food security until 2017 and giving the least developed countries more time to fulfill their obligations under TRIPs.

In short, the US failed to respond to the questions posed by poor African farmers and international NGOs decried the fact that the Kenyan government allowed the US to undermine the collective positions of the Global South. One Nepalese activist said, "Africa is being marginalised on the very soil of Africa. A likely outcome of this non-transparent process would devastate Africa's economy and policy space. This will create massive unemployment in Africa, especially for youth and women. It will dispossess millions of people of their livelihoods and become internal refugees in Africa, and easily half a million people potential refugees heading for Europe no matter what the obstacle."

Despite the betrayal by the Kenyan leaders, one of the widely read newspapers of Nairobi, the East African, carried the headline: "Surprise win for Africa as it gains greater market access globally." To complement this spin, the WTO itself put out a statement to declare that "The Nairobi Package contains a series of six Ministerial Decisions on agriculture, cotton and issues related to least-developed countries. These include a commitment to abolish export subsidies for farm exports, which Director-General Roberto Azevêdo hailed as the "most significant outcome on agriculture" in the organization's 20-year history.<sup>5</sup>

So here was the U.S. spin. US could not hide the fact that everything completed were on topics of interest to the north, even as they spin it as

also good for developing nations. The statement on the meeting from the US Trade Representative was telling that the US. Corporate group said it was disappointed that every element of the Doha round was not killed permanently but that the USA was able to create a wedge between some African members and other members of BRICS.

"It's fitting that our work in Nairobi delivered a meaningful package that will aid development around the world. With the help of African countries and other Least Developed Countries, we were able to design new rules and disciplines for export subsidies, export credits, state trading enterprises and food aid."<sup>6</sup>

In their public declarations since the end of the meeting, the US government says that the Doha round can continue but that WTO members are now free to propose new issues be introduced. This will further remove chance of addressing issues of importance to the global south as promised under the Doha round.

Agenda 2063 of the African Union has placed clear goals of intra-African trade and the transformation of the African economies. In 1977 the Kenyan leadership had conspired with the West to destroy the East African Community. During the long-standing wars against the peoples of Somalia, Kenya was the base for western intelligence forces and for the fundamentalists that financially supported jihadists in Somalia. In order to enrich themselves, the Kenyan political elites instigated post-election violence to terrorise Kenyans while the same political leaders postured as guardians of African independence. The WTO ministerial meeting was the opportunity for Kenya to show that it was truly independent, but the leaders succumbed to the pressures of the EU and the USA, even while seeking better trade relations with India and China. The political leadership of Kenya turned their backs on the agreements of the Global South in order to curry favour with the West. History will be a harsh judge on the role of Kenyan leaders in the 10th Ministerial meeting of the WTO.

Policymakers from the Groups of 77 have noted that continuing the round of WTO talks until 2017 will give the US and EU more time to try and conclude and bring into force TPP and TTIP trade agreements. If that happens, both will indicate that these agreements are the new norms



in international trade rules and in order for the WTO to be relevant in the 21st century it must follow the same direction. Of course neither agreement addresses issues or the positions of the Global South that were supposed to be part of the Doha development round. More importantly, the US establishments have the false confidence that the international political and economic system will remain the same until 2017.

Ultimately it will be up to the Global South to strategically determine if the WTO can be a location to establish trade rules which actually support transformation and development or if, just as we've seen with the BRICS, alternative institutions and frameworks need to be developed.

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## Endnotes

- 1 The concept of the Global South is used in this paper to represent the formerly colonised societies that came out of the Bandung Process and formed the nonaligned nations. The Global South comprised of underdeveloped countries of Africa, Asia, the Caribbean and Latin America. Today, these societies are increasingly working together with China and Russia who, though not formally members of the South have worked in the BRICS formation to align with the members of the former nonaligned nations. For an analysis of the evolution of this group that is called the Global South, see Vijay Prashad, *The Poorer Nations: A Possible History of the Global South*, Verso Books, New York, 2012
- 2 For two different understandings of the role of the WTO see (a) Peter Van den Bossche, *The Law and Policy of the World Trade Organization: Text, Cases and Materials*, Cambridge University Press, Cambridge, U.K., 2006 and (b) Yash Tandon, *Trade is War: the West's War against the World*, OR books 2006
- 3 For the position of the African Union on the Model Legislation and the support for the rights of African farmers see here
- 4 Samir Amin, *The Liberal Virus: Permanent War and the Americanization of the World*, Monthly Review Press, New York 2004
- 5 "WTO members secure "historic" Nairobi Package for Africa and the world, [https://www.wto.org/english/news\\_e/news15\\_e/mc10\\_19dec15\\_e.htm](https://www.wto.org/english/news_e/news15_e/mc10_19dec15_e.htm)
- 6 Statement by Ambassador Michael Froman at the Conclusion of the 10th World Trade Organization Ministerial Conference, published in the Nelson Report, December 20, 2015. For the editorial position of the New York Times, see, "Global Trade after the Failure of the Doha round," [http://www.nytimes.com/2016/01/01/opinion/global-trade-after-the-failure-of-the-doha-round.html?\\_r=0](http://www.nytimes.com/2016/01/01/opinion/global-trade-after-the-failure-of-the-doha-round.html?_r=0) For an alternative viewpoint see, "Imperialism's New Trade negotiating Strategy."

## 33

*Think again, at WTO**K M Chandrasekhar\***Indian Express, January 15, 2016*

Going by the statements in Parliament and before the media, the Indian commerce minister seemed satisfied with the outcome.

There has been much discussion in Parliament and in the media on the outcome of the Nairobi ministerial conference of the WTO. Going by the statements in Parliament and before the media, the Indian commerce minister seemed satisfied with the outcome. Yet a number of experts, writing on the conference, have expressed disappointment at the outcome.

I am aware that only those directly involved in the negotiations would be in a position to properly evaluate the success of the conference. I recall that the Indian delegation at the Singapore ministerial conference waged an arduous and lonely battle against the inclusion of the so-called “Singapore issues” (trade and investment, trade and competition policy, government procurement and trade facilitation) in the WTO agenda. For several hours, the Indian delegation held firm until at last reasonably satisfactory language was found.

The Indian delegation, which I was part of as joint secretary in the commerce ministry, considered this a satisfactory solution, but there were angry reactions, including the adjournment of Parliament, back home. At Doha, in 2004, Murasoli Maran, then commerce minister, fought relentlessly despite poor health to keep out the Singapore issues and for a greater development focus to the work programme to be initiated at the conference. The ministerial declaration at the end of the conference again represented a compromise, which left enough room for negotiators to continue discussion. Again, this could be viewed as a victory or as a defeat.

The fact remains, however, that after the Doha meeting, Indian negotiators, led by Arun Jaitley (and, earlier, Arun Shourie), chipped away at the language of the Doha declaration, played a proactive role in the discussions that followed and, at the ministerial conference in Cancun, got three of the Singapore issues out of the WTO agenda, leaving only trade facilitation (in which India, too, had a strong, positive interest). The omission of these issues was, however, not reflected in the ministerial statement at the end of the conference.

My point is that the language of the statements that come out after the conference does not often reflect the cut and thrust of actual negotiations. The Nairobi ministerial declaration, therefore, represents a compromise. From the words of the declaration, there is little to show as progress. It reiterates decisions already taken at Bali on public stockholding for food security and at Hong Kong on special safeguard measures for developing countries in agriculture. The only forward movement, as I can see, is that these issues will now be discussed in special sessions of the committee on agriculture.

The most conspicuous feature of the Nairobi declaration seems to be the implicit recognition of the fact that many countries have begun to lose interest in the Doha work programme. The usual strong affirmation of commitment to the work programme, expressed even as late as 2013 at Bali, is muted in the Nairobi ministerial declaration. In Paragraph 30 of the declaration, it is stated that many members reaffirm the Doha agenda while others do not, “as they believe new approaches are necessary to achieve meaningful outcomes”. This is further reiterated in Paragraph

34 which says, “While we concur that officials should prioritise work where results have not yet been achieved, some wish to identify and discuss other issues for negotiation; others do not.” Of course, introduction of other issues will be subject to the agreement of all members.

It would appear that the negotiations hereafter will not be confined to the broad framework of the Doha work programme as it has evolved over the last decade and a half. New issues will be put on the table and issues that have been discussed and eliminated or modified in negotiations after the Doha meeting may reappear on the table. The long-drawn-out Doha negotiations, yet to see significant results in key areas, and the proliferation of bilateral and regional trading arrangements have led to declining interest in the WTO work.

The present situation gives India a unique opportunity to sit back and reflect on where we stand. There is a great difference between the India of 2001, when the Doha ministerial declaration was issued, and the India of 2016.

We have evolved and progressed in various sectors and our interests have also changed. In respect of trade and investment, for example, we have opened the doors wide to foreign direct investment. Our business enterprises have also invested heavily abroad. Likewise, we have a strong competition law in place and have constituted a robust competition commission. Our share of global trade has also significantly grown. We would like other countries to open their markets to our products; in fact, in this context, we have serious concerns regarding non-tariff barriers.

It would also be in our interest to move the services negotiations forward, while our interests in the agricultural sector will remain defensive in the foreseeable future. Thus, this is the time to rethink our negotiating positions, discover new bargaining chips and forge new alliances based on our present interests, as earlier groupings seem to have broken down in some cases. A proactive role, in keeping with our present political and economic stance, would serve our interests better.

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## 34

*After Nairobi, what lies ahead for world trade?**Jonathan Fried\***ICTSD, January 18, 2016*

**A**fter four days of intense talks plus 24 hours of overtime, 162 ministers walked out of the trade talks in Nairobi having agreed on six things. All of them aim to improve the terms of trade in agricultural products and for developing countries. And 53 members (who together represent over 90% of world trade in information-technology products) agreed to provide global duty-free access in these goods to their markets.

Kenyan Cabinet Secretary for Foreign Affairs and International Trade, Amina Mohamed, heralded the results as “reaffirming the central role of the WTO in international trade governance”. Yet the Financial Times and New York Times declared it the end of the DDA and called into question the future of global trade negotiations.

So how should WTO member governments – and the business community – understand the outcomes and approach the road ahead?

### **The successes**

Although 14 years of Doha negotiations have resulted in fairly little, it should be remembered that the WTO, as an institution, continues to perform admirably in most of its functions, with a lean secretariat of fewer than 700 people. Its dispute settlement system is the most used, and may well be the most effective, international regime, with 500 cases having been administered. The WTO monitors how well members comply with trade rules and ensures accountability of governments to trading partners, all supported by extensive research and analysis. And its

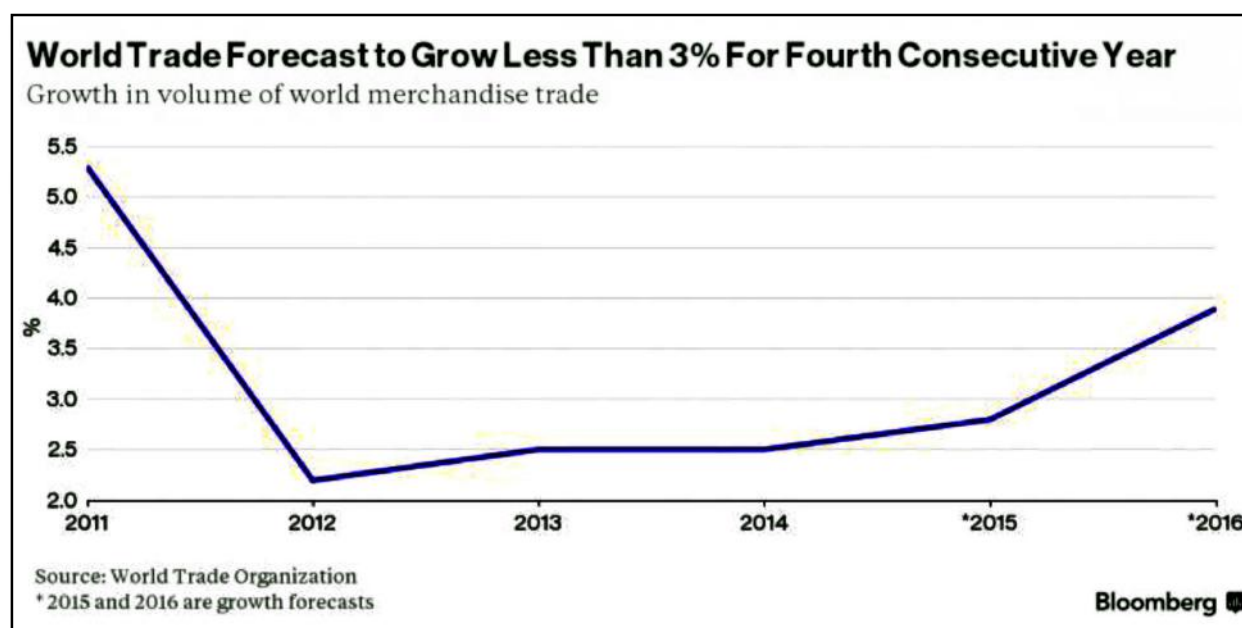
technical assistance and training for country officials smooths the way for less developed economies to participate in international commerce.

While many observers would point to the continuing failure at successive ministerial conferences to conclude a comprehensive package to meet the Doha objectives, as Director General Azevedo said in Nairobi: “Two years ago in Bali we did something that the WTO had never done before: we delivered major, multilaterally negotiated outcomes. We saw those same qualities at work. And today, once again, we delivered.”

So what were these significant results? Most prominent is the decision to eliminate subsidies for farm exports. Long promised, the legally binding decision sets out a schedule for ending current programmes, prevents governments from introducing new ones, and includes disciplines on other tools, such as export credits, state trading enterprises, and the abuse of food aid to ensure they do not act as disguised export subsidies.

A separate decision on cotton promotes access by the least developed countries (LDCs) to developed country markets. And in their communiqué, ministers committed to further negotiations to address barriers to market access for agricultural products more generally, as well as to tackle domestic subsidies.

Nairobi also resulted in decisions of specific benefit to LDCs, including enhanced preferential rules of origin for LDC products, preferential treatment for LDC service providers, and recognition of the particular problems faced by food-importing developing countries and small,



vulnerable economies. Decisions on public stockholding for food-security purposes, and on a special safeguard mechanism that recognises the right of developing country members to temporarily increase tariffs to address import surges, also respond to developing country priorities.

Another of Nairobi's successes was the plurilateral talks expanding the product coverage of the Information Technology Agreement (ITA). This constitutes a major global tariff-cutting deal, with the tariff cuts to be extended to the full WTO membership on a most-favoured-nation (MFN) basis, covering products valued at well over US\$1tn annually. Ministers also agreed to continue a global moratorium prohibiting customs duties on electronic transmission of goods.

## The failures

Nairobi fell short, however, on a number of fronts. Despite broad interest in disciplining subsidies that contribute to overfishing, no agreement was reached. Nor was any progress made in tightening rules on anti-dumping practices.

More profoundly, ministers "agreed to disagree" on whether the DDA can remain the basis for ongoing negotiations. For some members, WTO negotiations must address outstanding issues within the confines of the DDA agenda. For others, the long impasse in these

negotiations have left international disciplines falling behind the way business is conducted today, thus leaving open the risk that governments will find new ways to pursue protectionist policies outside the existing WTO rules-based framework.

## The road ahead

When ambassadors reconvene in Geneva later this month, they are instructed by ministers to advance negotiations on the remaining Doha issues, and that although some members wish to discuss other issues for negotiations, any decision to launch such negotiations would require a consensus, which is not likely forthcoming in the short term. But the Nairobi Communique also states that, mindful of the fact that "many members want to carry out the work on the basis of the Doha structure, while some want to explore new architecture", ministers direct officials to "work to find ways to advance negotiations".

What can be expected, therefore, is a continued push from key players to address major outstanding issues, including the Cairns Group, Brazil, and other major exporters to negotiate agricultural market access and disciplines on domestic subsidies, alongside India and others seeking relief from disciplines for public stockholding of major crops; continuing calls from developing countries for additional preferential, or "special and differential" treatment; and growing interest in many quarters

in addressing more meaningfully the implications of global supply chains for both trade and investment, the implications of the digital economy on cross-border business, and how to promote the participation of micro-, small and medium sized enterprises in this context.

Plurilateral discussions will continue on a tariff elimination agreement for environmental goods, modelled on the ITA and ITA-II, and on a more ambitious regime to liberalise trade in services.

## Time to think

At the same time, it is likely that a period of reflection will be required on both the “what” and the “how” of further global trade negotiations. Discussions are likely to be complex: one of the most challenging aspects of the negotiating dynamic in Nairobi was that views did not divide neatly along north-south or developed-developing country lines. To take just a few examples, many developing countries consider their agricultural prospects threatened by growing subsidies and other programmes pursued by India, China, and other major producers. Sub-Saharan cotton producers’ interests are not the same as those in Bangladesh and other competitors who already have economies of scale. With “southern” multinationals themselves major investors abroad, and increasing awareness globally of the importance of corporate social responsibility, the time may be ripe for a conversation, if not negotiations, on international investment.

## On the ‘what’

The sobering reality of Nairobi’s fairly modest results will require a realistic articulation of what is achievable within or beyond the Doha framework, in the next two years.

## On the ‘how’

It is open for consideration whether, based on the success of the ITA-II negotiations, the time has come to welcome back a “multi-speed” WTO. Under the GATT, the Tokyo Round

produced a series of “codes”, plurilateral agreements among willing members on a range of subjects, making the GATT corpus of disciplines into what at least one observer described as a “club of clubs”.

Today’s WTO encompasses both open and closed plurilateral agreements: as mentioned, the ITA-II is applied on an MFN basis, whereas the Government Procurement Agreement limits benefits to those undertaking the disciplines. Another question of “how” is whether the current structure of committees and councils, of special negotiating groups, are conducive to reaching results. Growing appreciation of the important value of services “embedded” in the trade of goods (from lawyers and accountants to transporters and bankers) lead some to conclude that separate tables for goods and for services negotiations is obsolete, and the so-called “e-commerce” work programme is dispersed across four different committees and councils.

Officials will need to consider whether new or different tables for discussion are required. A further area for study is the relation between the regional and now mega-regional trade agreements and multilateral rules, a task for the WTO’s committee on regional trade agreements that ministers are being directed to consider.

## A good time to rethink trade

This period of reflection and debate means it is a particularly opportune time for the public policy community to aid governments with analysis and insight, and for business to articulate clearly, in capitals and in Geneva, what it wants and needs from the global trading system. Whether in the name of individual firms or through industry or sectoral associations, it is essential that governments are reminded of how to respond to the stakeholders in whose names they claim to act.

Just as business became an effective voice in both the lead-up and follow-up to Bali in championing the red-tape cutting Trade Facilitation Agreement, so too in 2016 business can help shape tomorrow’s trade negotiating agenda.

\* *Ambassador and Permanent Representative of Canada to the WTO and other international organisations, Geneva*

## 35

# *Build on Historic Success of Nairobi to Tackle Urgent Challenges Facing the WTO*

*Robert Azevedo\**  
*WTO News January 19, 2016*

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Minister Arnaldo Brown,  
Professor Ishenkumba Kahwa,  
Dean Derrick McKoy,  
Dr Christopher Malcolm,  
Distinguished guests,  
Ladies and gentlemen,

It's a real pleasure to be here at the University of the West Indies — and to be here in Kingston in this fantastic setting.

We meet at the start of a year which is full of promise.

In 2015 the international community took some huge strides forward on a number of vital issues.

There was the agreement on the UN's new sustainable development goals.

There was the remarkable breakthrough in Paris in the fight against climate change.

And, late in December, at the WTO ministerial conference in Nairobi, members agreed a set of very significant results. In fact they delivered some of the biggest reforms in global trade policy for 20 years.

We must seek to capitalise on this progress in 2016.

I'll come back to this point in a moment – but first I want to pay tribute to Jamaica's leadership.

You have always played a very prominent role at the WTO. Jamaica joined the WTO's predecessor – the GATT – the year after full independence was declared. So you didn't waste any time!

Today at the WTO, Jamaica is known for making its voice heard – representing your specific

interests and those of small and vulnerable economies more broadly.

And, while Jamaica is a relatively small nation that has never been a reason to speak quietly – quite the opposite.

For smaller nations, the costs of maintaining a mission in Geneva are significant – and therefore it is even more essential for those nations that we are making progress and delivering results which make a difference in people's lives. We have a responsibility to do so.

Indeed, Jamaica played an important role in the preparatory work for the Nairobi ministerial conference – and Jamaica was crucial in the success of the meeting itself.

Minister Arnold Nicholson was one of a very small group of ministers who were selected to chair negotiations. And I pay tribute to the excellent – and tireless – work that he did there.

It is a great strength of the WTO that all members have a seat at the table – and all voices are heard. Developing countries play a growing role in decision-making and in setting the agenda. And Jamaica is always a prominent voice in the debate.

Trade is a clear priority here. For island states like Jamaica, trade is an essential means to secure growth and development.

During my visit I will be hearing about some of the steps you are taking to ensure that trade plays its full role – including through reforms to improve the flow of goods.

In fact, during my visit I will be receiving Jamaica's formal ratification of the WTO's Trade

Facilitation Agreement. This is very welcome. This Agreement helps cut trade costs – and therefore improves your ability to trade.

Measures like this to improve the business climate will be very important. I was pleased to note that you have jumped 27 places in the 2015 World Bank’s “Doing Business” rankings, standing at 58 out of 189 economies worldwide.

This is very positive and quite impressive. However, of course, there is still work to be done. The work to promote growth and development continues.

I think that trade will be more important than ever in this effort. This is highlighted by the reforms to trade rules that the WTO has delivered in recent times.

## **The WTO is Delivering**

Let me explain in a bit more detail what was delivered in Nairobi.

The Nairobi Package contained a number of important decisions – including a decision on export competition. This is truly historic. It is the most important reform in international trade rules on agriculture since the creation of the WTO.

The elimination of agricultural export subsidies is particularly significant in improving the global trading environment.

WTO members – especially developing countries – have consistently demanded action on this issue due to the enormous trade-distorting potential of these subsidies. In fact, this task has been outstanding since export subsidies were banned for industrial goods more than 50 years ago. So this decision corrected an historic imbalance.

Countries have often resorted to export subsidies during economic crises – and recent history shows that once one country did so, others quickly followed suit. Because of the Nairobi Package, no-one will be tempted to resort to such action in the future.

This decision will help to level the playing field in agriculture markets, to the benefit of farmers and exporters in developing and least-developed countries.

This decision will also help to limit similar distorting effects associated with export credits and state trading enterprises.

And it will provide a better framework for international food aid – maintaining this essential lifeline, while ensuring that it doesn’t displace domestic producers.

Members also took action on other developing-country issues, committing to find a permanent solution on public stockholding for food security purposes, and to develop a Special Safeguard Mechanism.

And members agreed a package of specific decisions for least developed countries, to support their integration into the global economy. This contained measures to enhance preferential rules of origin for these countries and preferential treatment for their services providers.

And it contained a number of steps on cotton – helping low-income cotton producers to access new markets.

Finally, a large group of members agreed on the expansion of the Information Technology Agreement. Again, this was an historic breakthrough. It will eliminate tariffs on 10 per cent of global trade – that’s US\$1.3tn worth of trade, making it the WTO’s first major tariff cutting deal since 1996.

Altogether, these decisions will provide a real boost to growth and development around the world.

This success is all the more significant because it comes so soon after our successful conference in Bali that delivered a number of important outcomes, including the Trade Facilitation Agreement.

Let me underline again the significance of that Agreement.

It will bring a higher level of predictability and transparency to customs processes around the world, making it easier for businesses – especially smaller enterprises – to join global value chains.

It could reduce trade costs by an average of 14.5 per cent - with the greatest savings being felt in developing countries.

By cutting these high trade costs, the Agreement has the potential to increase global merchandise exports by up to US\$1tn per annum, and to create 20 million jobs around the world.



That's potentially a bigger impact than the elimination of all remaining tariffs.

## **Post-Nairobi — Looking Forward**

For many years global trade negotiations yielded few results.

But, as you can see, we are changing all that. The WTO has delivered a huge amount over the last few years. We are getting into the habits of success.

By doing so, we are bringing the negotiating work of the WTO into line with the other parts of the organisation which already function very effectively.

98 per cent of global commerce now takes place under the WTO rulebook.

The WTO's 162 members monitor each other's practices and regulations against those rules in order to improve transparency and avoid protectionism. And when conflicts arise, we have built one of the most effective dispute settlement systems in the world to resolve them.

The system has dealt with over 500 cases in just 20 years.

We need to continue bringing this kind of discipline to reforming global trade rules.

The negotiating successes of recent years have been achieved despite some persistent and fundamental divisions between members – not because those divisions have been solved.

The prolonged deadlock in advancing negotiations on the WTO's core negotiating agenda, the so-called 'DDA', has been a source of frustration for many.

This is one reason that countries have been putting their energy into other trade initiatives, such as bilateral and regional trade deals. We have to face up to this.

For the last two years, we have been trying to reinvigorate the Doha agenda, exploring various ways of overcoming the existing difficulties. We tested different alternatives over several months of good engagement, but the conversations revealed significant differences, which are unlikely to be solved in the short term.

In Nairobi ministers formally acknowledged their differences about our future work. This was a very significant moment.

But, despite those differences, there is some convergence. For example, there is a clear

openness to advance negotiations on the remaining Doha issues, and to keep development at the centre of our work.

These issues include domestic support and market access for agricultural goods, market access for industrial goods, services, fisheries subsidies, and a number of other areas.

So clearly these are important issues, which members want to address through negotiations. The question, given the differences I have mentioned, is how?

At the same time, some members want to explore the possibility of discussing and eventually negotiating on other issues.

Certainly, all members believe that the WTO can do more – and that we can do it at a faster pace.

So ministers instructed their representatives in Geneva to find ways to advance negotiations.

And in having this conversation, I think we should learn the lessons of our recent successes.

The multilateral approach, as we have already seen, is clearly viable, but there are different ways of negotiating at the WTO.

We have seen success recently by working in different configurations. Groups of members have been working to tackle specific issues of importance to them – such as the negotiations on trade in IT products, which saw success in Nairobi. There are other such initiatives underway as well, on environmental goods, for example.

Whatever the approach, flexibility in the way new commitments are taken on has proved to be a crucial ingredient for success.

The Trade Facilitation Agreement – a fully multilateral undertaking – was successful for exactly this reason: because it is flexible. It allows members to participate in a way which is commensurate with their capacity to do so.

It allows members to decide individually how quickly they take on commitments and, more than that, whether they need practical support to implement them.

Jamaica will benefit from this support.

Flexibility is also the hallmark of plurilateral deals, such as the Information Technology Agreement, where members who are ready take on new commitments, and others join later if they wish.

We may need to see more of these kinds of flexible approaches if we want to reach consensus in an Organisation that has members at different stages of development, and which face distinct economic circumstances.

I am confident that we will learn from these successes and build on the commonalities between members – because the alternative is not an option.

The price of inaction on negotiations would be high.

We would be harming the prospects of all those who rely on trade today – and it would disadvantage all those who would benefit from a reformed, modernised global trading system in the future, particularly in poorer countries.

The smaller and the poorer the country, the more likely it is to need trade as a means to attract investments and to boost economic and social development. We simply cannot lose sight of this reality.

## Conclusion

So the challenge before us is very significant.

It is not limited only to the question of what happens to the Doha issues, it is about the negotiating function of the WTO. It is about what members want for the future of the Organisation as a standard and rule-setting body.

It has wide systemic implications for trade multilateralism, and for multilateralism at large. And the challenge is urgent.

The world won't wait for the WTO. Other trade deals will keep advancing. The WTO cannot stop delivering.

The wider the gap between regional and multilateral disciplines, the worse the trade environment becomes for everyone, particularly businesses, small countries and all those not involved in major regional negotiations.

But the outlook is not bleak. I said at the outset that 2016 was full of promise. I truly believe that – because, while we face real challenges, there are also real opportunities before us.

The conversation that is already getting underway in Geneva will determine the future direction of global trade negotiations – and the future direction of the WTO.

It is an opportunity to find solutions that have long eluded us.

It is an opportunity to ensure that trade delivers more – and that it supports growth and development for all.

So I trust members will rise to this challenge – and seize this opportunity. I have no doubt that Jamaica will play an active and central role in that debate.

Thank you.

\* *Director General, WTO*

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### *Levelling the Playing Field*

*Jens Kastner\**

*Taiwan Review, February 01, 2016*

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The expansion of the WTO's Information Technology Agreement will help boost Taiwan's electronics sector.

Owing to the Republic of China's (ROC) complicated diplomatic situation, the nation faces unique challenges in its ongoing efforts to reach bilateral free trade agreements (FTA) with some of its economic partners across the globe. As a result, Taiwan's export-reliant economy has been placed on an unequal footing in certain markets with trade rivals such as South Korea, which has to date signed FTAs with the US, the EU, mainland China and the Association of Southeast Asian Nations.

The fact that the country's electronics industry has been competing impressively well nonetheless is due in part to the WTO Information Technology Agreement (ITA). The pact, the global body's first and most significant trade liberalisation arrangement, eliminated import duties on an array of technology products, from computers and telecommunications equipment to software. Taiwan acceded to the organisation in 2002 under the name the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu. According to the Market Intelligence & Consulting Institute (MIC), a Taipei-based think tank serving the information technology (IT) industry, approximately 80 per cent of the nation's electronics exports enjoy zero-tariff treatment as a result of the ITA, which entered into force in 1997 and now covers more than 80 WTO members.

An expansion to this accord was formally concluded last December and will begin to take effect this year. Dubbed the ITA II, the landmark

agreement will extend tariff-free status to an additional 201 technology products, including many that either did not exist or were still in the early stages of development when the initial pact was crafted, such as next-generation semiconductors, medical ultrasonic scanning apparatuses and Global Positioning System (GPS) devices. The pact, the WTO's first major tariff-cutting accord since the initial ITA, will benefit all members as it will be implemented on a MFN basis. This means that exports of listed goods from all members will enjoy duty-free treatment in participating economies.

In July last year, Taiwan officially informed the WTO of its decision to join the new agreement, having overcome opposition from domestic manufacturers of products that are not listed in the pact, in particular producers of liquid crystal display (LCD) panels. Since the ITA II will help shield the nation's electronics sector from the effects of its rivals' FTAs, the conclusion of the accord marks a significant success for the negotiators under the Ministry of Economic Affairs' (MOEA) Bureau of Foreign Trade.

"Taiwan is a key partner in the global tech industry, and its involvement in the ITA has been critical to its success," says Sage Chandler, who, as the vice president of international trade for the U.S. Consumer Electronics Association (CEA), travelled to the ITA II negotiation rounds as part of the U.S. industry delegation. "Taiwan proved to be a leader in the expansion negotiations, playing a very helpful role at several critical junctures over the past few years."

Chandler is positive that the ROC government's decision to join the accord will pay

dividends. She notes that the value of Taiwan's semiconductor exports, which reached approximately US\$67 billion in 2014, is more than four times that of its LCD exports, which totalled about US\$15 billion during the same period. "With an economy whose GDP [gross domestic product] relies so heavily on IT, Taiwan needs to maintain strong semiconductor exports, which joining the ITA expansion accomplishes," she says.

The implementation schedule for the new agreement was outlined when the deal was formally concluded at the Ministerial Conference, the top decision-making body of the WTO, in Nairobi, Kenya from Dec. 15 to 18 last year. According to the timetable, around 65 per cent of tariff lines will be eliminated by July 1 this year, while most of the remaining duties will be completely phased out in four stages spanning three years. As a result, virtually all imports of the products listed in the deal are set to become duty free by 2019.

Under the accord, participants have also committed to working toward addressing non-tariff barriers in the IT industry, and will keep the items listed in the deal under review in case further expansion of the agreement is required to reflect future developments in the technology sector.

Annual trade in the 201 additional items covered by the ITA II is currently valued at around US\$1.3 trillion, or 7 per cent of the global total. Besides Taiwan, the pool of participants will include major economies such as Australia, Canada, mainland China, the EU, Hong Kong, Japan, Malaysia, Singapore, South Korea, Switzerland and the U.S. According to WTO data, Taiwanese exports of products covered by the ITA II comprised 7.1 per cent of the total between 2011 and 2013.

CEA projects that the new pact will offer immense benefits for industries and consumers around the world. The association estimates that the agreement will add about US\$1tn annually to global GDP through expanded trade in tech goods. Moreover, dropping tariffs to zero on the items listed in the ITA II will not only make these products more affordable and accessible, but also spur innovation in next-generation technologies, Chandler says.

According to the MOEA, the agreement will cover Taiwanese exports totalling around US\$90bn annually and impact US\$62.7bn worth of imports. When the amount that the nation will lose in import duties is deducted from the total that local exporters will save in tariffs, Taiwan's economy will make an annual net gain of approximately US\$820mn, MIC data indicates.

Taiwan exports more than it imports of 136 of the 201 products listed in the ITA II. In addition to enterprises in the semiconductor industry, companies in the magnetic resonance imaging, GPS and printer cartridge sectors are poised to benefit from the new accord.

The expansion of the ITA is of utmost importance to Taiwan not only because the island's economy is dependent on IT exports, but also because most of the enterprises in its electronics sector operate as original equipment or original design manufacturers for foreign brands. While both business models typically guarantee high-volume orders, they also come with thin profit margins, often below 3 per cent, meaning that even slight adjustments in tariff rates can have a significant impact.

Taiwan's current indispensable position in the global electronics supply chain can be partially attributed to the initial ITA. Thanks to the agreement, a foreign IT brand sourcing listed components from the nation can export these parts to mainland China or other participating economies for assembly without paying tariffs and then ship the finished products to major markets such as the US and the EU also without being subject to duties. The removal of tariffs on an additional 201 goods will enable many more local component providers and manufacturers to participate in zero-tariff global supply chains.

"Any part or finished good that is covered by the ITA and the expansion will be duty free, so if a Taiwanese company usually has to pay a tariff to China, that will disappear," Chandler explains. "It will also be important for US companies who manufacture in China. On products that are covered in the ITA expansion, the Chinese tariffs on component imports will be gone, but so too will the U.S. tariffs that are charged to bring finished items to American consumers."

One of the many Taiwanese high-tech exporters expected to become more competitive

as a result of the ITA II is BenQ Materials Corp. (BMC), which is based in the northern municipality of Taoyuan. The company is a leading manufacturer of polarisers—optical filters used in applications ranging from photography to LCD technology. This item was not yet a key component in many IT products when the initial ITA came into effect in 1997. “We’ve been negatively affected by other countries’ FTAs because polarisers aren’t part of the old agreement,” explains BMC’s chairman ZC Chen.

Unsurprisingly, Chen applauds the decision to include polarisers in the new pact. To stress the importance of the accord, he highlights Taiwan’s polariser sales to mainland China, which according to MIC is the island’s most important market for this item with around 80 per cent of total exports. The mainland’s import tariff currently stands at 8 per cent. However, under the mainland China-South Korea FTA signed in June last year, the duty on South Korean-made polarisers was scheduled to be reduced annually by 0.8 per cent, meaning the tariff rate would have dropped to zero in 10 years.

“So, if polarisers weren’t included in the ITA II, BMC would have been forced to operate under unequal conditions in this market,” the chairman says. “Plainly put, we’ll only be able to compete with South Korea and Japan because of this accord.” Chen forecasts that the agreement will lead to “an upgrading of the massive R&D [research and development] power of Taiwan’s industrial sector and a shortening of the current era of unfair competition for the country’s electronics manufacturers.”

While the conclusion of the ITA II marks a considerable success for Taiwan’s trade

negotiators, they are not resting on their laurels. To remedy the exclusion of LCD panels from the accord, the MOEA is seeking to add these items to the trade in goods pact currently being negotiated with mainland China under the Economic Cooperation Framework Agreement. The mainland is the main export market for locally produced LCD panels.

It is clear, however, that this will not be an easy task. It is no secret that progress on the ITA II was repeatedly stalled because of mainland China’s opposition to the inclusion of the display panels in the new accord. According to Chandler, “CEA carried that line item all the way to the White House and had President Barack Obama discuss this with Chinese President Xi Jinping,” but to no avail.

“We cannot give up on participation in the ITA II just because LCD panels are not included,” says Wu Yu-yin, an assistant research fellow with the Chung-Hua Institution for Economic Research’s Taiwan WTO and RTA (Regional Trade Agreement) Centre in Taipei. “We will try to have mainland China lower their tariffs for Taiwanese flat panels, possibly in the form of a gradual annual reduction scheme, which would be great for the industry.”

While it will take some time for the full effects of the ITA II to be felt, there is little doubt that the global tariff-reduction accord will have a significant impact on the local information and communications technology sector. “Although Taiwan is an exporting powerhouse, it has been struggling to address international trade barriers,” BMC’s Chen says, “but now the government is levelling the playing field for us by joining the ITA II.”

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*Reflections on the WTO Ministerial**Mustafizur Rahman\***The Daily Star (Bangladesh), February 05, 2016*

**B**ackdrop of MC-10: There is no denying the fact that the WTO, as the global body entrusted to regulate and reform the multilateral trading system, is an important institution for the globalising economy of Bangladesh. Over the recent past, the Bangladesh economy has been increasingly exposed to the dynamics of the global economy and global trading system through a diverse range of transmission channels: export and import of goods and services, aid and foreign direct investment.

The degree of openness of the economy, defined as share of export and import of goods and services in GDP (equivalent), has been on the rise at a significantly fast pace, from about 17 per cent in the early 1990s, to 34 per cent in early 2000s to more than 40 per cent in recent years. If in the early 1990s Bangladesh's export earnings (from goods and services) and foreign aid was almost the same amount, in recent years the annual export figure was about fifteen times more than the aid that she had received in that year. Bangladesh can take genuine pride in the fact that it has been able to transform itself from a predominantly aid-receiving economy to a trading economy. Hence, for Bangladesh, the importance of trade-related issues, and of the WTO as the trade-rule making global institution, cannot be overemphasised.

It is in this backdrop of growing importance of trade and trade-related issues that the decisions of the recently held (15-18 December 2015) tenth Ministerial Meeting of the WTO (MC-10) in Nairobi, Kenya, demands closer scrutiny from the perspectives of Bangladesh's concerns and interests. It will be pertinent to recall here that,

in the context of the Istanbul Programme of Action (IPoA) in support of the LDCs, adopted at the fourth global Summit in support of the LDCs held in 2011, world leaders had committed to make the global trading system work in favour of the LDCs to help attain the IPoA target of doubling LDCs' share in global export, and halving the number of LDCs, by 2020.

We are also reminded that the recently adopted (September 25, 2015) Sustainable Development Goals (SDGs) had articulated the global commitment to successfully conclude the Doha Round negotiations and reiterated the commitment to double export share of LDCs by 2020, provide meaningful duty-free, quota-free market access and put in place simplified preferential rules of origin for the LDCs. In view of this, MC-10 was indeed an excellent opportunity to keep the promise. And it is in this backdrop that the MC-10 outcomes ought to be judged, both in terms of the process and the outcomes.

**Bali Package**

As will be recalled, MC-9 in Bali, Indonesia (held in December 2013) had adopted the LDC package which included the followings: (a) commitment to implement the Hong Kong decision as regards providing duty-free, quota-free (DF-QF) market access for all products originating from all LDCs in developed country markets and in markets of developing countries 'in a position to do so', through meaningful market access; (b) operationalise the services waiver granted to the LDCs in 2011 (at MC-8)

by holding a High Level Signalling Conference, (c) set up a Monitoring Mechanism to strengthen enforcement and implementation of the Special and Differential (S&D) treatment provision of the WTO, (d) provide enhanced market access for export of cotton by cotton-exporting African LDCs, (e) make preferential rules of origin LDC-friendly, (f) enhance provision of aid for trade and (g) put in place technical and financial assistance to support LDCs' endeavours to implement the Trade Facilitation Agreement (TFA) adopted in Bali MC-9.

It was envisaged and expected that, in the post-Bali phase, through negotiations in Geneva, concrete progress would be made towards implementation of the Bali package commitments, which the Ministers could then adopt in MC-10.

## **Post-Bali developments in Geneva**

In the event, the negotiations in Geneva did not live up to the expectations generated in Bali, at least from the LDC perspectives. No tangible progress could be made to take the DDA forward, particularly because of the irreconcilable differences between mainly the EU and US, on the one hand, and the emerging developing countries such as India, Brazil and China, on the other. This was true for negotiations on both built-in agendas and new agendas in the Non-Agricultural Market Access (NAMA), Agreement on Agriculture (AoA with its three pillars of domestic support, market access and export subsidy) and also concerning other areas. As regards issues of interests to the LDCs, one notable achievement in Geneva was the TRIPs Council decision to extend LDC special treatment for an additional 17 years (till 2033) by extending the earlier waiver of fifteen years (2001-2015).

Indeed, Bangladesh's negotiators in Geneva had played a decisive role in getting this extension, which has heightened interest for our country. The proposed High Level Meeting did take place in February 2015 in view of the Request List submitted by the LDCs. However, the Offer Lists submitted by the developed countries did not meet the expectations of the LDCs, and lacked concrete measures to facilitate export of services from the LDCs. LDCs also observed with apprehension how during the post-Bali phase many developed

countries had put emphasis on negotiating among themselves to facilitate market access for particular products through the Plurilaterals (those countries accounting for a significant part of trade in that particular item – the so-called critical mass).

Negotiations as regards mega-trading blocs such as the TPP and the Trans-Atlantic Investment Area (TAIA), also gave rise to serious concern among the LDCs in view of their possible adverse impact and implications for the LDCs including in the form of preference erosion and export and investment diversion. Thus, LDCs went to MC-10 with a number of concerns that informed both their offensive and defensive interests.

## **MC-10 outcome**

In the end, whilst MC-10 was able to salvage the Doha Round and the WTO, it failed to make any tangible progress in terms of the LDC deliverables; key issues of concern and interest to the LDCs continued to remain unaddressed. In addition, deep divisions emerged among the key Member groups – the developed members on the one hand and the powerful bloc of emerging economies, on the other. This has now severely undermined the effectiveness of WTO as a consensus-based multilateral system and left WTO's future to a high degree of uncertainty. This conflicting stance concerned both approaches to negotiations and the substance of negotiations, with a lot of interpretative ambiguities in between.

Some Members reaffirmed their commitment to the Doha Agenda and its successful completion, others believed that new approaches were needed to achieve meaningful outcomes through multilateral negotiations within the ambit of the WTO. Indeed, MC-10 Declaration was compelled to put on record and concede this divergence of views by stating that Members had different views on how to address the negotiations. All these will likely have serious implications for systemic aspects of the WTO and perhaps these are also indicative of a possible move away from the single undertaking principle (nothing is agreed unless everything is agreed) which has traditionally informed WTO negotiations.

MC-10 Declaration and Annexes mentioned that Members strongly commit to addressing the marginalisation of LDCs in international trade and will contribute to improve their effective participation in the multilateral trading system. “Towards that end, we shall ensure that all issues of specific interest to LDCs shall be pursued on a priority basis, with a view to strengthening, making them commercially meaningful, and, when appropriate, legally binding” (paragraph 24). The declaration reiterated commitment to significantly increase the exports of developing countries, in particular with a view to doubling the least developed countries’ share of global exports by 2020.

As regards the LDC package adopted in Bali and other issues of interest to the LDCs, as was noted, the progress in MC-10 left much to be expected. One notable aspect that merits particular mention concerned the process of negotiations in MC-10. By most reckoning, it was by far the most exclusionary Ministerial Meeting, with negotiations being dominated by the big five – the USA, the EU, Brazil, India and China. Even the traditional Green Room negotiating process (with a larger participation, and with representation from key interest groups) was not put into effect; key non-five members representing various groups (e.g. the LDC group) were invited to the negotiating table on a case by case basis, only when relevant themes/paras were being discussed. This non-inclusive negotiating process came under severe criticism by the excluded Members, not to speak of by the many civil society groups who kept a watchful eye on what was happening and how it was happening in Nairobi.

As regards the LDC issues, the Ministers took due note of the TRIPs council decision of November 6, 2015 on extension of special treatment for pharmaceuticals. One important decision concerned Preferential Rules of Origin in relation to LDC market access whereby concrete decisions were taken to make the RoO LDC-friendly (use of non-originating materials up to 75% of final value of product, allowing LDC and regional cumulation) and agreeing to make documentation less burdensome for the LDCs.

With regard to the DF-QF market access, an issue where Bangladesh has particular interest, the MC-10 Declaration repeated what had been said many times before: realise timely implementation of duty-free and quota-free market access on a lasting basis for all least developed countries, consistent with WTO decisions. This was nothing new. Negotiators in Geneva could not make much progress in this regard, also because of the difference in the stance between African LDCs (and Haiti) receiving DF-QF market access in US thanks to the AGOA (Africa Growth and Opportunity Act) and the Asia-Pacific LDCs which did not receive such preferential access. This is notwithstanding the fact that (and this been demonstrated through rigorous analytical work) it was possible to assuage concerns of African apparels-exporting members and still allow DF market access to Bangladesh and other Asia-Pacific countries (at least in certain apparels tariff lines). This points to the need for continuing consultation with African LDCs on the part of Bangladesh and other Asia-Pacific LDCs.

As regards services waiver for the LDCs, the waiver period was extended till 2031 (indeed, there was no progress to speak of since the adoption of the waiver in 2011; thus, extension of the period from the earlier 2026 was indeed no big deal). Members were urged to notify their preferences which have commercial values and promoted economic benefits; members were also urged to specify technical assistance and capacity-building measures in support of LDCs. However, no real and concrete progress was made as regards operationalisation of the services waiver, particularly with respect to implementation of the preferential market access through flexible administrative procedures, visa-free regime, easier commercial presence, degree equivalence, recognition of accreditation certification, which have been requested by the LDCs.

As regards the S&D Monitoring Mechanism, LDCs had hoped that there will be room for negotiations for ensuring enforcement of the provisions on the part of developed members. However, there was no tangible development in this area. In effect, LDCs will only be able to bring to notice their concerns as regards



implementation of the S&D provisions, without any guarantee for enforcement.

With regard to Aid for Trade, the dedicated window of Enhanced Integrated Framework (EIF—the special window for the LDCs) received a pledge of only US\$90mn over the next few years—the total request over the 2016-2021 period was to the tune of US\$280-320mn. Much more resources will indeed be needed for the LDCs in light of the Trade Facilitation Agreement in the form of Aid for Trade Facilitation. Additional resources will also be needed to implement trade-supportive and trade-promoting measures identified through the Diagnostic Trade Integration Study (DTIS) sponsored by the EIF to identify trade-related gaps and deficits in the LDCs.

### Concluding remarks

For relatively weaker economies, a rule-based multilateral trading system, with concrete and enforceable S&D provisions and supportive architecture, is no doubt the preferred route towards strengthened global integration. During the post-Nairobi phase and in the run up to MC-11 in 2017, Bangladesh should be proactively engaged in the negotiations in Geneva to ensure that the WTO remains committed to its mandate,

and to the DDR agenda adopted at the MC-4 in 2001. By consolidating LDC solidarity, and by mobilising support from other key groups, Bangladesh will need to work towards meaningful implementation of the LDC package agreed in Bali MC-9. WTO must service the commitments made at the highest levels by the Heads of Governments, both in view of the IPoA and the SDGs.

As a key player in the WTO, Bangladesh must keep on the pressure to secure and realise the promises that have been made and work to ensure coherence with respect to those commitments. At the same time, Bangladesh should keep its options open, to explore how it can be engaged with the various mega-regional blocs to secure its trade interests. Building trade-related supply-side capacities, putting in place trade facilitation measures, attracting domestic and foreign investment, reducing cost of doing business, productivity enhancement, skills up-gradation and taking advantage of regional co-operation, proposed economic corridors and connectivity-improving measures—all these initiatives ought to receive highest priority in Bangladesh's development strategy to help her realise the potential opportunities emerging in the global market, by taking cognisance of the developments both within and outside of the ambit of the WTO.

\* Executive Director, Centre for Policy Dialogue (CPD)



# Exhibits





**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

## **NAIROBI MINISTERIAL DECLARATION**

ADOPTED ON 19 DECEMBER 2015

### **PART I**

#### **Preamble**

1. We, the Ministers, have met in Nairobi, Kenya, from 15 to 18 December 2015 at our Tenth Session. As we conclude our Session, we would like to express our deep appreciation to the Government and people of Kenya for the exceptional organization and the warm hospitality we have received in Nairobi.
2. We note that our Tenth Session takes place as we mark the twentieth anniversary since the establishment of the WTO. On this occasion, we underline the crucial importance of the multilateral rules-based trading system and reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization.
3. We reaffirm the pre-eminence of the WTO as the global forum for trade rules setting and governance. We acknowledge the contribution that the rules-based multilateral trading system has made to the strength and stability of the global economy. We reaffirm the value of our consistent practice of taking decisions through a transparent, inclusive, consensus-based, Member-driven process.
4. We note with concern the slow and uneven recovery from the severe economic and financial crisis of 2008, resulting in lower global economic growth, depressed agricultural and other commodity prices, raising inequalities, unemployment and significantly slower expansion of international trade in recent years. We acknowledge that international trade can play a role towards achieving sustainable, robust and balanced growth for all.
5. We pledge to strengthen the multilateral trading system so that it provides a strong impetus to inclusive prosperity and welfare for all Members and responds to the specific development needs of developing country Members, in particular the least-developed country Members.
6. We acknowledge that international trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing country Members. We seek to place their needs and interests at the centre of the work in the WTO.
7. We reaffirm the centrality of development in the WTO's work and commit to continuing to make positive efforts designed to ensure that developing country Members, and especially the least-developed country Members, secure a share in the growth of world trade commensurate with the needs of their economic development.
8. We recognize the role the WTO can play in contributing towards achievement of the 2030 Sustainable Development Goals, in so far as they relate to the WTO mandate, and bearing in mind the authority of the WTO Ministerial Conference.

9. We recognize the importance of strengthened coherence in global economic policy-making. We underscore the Marrakesh coherence mandate, and encourage initiatives for cooperation with other international organizations in pursuit of our common objectives, while respecting the competence of each organization.

### **WTO's twentieth anniversary – achievements and challenges**

10. On the occasion of the WTO's twentieth anniversary, we acknowledge important achievements under the functions of the Organization described in Article III of the Marrakesh Agreement.

11. We reaffirm the importance of work in regular bodies in furthering the objectives of the WTO Agreements and in facilitating meaningful exchange of information and sharing of experiences regarding the effective implementation and operation of their provisions. We note that the WTO's trade monitoring work, including trade policy reviews, has contributed consistently to the functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members.

12. We reiterate that the WTO shall remain the main forum to negotiate multilateral trade rules. We have made some progress in the negotiations. At our Fourth Session, we launched for the first time in the history of the GATT and the WTO, a Development Round; the Doha Work Programme. We recall the adoption of the Protocol Amending the TRIPS Agreement. We draw particular attention to the adoption of the Agreement on Trade Facilitation (TFA) as the first multilateral agreement since the establishment of the WTO. We commend those Members that have already accepted the respective Protocols and look forward to additional acceptances. We welcome the Decisions and the Declaration listed in Parts I and II of the Bali Ministerial Declaration, and the subsequent General Council Decision of November 2014 on Public Stockholding for Food Security Purposes. We note, however, that much less progress has been made in Agriculture and other central components of the WTO's negotiating agenda, namely NAMA, Services, Rules and Development.

13. We note that the Dispute Settlement Understanding (DSU) continues to offer a means for the settlement of disputes among Members that is unique in international agreements. The system has dealt with a large and growing number of disputes, demonstrating Members' continuing confidence in it. We recognize that the increasing number and growing complexity of disputes present challenges to the system. We therefore commit to pursue and renew efforts to address current challenges and to further strengthen the system, including through effective implementation of the rulings and recommendations of the Dispute Settlement Body (DSB).

14. We recall the commitments made by Ministers at all of our previous sessions, as well as by the international community at the Fourth UN Conference on Least-Developed Countries (LDCs) in Istanbul, to assist LDCs secure beneficial and meaningful integration into the multilateral trading system and the global economy. We recognize that LDCs remain vulnerable and continue to face structural difficulties in the global economy. We underscore the continued importance of initiatives aimed at fully and meaningfully integrating LDCs into the multilateral trading system in a more effective manner.

15. We recognize the contribution of the Enhanced Integrated Framework (EIF) in mainstreaming trade in development policies of LDCs and building their trade capacity. This significant role in helping LDCs achieve their development objectives is duly recognized by the 2030 Agenda for Sustainable Development. We are determined to further intensify our efforts to secure the necessary level of financial contributions to the program with the view to enabling the delivery of predictable trade-related support to LDCs, based on the programme needs as set out in the EIF Phase Two Programme Framework.

16. We recognize the importance of the Aid for Trade initiative in supporting developing country Members to build supply-side capacity and trade-related infrastructure and we shall accord priority to the LDCs' needs. We take note of the outcomes of the WTO global reviews on Aid for Trade, in particular the Fifth Global Review, and recognize the continuing need for this initiative.

17. We note the substantial progress in WTO's technical assistance and capacity building, which focus on the needs and priorities of beneficiary Members. We recognize that dedicated facilities such as the Standards and Trade Development Facility and the Trade Facilitation Agreement Facility are making an important contribution towards assisting developing country Members and LDCs to implement relevant WTO agreements. We also reiterate the importance of targeted and sustainable financial, technical, and capacity building assistance programmes to support the developing country Members, in particular LDCs, to implement their agreements, to adjust to the reform process, and to benefit from opportunities presented.

18. We celebrate the enlargement of the Organization by accessions in accordance with Article XII of the Marrakesh Agreement. We note that the accessions of the Republic of Yemen, the Republic of Seychelles and the Republic of Kazakhstan to the WTO have been completed since our last Session. In particular, we note with satisfaction that this Conference has completed the accession procedures for two least-developed countries, the Republic of Liberia and the Islamic Republic of Afghanistan. We recognize the extensive commitments and the contribution of the Article XII Members resulting from their accessions to the strengthening of the multilateral trading system. We will work jointly on the expeditious completion of current accessions. We remain committed to efforts to facilitate accessions and provide technical assistance to acceding countries, including in the post-accession phase.

19. As we recognize the centrality and primacy of the multilateral trading system, we note that WTO Members have also successfully worked and reached agreements in plurilateral formats.

20. We take note of the reports from the General Council and its subsidiary bodies. We welcome the progress arising from these reports, and the Decisions stemming from them, in strengthening the effectiveness of the WTO as an organisation and the multilateral trading system as a whole.

## PART II

### Regular work under the General Council

21. We welcome the following decisions we have adopted at this Session:

- Work Programme on Small Economies – Ministerial Decision – WT/MIN(15)/40 – WT/L/975
- TRIPS Non-violation and Situation Complaints – Ministerial Decision – WT/MIN(15)/41 – WT/L/976
- Work Programme on Electronic Commerce – Ministerial Decision – WT/MIN(15)/42 – WT/L/977

22. We further welcome the adoption by the TRIPS Council of the Decision on the Extension of the Transition Period under Article 66.1 of the TRIPS Agreement for Least-developed Country Members for certain obligations with respect to pharmaceutical products as well as the related Waiver Decision adopted by the General Council concerning Least-developed Country Members' obligations under Article 70.8 and 70.9 of the TRIPS Agreement.

### Doha Development Agenda

23. We welcome the progress in the DDA, which is embodied in the following Decisions and Declarations we have adopted at our Tenth Session:

#### Agriculture

- Special Safeguard Mechanism for Developing Country Members – Ministerial Decision of 19 December 2015 – WT/MIN(15)/43 – WT/L/978
- Public Stockholding for Food Security Purposes – Ministerial Decision of 19 December 2015 – WT/MIN(15)/44 – WT/L/979

- Export Competition – Ministerial Decision of 19 December 2015 – WT/MIN(15)/45 – WT/L/980

#### **Cotton**

- Cotton – Ministerial Decision of 19 December 2015 – WT/MIN(15)/46 – WT/L/981

#### **LDC issues**

- Preferential Rules of Origin for Least-Developed Countries – Ministerial Decision – WT/MIN(15)/47 – WT/L/917/Add.1
- Implementation of Preferential Treatment in Favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade – Ministerial Decision – WT/MIN(15)/48 – WT/L/982

### **PART III**

24. We strongly commit to addressing the marginalization of LDCs in international trade and to improving their effective participation in the multilateral trading system. Towards that end, we shall ensure that all issues of specific interest to LDCs shall be pursued on a priority basis, with a view to strengthening them, making them commercially meaningful and, when appropriate, legally binding.

25. We reaffirm our commitment to fully implement the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, including differential treatment in line with the Marrakesh Decision in the context of the agriculture negotiations, in recognition of the challenges that these Members continue to face.

26. We reaffirm our commitment to continue to address in every area of WTO work, in a substantive and meaningful manner, the needs of small, vulnerable economies (SVEs) and to favourably consider the adoption of such measures as would facilitate their fuller integration into the multilateral trading system. We will take into account the needs of SVEs in all areas of negotiations, without creating a sub-category of WTO Members.

27. We recognize the special situation of the Members acceded in accordance with Article XII of the *Agreement Establishing the World Trade Organization* who have undertaken extensive market access commitments at the time of accession. This situation shall be taken into account in the negotiations.

28. We reaffirm the need to ensure that Regional Trade Agreements (RTAs) remain complementary to, not a substitute for, the multilateral trading system. In this regard, we instruct the Committee on Regional Trade Agreements (CRTA) to discuss the systemic implications of RTAs for the multilateral trading system and their relationship with WTO rules. With a view to enhancing transparency in, and understanding of, RTAs and their effects, we agree to work towards the transformation of the current provisional Transparency Mechanism into a permanent mechanism in accordance with the General Council Decision of 14 December 2006, without prejudice to questions related to notification requirements.

29. We agree to reinvigorate the regular work of the Committees and direct the General Council to consider the need for adjustments in the structure of their subsidiary bodies in light of their relevance to the implementation and operation of the Covered Agreements.

30. We recognize that many Members reaffirm the Doha Development Agenda, and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and reaffirm their full commitment to conclude the DDA on that basis. Other Members do not reaffirm the Doha mandates, as they believe new approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations. We acknowledge the strong legal structure of this Organization.



31. Nevertheless, there remains a strong commitment of all Members to advance negotiations on the remaining Doha issues. This includes advancing work in all three pillars of agriculture, namely domestic support, market access and export competition, as well as non-agriculture market access, services, development, TRIPS and rules. Work on all the Ministerial Decisions adopted in Part II of this Declaration will remain an important element of our future agenda.

32. This work shall maintain development at its centre and we reaffirm that provisions for special and differential treatment shall remain integral. Members shall also continue to give priority to the concerns and interests of least developed countries. Many Members want to carry out the work on the basis of the Doha structure, while some want to explore new architectures.

33. Mindful of this situation and given our common resolve to have this meeting in Nairobi, our first Ministerial Conference in Africa, play a pivotal role in efforts to preserve and further strengthen the negotiating function of the WTO, we therefore agree that officials should work to find ways to advance negotiations and request the Director-General to report regularly to the General Council on these efforts.

34. While we concur that officials should prioritize work where results have not yet been achieved, some wish to identify and discuss other issues for negotiation; others do not. Any decision to launch negotiations multilaterally on such issues would need to be agreed by all Members.

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**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

## EXPORT COMPETITION

### MINISTERIAL DECISION OF 19 DECEMBER 2015

The *Ministerial Conference*,

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Decides* as follows:

#### General

1. Members reaffirm their commitment, pursuant to the 2013 Bali Ministerial Declaration on Export Competition<sup>1</sup>, to exercise utmost restraint with regard to any recourse to all forms of export subsidies and all export measures with equivalent effect.
2. Nothing in this Decision can be construed to give any Member the right to provide, directly or indirectly, export subsidies in excess of the commitments specified in Members' Schedules, or to otherwise detract from the obligations of Article 8 of the Agreement on Agriculture. Furthermore, nothing can be construed to imply any change to the obligations and rights under Article 10.1 of the Agreement on Agriculture or to diminish in any way existing obligations under other provisions of the Agreement on Agriculture or other WTO Agreements.
3. Nor can anything in this Decision be construed to diminish in any way the existing commitments contained in the Marrakesh Ministerial Decision of April 1994 on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-developed and Net Food-importing Developing Countries and the Ministerial Decision of 14 November 2001 on Implementation-related Issues and Concerns<sup>2</sup> on, *inter alia*, commitment levels of food aid, provision of food aid by donors, technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure, and financing normal levels of commercial imports of basic foodstuffs. Nor could it be understood to alter the regular review of these decisions by the Ministerial Conference and monitoring by the Committee on Agriculture.
4. The Committee on Agriculture shall monitor the implementation of this Decision by Members in accordance with existing notification requirements under the Agreement on Agriculture, as complemented by the provisions set out in the Annex to this Decision.
5. The regular sessions of the Committee on Agriculture shall review every three years the disciplines contained in this Decision, with the aim of enhancing disciplines to ensure that no circumvention threatens export subsidy elimination commitments and to prevent non-commercial transactions from being used to circumvent such commitments.

<sup>1</sup> Document WT/MIN(13)/40 and WT/L/915.

<sup>2</sup> Document WT/MIN(01)/17.

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## Export Subsidies

6. Developed Members shall immediately eliminate their remaining scheduled export subsidy entitlements as of the date of adoption of this Decision.<sup>3,4</sup>
7. Developing country Members shall eliminate their export subsidy entitlements by the end of 2018.<sup>5</sup>
8. Developing country Members shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2023, i.e. five years after the end-date for elimination of all forms of export subsidies. Least developed countries and net food-importing developing countries listed in G/AG/5/Rev.10 shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2030.
9. Members shall not apply export subsidies in a manner that circumvents the requirement to reduce and eliminate all export subsidies.
10. Members shall seek not to raise their export subsidies beyond the average level of the past five years on a product basis.
11. Members shall ensure that any export subsidies have at most minimal trade distorting effects and do not displace or impede the exports of another Member. To that effect, Members using export subsidies shall give due consideration to the effects of any such export subsidies on other Members, and shall consult, upon request, with any other Member having a substantial interest as an exporter with respect to any matter related to the export subsidies in question. The Member applying such export subsidies shall provide, upon request, such a Member with necessary information.

## Cotton

12. With regard to cotton, the disciplines and commitments contained in this Decision shall be immediately implemented as of the date of adoption of this Decision by developed country Members, and not later than 1 January 2017 by developing country Members.

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<sup>3</sup> This paragraph shall not cover quantities counted against export subsidy reduction commitments found to exist by the Dispute Settlement Body in its recommendations and rulings adopted in disputes DS265, DS266, and DS283, with respect to the existing programme, which expires on 30 September 2017, for the product concerned by those disputes.

<sup>4</sup> This paragraph shall not cover processed products, dairy products, and swine meat of a developed Member that agrees to eliminate as of 1 January 2016 all export subsidies on products destined for least developed countries, and that has notified export subsidies for such products or categories of products in one of its three latest export subsidy notifications examined by the Committee on Agriculture before the date of adoption of this Decision. For these products, scheduled export subsidies shall be eliminated by the end of 2020, and quantity commitment levels shall be applied as a standstill until the end of 2020 at the actual average of quantity levels of the 2003-05 base period. Furthermore, there shall be no export subsidies applied either to new markets or to new products.

<sup>5</sup> Notwithstanding this paragraph, a developing country Member shall eliminate its export subsidy entitlements by the end of 2022 for products or groups of products for which it has notified export subsidies in one of its three latest export subsidy notifications examined by the Committee on Agriculture before the date of adoption of this Decision.

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## Export Credits, Export Credit Guarantees or Insurance Programmes

### *Definition*

13. In addition to complying with all other export subsidy obligations under the Agreement on Agriculture and any other covered Agreements<sup>6</sup>, Members undertake not to provide export credits<sup>7</sup>, export credit guarantees or insurance programmes for exports of products listed in Annex 1 of the Agreement on Agriculture (hereafter "agricultural products") other than in conformity with this Decision. These export credits, export credit guarantees and insurance programmes (hereafter "export financing support") comprise:
- (a) direct financing support, comprising direct credits/financing, refinancing, and interest rate support;
  - (b) risk cover, comprising export credit insurance or reinsurance and export credit guarantees;
  - (c) government-to-government credit agreements covering the imports of agricultural products from the creditor country under which some or all of the risk is undertaken by the government of the exporting country; and
  - (d) any other form of governmental export credit support, direct or indirect, including deferred invoicing and foreign exchange risk hedging.
14. The provisions of this Decision shall apply to export financing support as defined in paragraph 13 provided by a government or any public body as referred to in Article 1.1(a)1 of the Agreement on Subsidies and Countervailing Measures.

### *Terms and Conditions*

15. Export financing support shall be provided in conformity with the terms and conditions set out below:
- (a) **Maximum repayment term:** the maximum repayment term for export financing support under this Decision, this being the period beginning at the starting point of credit<sup>8</sup> and ending on the contractual date of the final payment, shall be no more than 18 months. For developed Members, this shall apply from the last day of 2017. Existing contracts which have been entered into prior to the adoption of this Decision, are still in place, and are operating on a longer timeframe than that defined in the preceding sentence, shall run their course until the end of their contractual date, provided that they are notified to the Committee on Agriculture and are not modified;
  - (b) **Self-financing:** Export credit guarantee, insurance and reinsurance programmes and other risk cover programmes included within sub-paragraphs 13(b), (c) and (d) above shall be self-financing and cover the long-term operating costs and losses of a programme in the sense of item (j) of the Illustrative List of Annex I of the Agreement on Subsidies and Countervailing Measures. For the operations covered in the previous sentence, premiums shall be charged and be risk-based.

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<sup>6</sup> However, the second paragraph of item (k) of Annex I to the Agreement on Subsidies and Countervailing Measures (hereafter "Illustrative List") shall not be applicable in the case of agricultural products.

<sup>7</sup> The export credits defined in this paragraph do not include working capital financing to the suppliers.

<sup>8</sup> The "starting point of credit" shall be no later than the weighted mean date or actual date of the arrival of the goods in the recipient country for a contract under which shipments are made in any consecutive six-month period.

***Special and Differential Treatment***

16. Developing country Member providers of export financing support shall be eligible to benefit from the following:

**Maximum repayment terms:** the developing country Members concerned shall have a phase-in period of four years after the first day of the implementation period<sup>9</sup> by the end of which to fully implement the maximum repayment term of 18 months. This shall be achieved as follows:

- (a) on the first day of implementation, the maximum repayment term for any new support entered into shall be 36 months;
- (b) two years after implementation, the maximum repayment term for any new support to be entered into shall be 27 months;
- (c) four years after implementation, the maximum repayment term of 18 months shall apply.

It is understood that where there are, after any of the relevant dates, pre-existing support arrangements entered into under the limits established in the sub-paragraphs (a)-(c) above, they shall run their original term.

17. Notwithstanding the terms of paragraphs 15(a) and 16 above, least-developed and net food-importing developing countries listed in G/AG/5/Rev.10 shall be accorded differential and more favourable treatment comprising allowance for a repayment term in respect of them of between 36 and 54 months, for the acquisition of basic foodstuffs.<sup>10</sup> Should one of these Members face exceptional circumstances which still preclude financing normal levels of commercial imports of basic foodstuffs and/or in accessing loans granted by multilateral and/or regional financial institutions within these timeframes, it shall have an extension of such a time-frame. The standard monitoring and surveillance provisions, as resulting from this Decision, shall apply to these cases.<sup>11</sup>

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<sup>9</sup> For the purposes of this paragraph, implementation period shall be defined as the period commencing in the year 2016 and ending on 31 December 2020.

<sup>10</sup> Belize, the Plurinational State of Bolivia, Ecuador, Fiji, Guatemala, Guyana, Nicaragua, Papua New Guinea and Suriname shall also have access to this provision.

<sup>11</sup> In the event that Cuba is a recipient Member in this situation, the time-frame can be greater than 54 months and any such monitoring and surveillance shall not apply without the prior express consent of Cuba.

### **Agricultural Exporting State Trading Enterprises**

18. Members shall ensure that agricultural exporting state trading enterprises are operated in conformity with the provisions specified in paragraphs 20 and 21, in accordance with Article XVII, the Understanding on the Interpretation of Article XVII and other relevant provisions of GATT 1994, the Agreement on Agriculture and other WTO Agreements.
19. For the purpose of the disciplines set out hereunder in this Decision, an agricultural exporting state trading enterprise shall be any enterprise which meets the working definition provided for in the Understanding on the Interpretation of Article XVII of the GATT 1994 and is engaged in exports of products listed in Annex 1 of the Agreement on Agriculture.<sup>12</sup>
20. Members shall ensure that agricultural exporting state trading enterprises do not operate in a manner that circumvents any other disciplines contained in this Decision.
21. Members shall make their best efforts to ensure that the use of export monopoly powers by agricultural exporting state trading enterprises is exercised in a manner that minimizes trade distorting effects and does not result in displacing or impeding the exports of another Member.

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<sup>12</sup> "Governmental and non-governmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports." It is understood that where there is reference to the "rights and privileges" that "influence ... the level or direction of imports" in the preceding sentence, this matter of imports is not per se a matter falling under the disciplines of this Decision which relates, rather, solely to the matter of exports under that working definition.

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## International Food Aid

22. Members reaffirm their commitment to maintain an adequate level of international food aid, to take account of the interests of food aid recipients and to ensure that the disciplines contained hereafter do not unintentionally impede the delivery of food aid provided to deal with emergency situations. To meet the objective of preventing or minimizing commercial displacement, Members shall ensure that international food aid is provided in full conformity with the disciplines specified in paragraphs 23 to 32, thereby contributing to the objective of preventing commercial displacement.
23. Members shall ensure that all international food aid is:
- a. needs-driven;
  - b. in fully grant form;
  - c. not tied directly or indirectly to commercial exports of agricultural products or other goods and services;
  - d. not linked to the market development objectives of donor Members;
- and that
- e. agricultural products provided as international food aid shall not be re-exported in any form, except where the agricultural products were not permitted entry into the recipient country, the agricultural products were determined inappropriate or no longer needed for the purpose for which they were received in the recipient country, or re-exportation is necessary for logistical reasons to expedite the provision of food aid for another country in an emergency situation. Any re-exportation in accordance with this subparagraph shall be conducted in a manner that does not unduly impact established, functioning commercial markets of agricultural commodities in the countries to which the food aid is re-exported.
24. The provision of food aid shall take into account local market conditions of the same or substitute products. Members shall refrain from providing in-kind international food aid in situations where this would be reasonably foreseen to cause an adverse effect on local<sup>13</sup> or regional production of the same or substitute products. In addition, Members shall ensure that international food aid does not unduly impact established, functioning commercial markets of agricultural commodities.
25. Where Members provide exclusively cash-based food aid, they are encouraged to continue to do so. Other Members are encouraged to provide cash-based or in-kind international food aid in emergency situations, protracted crises (as defined by the FAO<sup>14</sup>), or non-emergency development/capacity building food assistance environments where recipient countries or recognized international humanitarian/food entities, such as the United Nations, have requested food assistance.
26. Members are also encouraged to seek to increasingly procure international food aid from local or regional sources to the extent possible, provided that the availability and prices of basic foodstuffs in these markets are not unduly compromised.
27. Members shall monetize international food aid only where there is a demonstrable need for monetization for the purpose of transport and delivery of the food assistance, or the monetization of international food aid is used to redress short and/or long term food deficit requirements or insufficient agricultural production situations which give rise to

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<sup>13</sup> The term "local" may be understood to mean at the national or subnational level.

<sup>14</sup> FAO defines protracted crises as follows: "*Protracted crises refer to situations in which a significant portion of a population is facing a heightened risk of death, disease, and breakdown of their livelihoods.*"

chronic hunger and malnutrition in least-developed and net food-importing developing countries.<sup>15</sup>

28. Local or regional market analysis shall be completed before monetization occurs for all monetized international food aid, including consideration of the recipient country's nutritional needs, local United Nations Agencies' market data and normal import and consumption levels of the commodity to be monetized, and consistent with Food Assistance Convention reporting. Independent third party commercial or non-profit entities will be employed to monetize in-kind international food aid to ensure open market competition for the sale of in-kind international food aid.
29. In employing these independent third party commercial or non-profit entities for the purposes of the preceding paragraph, Members shall ensure that such entities minimize or eliminate disruptions to the local or regional markets, which may include impacts on production, when international food aid is monetized. They shall ensure that the sale of commodities for food assistance purposes is conducted in a transparent, competitive and open process and through a public tender.<sup>16</sup>
30. Members commit to allowing maximum flexibility to provide for all types of international food aid in order to maintain needed levels while making efforts to move toward more untied cash-based international food aid in accordance with the Food Assistance Convention.
31. Members recognize the role of government in decision-making on international food aid in their jurisdictions. Members recognize that the government of a recipient country of international food aid can opt out of the usage of monetized international food aid.
32. Members agree to review the provisions on international food aid contained in the preceding paragraphs within the regular Committee on Agriculture monitoring of the implementation of the Marrakesh Ministerial Decision of April 1994 on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-developed and net food-importing developing countries.

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<sup>15</sup> Belize, the Plurinational State of Bolivia, Ecuador, Fiji, Guatemala, Guyana, Nicaragua, Papua New Guinea and Suriname shall also have access to this provision.

<sup>16</sup> In the instance where it is not feasible to complete a sale through a public tender, a negotiated sale can be used.



## ANNEX<sup>17</sup>

### EXPORT SUBSIDIES

Consistent with the Bali Ministerial Declaration on Export Competition<sup>18</sup> and in addition to annual notifications requirements under the relevant provisions of the Agreement on Agriculture and related decisions, Members shall continue to provide information on export subsidies within the context of an annual examination process, based on the following structure:

1. Provide information on operational changes in measures

### EXPORT CREDIT, EXPORT CREDIT GUARANTEES OR INSURANCE PROGRAMS (EXPORT FINANCING)

Consistent with the Bali Ministerial Declaration on Export Competition, Members shall continue to provide information on Export Credit, Export Credit Guarantees or Insurance Programs within the context of an annual examination process, based on the following structure:

1. Description of the program (classification within the following categories: direct financing support, risk cover, government to government credit agreements or any other form of governmental export credit support) and relevant legislation
2. Description of Export Financing Entity
3. Total value of export of agricultural products covered by export credits, export credit guarantees or insurance programs and use per program
4. Annual average premium rates/fees per program
5. Maximum repayment terms per program
6. Annual average repayment periods per program
7. Export destination or group of destinations per program
8. Program use by product or product group

### FOOD AID

Consistent with the Bali Ministerial Declaration on Export Competition, Members shall continue to provide information on International Food Aid within the context of an annual examination process, based on the following structure:

1. Product description
2. Quantity and/or value of food aid provided
3. Description of whether food aid is provided on in-kind, untied cash-based basis and whether monetisation was permitted
4. Description of whether in fully grant form or concessional terms
5. Description of relevant needs assessment (and by whom) and whether food aid is responding to a declaration of emergency or an emergency appeal (and by whom)
6. Description of whether re-export of food aid is an option under the terms of the provision of food aid

### AGRICULTURAL EXPORTING STATE TRADING ENTERPRISES

Consistent with the Bali Ministerial Declaration on Export Competition, Members shall continue to provide information on Agricultural Exporting State Trading Enterprises within the context of an annual examination process, based on the following structure:

1. Enumeration of State Trading Enterprises
  - Identification of state trading enterprises
  - Description of products affected (*Including tariff item number(s) encompassed in product description*)

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<sup>17</sup> Notwithstanding paragraph 4 of this Decision, developing country Members, unless they are in a position to do so at an earlier date, shall implement this Annex no later than five years following the date of adoption of this Decision.

<sup>18</sup> Decision WT/MIN(13)/40 and WT/L/915.

2. Reason and purpose
  - Reason or purpose for establishing and/or maintaining state trading enterprise
  - Summary of legal basis for granting the relevant exclusive or special rights or privileges, including legal provisions and summary of statutory or constitutional powers
3. Description of the functioning of the State Trading Enterprise
  - Summary statement providing overview of operations of the state trading enterprise
  - Specification of exclusive or special rights or privileges enjoyed by the state trading enterprise

*Additional information subject to normal commercial confidentiality considerations*

1. Exports (value/volume)
  2. Export prices
  3. Export destination
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**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

**PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES**

**MINISTERIAL DECISION OF 19 DECEMBER 2015**

*The Ministerial Conference,*

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization; and

*Taking note* of the progress made so far;

*Decides* as follows:

1. Members note the Ministerial Decision of 7 December 2013 (WT/MIN(13)/38 and WT/L/913) and reaffirm the General Council Decision of 27 November 2014 (WT/L/939).
2. Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session ("CoA SS"), in dedicated sessions and in an accelerated time-frame, distinct from the agriculture negotiations under the Doha Development Agenda ("DDA").
3. The General Council shall regularly review the progress.

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**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

**SPECIAL SAFEGUARD MECHANISM FOR DEVELOPING COUNTRY MEMBERS**

MINISTERIAL DECISION OF 19 DECEMBER 2015

*The Ministerial Conference,*

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*In the context of* addressing outstanding agricultural issues; and

*Taking note of* the proposals made by Members in this regard;

*Decides* as follows:

1. The developing country Members will have the right to have recourse to a special safeguard mechanism (SSM) as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration.
  2. To pursue negotiations on an SSM for developing country Members in dedicated sessions of the Committee on Agriculture in Special Session ("CoA SS").
  3. The General Council shall regularly review progress in these negotiations
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**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

## COTTON

### MINISTERIAL DECISION OF 19 DECEMBER 2015

*The Ministerial Conference,*

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Stressing* the vital importance of cotton to a number of developing economies and particularly the least-developed amongst them, and noting that over the past few years cotton has been one of the most contentious issues at the World Trade Organization (WTO), both in the trade negotiations and in the framework of the dispute settlement process;

*Recalling* that export subsidies and all export measures with equivalent effect and trade distorting domestic support for cotton by WTO Members distort prices and disrupt international cotton markets, with severe consequences for the economy and social lives in African cotton-producing countries, especially Least Developed Countries (LDCs);

*Recalling* that on several occasions, the Cotton Four (C-4)<sup>1</sup> has stressed the need for progress as regards the commitment of WTO Trade Ministers and has shown its good will in seeking to build a credible consensus through negotiation;

*Expressing* their concern at the lack of progress in the cotton negotiations and the absence of clearly-stated political determination in the trade component of this vital issue since 2003, when the Sectoral Initiative in Favour of Cotton was submitted to the WTO;

*Taking into account* the context that has prevailed in recent years and of the trend in world cotton prices, which has been highly unfavourable for cotton producers and exporters, and in particular African ones, over the past two years;

*Considering* the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (L/4903), the 1994 Ministerial Decision on Measures in Favour of Least-Developed Countries and the 2009 Decision on Preferential Tariff Treatment for Least Developed Countries (WT/L/759), and without prejudice to the right of Members to continue to act pursuant to the provisions contained in those Decisions; and

*Taking into account* the 2010 Decision on the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806).

*Decides* as follows:

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<sup>1</sup> Benin, Burkina Faso, Chad and Mali.

## 1. TRADE COMPONENT

### 1.1 MARKET ACCESS

1. We welcome the progress made voluntarily by some Members towards providing duty-free and quota-free market access for cotton and cotton-related products originating from LDCs.

2. Developed country Members, and developing country Members declaring themselves in a position to do so, shall grant, to the extent provided for in their respective preferential trade arrangements<sup>2</sup> in favour of LDCs, as from 1 January 2016, duty-free and quota-free market access for cotton produced and exported by LDCs.

3. Developing country Members declaring themselves not in a position to grant duty-free and quota-free market access for cotton produced and exported by LDCs shall undertake, as from 1 January 2016, to consider the possibilities for increased import opportunities for cotton from LDCs.

4. Developed country Members, and developing country Members declaring themselves in a position to do so, shall grant, to the extent provided for in their respective preferential trade arrangements<sup>2</sup> in favour of LDCs, as from 1 January 2016, duty-free and quota-free market access for exports by LDCs of relevant cotton-related products included in the list annexed to this Decision and covered by Annex 1 of the Agreement on Agriculture.

5. We agree to review the list annexed to this Decision in the Dedicated Discussions on cotton referred to in paragraph 14 of this Decision within two years, on the basis of updated trade statistics provided by Members on their imports from LDCs.

6. The Dedicated Discussions on cotton referred to in paragraph 14 of this Decision shall continue to address the following specific elements, based on factual information and data compiled by the WTO Secretariat from Members' notifications, complemented, as appropriate, by relevant information provided by Members to the WTO Secretariat:

- (a) identification and examination of market access barriers, including tariff and non-tariff barriers for the entry of cotton produced and exported by cotton-producing LDCs;
- (b) reviews of market access improvements and of any market access measures undertaken by Members, including the identification of access barriers to cotton produced and exported by cotton-producing LDCs in markets of interest to them; and
- (c) examination of possible additional measures for progressive and predictable improvements in market access, in particular the elimination of tariff and non-tariff barriers to cotton produced and exported by cotton-producing LDCs.

### 1.2 DOMESTIC SUPPORT

7. We acknowledge the efforts made by some Members to reform their domestic cotton policies and which may contribute to the objective of reduction of the trade distorting domestic subsidies for cotton production.

8. We emphasize however that some more efforts remain to be made and that these positive steps are not a substitute for the attainment of our objective. In doing so, Members shall ensure that necessary transparency is provided through regular notifications and the subsequent review process in the Committee on Agriculture.

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<sup>2</sup> In this regard, China declares itself in a position to do so to the extent provided for in its preferential trade arrangements and political commitments.

### 1.3 EXPORT COMPETITION

9. The disciplines and commitments contained in the Ministerial Decision on Export Competition (WT/MIN(15)/45-WT/L/980 adopted on 19 December 2015) shall be immediately implemented with regard to cotton by developed country Members as of the date of adoption of that Decision, and by developing country Members not later than 1 January 2017.

## 2. DEVELOPMENT COMPONENT

10. We reaffirm the importance of the development assistance aspects of cotton, and commit to continued engagement in the Director-General's Consultative Framework Mechanism on Cotton. We take note of the Director-General's seventh periodic report to the Membership on the development assistance aspects of cotton. We invite the Director-General to submit the next periodic report prior to the 11<sup>th</sup> Ministerial Conference.

11. We underline the importance of effective assistance to support the cotton sector in developing country Members, especially the LDCs amongst them. We recognize that the Aid-for-Trade (Aft) initiative, including through the Enhanced Integrated Framework (EIF), should play a key role in strengthening the cotton sector in LDCs. The linkage between this initiative and the development aspects of cotton should be reinforced to help formulate, on the basis of priorities identified by LDC cotton producers, multidimensional and integrated programmes and projects at the regional and sub-regional level, to be submitted to development partners.

12. We urge WTO Members and development partners to continue their efforts and contributions to enhance the production, productivity and competitiveness of the cotton sector in developing country Member producers, especially the LDCs. Likewise, the beneficiaries of cotton development assistance are encouraged to continue carrying forward their domestic cotton sector reforms.

13. We recognize the importance of the role of Cotton Focal Points and encourage Members to enhance the experiences and information sharing amongst all interested parties in the cotton dossier.

## 3. IMPLEMENTATION AND FOLLOW-UP

14. We undertake to continue holding Dedicated Discussions on cotton on a bi-annual basis, as indicated in paragraphs 5, 6 and 7 of the Bali Ministerial Decision on Cotton (WT/MIN(13)/41 and WT/L/916), including in particular to examine relevant trade-related developments across the three pillars of Market Access, Domestic Support, and Export Competition in relation to cotton.

15. We undertake to regularly monitor the implementation by Members of paragraphs 2 to 4 during these Dedicated Discussions on cotton, based on relevant Members' notifications to the WTO, complemented as necessary by Members' replies to specific requests for information from the WTO Secretariat.

16. We agree to review the situation regarding cotton at the 11<sup>th</sup> Ministerial Conference, which we have agreed to hold in 2017, and we invite the Director-General to report at that Conference on the progress that has been made in implementing the trade-related components of this Decision.

ANNEX : LIST <sup>3</sup>		
<b>Harmonized System 2012</b>		
<b>(In grey: rows corresponding to HS6 tariff lines)</b>		
Cotton	520100	Cotton, not carded or combed
	5202	Cotton waste (including yarn waste and garnetted stocks)
	520210	- Yarn waste (including thread waste)
		- Other
	520291	-- Garnetted stock
	520299	-- Other
	520300	Cotton, carded or combed
Cotton shells, husks, oil and other food products	1207	Other oil seeds and oleaginous fruits, whether or not broken - Cotton seeds
	120721	-- Seed
	120729	-- Other
	1404	Vegetable products not elsewhere specified or included
	140420	- Cotton linters
	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified - Cotton-seed oil and its fractions
	151221	-- Crude oil, whether or not gossypol has been removed
	151229	-- Other
	1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured
	152110	- Vegetable waxes
	2306	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, other than those of heading 23.04 or 23.05
	230610	- Of cotton seeds
	2936	Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent - Vitamins and their derivatives, unmixed
	293624	-- D- or DL-Pantothenic acid (Vitamin B3 or Vitamin B5) and its derivatives
	293628	-- Vitamin E and its derivatives

<sup>3</sup> This list does not alter Members' existing WTO obligations and requirements.





**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

## **PREFERENTIAL RULES OF ORIGIN FOR LEAST DEVELOPED COUNTRIES**

### **MINISTERIAL DECISION OF 19 DECEMBER 2015**

The *Ministerial Conference*,

*Having regard to* paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Recalling* the "Decision on Measures in Favour of Least-Developed Countries" (Annex F of the Hong Kong Ministerial Declaration) which states that: "Developed country Members shall, and developing country Members declaring themselves in a position to do so should: ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access";

*Reaffirming and building upon* the guidelines enumerated in the "Ministerial Decision on Preferential Rules of Origin for Least-Developed Countries" adopted at the Bali Ministerial Conference;

*Decides*, with respect to preferential rules of origin applicable to imports from LDCs under non-reciprocal preferential trade arrangements, as follows:

#### **1 REQUIREMENTS FOR THE ASSESSMENT OF SUFFICIENT OR SUBSTANTIAL TRANSFORMATION**

1.1. When applying an *ad valorem* percentage criterion to determine substantial transformation, Preference-granting Members shall:

- (a) Adopt a method of calculation based on the value of non-originating materials. However, Preference-granting Members applying another method may continue to use it. It is recognized that the LDCs seek consideration of use of value of non-originating materials by such Preference-granting Members when reviewing their preference programmes;
- (b) Consider, as the Preference-granting Members develop or build on their individual rules of origin arrangements applicable to imports from LDCs, allowing the use of non-originating materials up to 75% of the final value of the product, or an equivalent threshold in case another calculation method is used, to the extent it is appropriate and the benefits of preferential treatment are limited to LDCs<sup>1</sup>;
- (c) Consider the deduction of any costs associated with the transportation and insurance of inputs from other countries to LDCs.

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<sup>1</sup> This provision shall not apply to Preference-granting Members who do not use the *ad valorem* percentage criterion as their main method for the determination of substantial transformation.

1.2. When applying a change of tariff classification criterion to determine substantial transformation, Preference-granting Members shall:

- (a) As a general principle, allow for a simple change of tariff heading or change of tariff sub-heading;
- (b) Eliminate all exclusions or restrictions to change of tariff classification rules, except where the Preference-granting Member deems that such exclusions or restrictions are needed, including to ensure that a substantial transformation occurs;
- (c) Introduce, where appropriate, a tolerance allowance so that inputs from the same heading or sub-heading may be used.

1.3. When applying a manufacturing or processing operation criterion to determine substantial transformation, Preference-granting Members shall, to the extent provided for in their respective non-reciprocal preferential trade arrangements, allow as follows:

- (a) if applied to clothing of chapters 61 and 62 of the Harmonised System nomenclature, the rule shall allow assembling of fabrics into finished products;
- (b) if applied to chemical products, the rule shall allow chemical reactions that form a new chemical identity;
- (c) if applied to processed agricultural products, the rule shall allow transforming of raw agricultural products into processed agricultural products;
- (d) if applied to machinery and electronics, the rule shall allow assembling of parts into finished products, provided that the assembly of parts goes beyond simple assembly.

1.4. Preference-granting Members shall, to the extent possible, avoid requirements which impose a combination of two or more criteria for the same product. If a Preference-granting Member still requires maintaining a combination of two or more criteria for the same product, that Preference-granting Member remains open to consider relaxing such requirements for that specific product upon due request by an LDC.

1.5. Preference-granting Members are encouraged to offer alternative rules for the same product. In such cases, the above-mentioned provisions will be applicable to only one of the alternative rules.

## **2 CUMULATION**

2.1. Recognizing that the development of cumulation possibilities should be considered in relation to the rules applied to determine sufficient or substantial transformation, Preference-granting Members are encouraged to expand cumulation to facilitate compliance with origin requirements by LDC producers using the following possibilities:

- (a) cumulation with the respective Preference-granting Member;
- (b) cumulation with other LDCs;
- (c) cumulation with GSP beneficiaries of the respective Preference-granting Member; and
- (d) cumulation with developing countries forming part of a regional group to which the LDC is a party, as defined by the Preference-granting Member.

2.2. Preference-granting Members remain open to consider requests from LDCs for particular cumulation possibilities in the case of specific products or sectors.

### **3 DOCUMENTARY REQUIREMENTS**

3.1. With a view to reducing the administrative burden related to documentary and procedural requirements related to origin, Preference-granting Members shall:

- (a) As a general principle, refrain from requiring a certificate of non-manipulation for products originating in a LDC but shipped across other countries unless there are concerns regarding transshipment, manipulation, or fraudulent documentation;
- (b) Consider other measures to further streamline customs procedures, such as minimizing documentation requirements for small consignments or allowing for self-certification.

### **4 IMPLEMENTATION, FLEXIBILITIES AND TRANSPARENCY**

4.1. Developing country Members declaring themselves in a position to do so should, with appropriate flexibility, undertake the commitments set out in the above provisions.

4.2. No later than 31 December 2016 each developed Preference-granting Member, and each developing Preference-granting Member undertaking the commitments in accordance with paragraph 4.1 up to that date or thereafter, shall inform the Committee on Rules of Origin (CRO) of the measures being taken to implement the above provisions.

4.3. Preferential rules of origin shall be notified as per the established procedures.<sup>2</sup> In this regard, Members reaffirm their commitment to annually provide import data to the Secretariat as referred to Annex 1 of the PTA Transparency Mechanism, on the basis of which the Secretariat can calculate utilization rates, in accordance with modalities to be agreed upon by the CRO. Furthermore, the CRO shall develop a template for the notification of preferential rules of origin, to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs.

4.4. The CRO shall annually review the implementation of this Decision in accordance with the Transparency provisions contained in the Ministerial Decision on Preferential Rules of Origin for Least Developed Countries adopted at the Bali Ministerial Conference.

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<sup>2</sup> These notifications are made pursuant to the Transparency Mechanism for Preferential Trade Agreements (PTAs). It is also noted that the Agreement on Rules of Origin stipulates that Members provide to their preferential rules of origin to the Secretariat.



**Ministerial Conference  
Tenth Session  
Nairobi, 15-18 December 2015**

**IMPLEMENTATION OF PREFERENTIAL TREATMENT IN FAVOUR OF SERVICES AND  
SERVICE SUPPLIERS OF LEAST DEVELOPED COUNTRIES AND  
INCREASING LDC PARTICIPATION IN SERVICES TRADE**

MINISTERIAL DECISION OF 19 DECEMBER 2015

*The Ministerial Conference,*

*Having regard* to paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

*Recalling* that the WTO Agreement acknowledges the need for "positive efforts designed to ensure that developing countries, especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development";

*Recognizing* that services trade can play an important role in achieving the development objectives of least developed countries ("LDCs");

*Recalling* the Decision on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/847) ("Waiver") agreed at our Eighth Session;

*Recognizing* the significant progress achieved following the Decision on the Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/918) ("Operationalization Decision");

*Acknowledging* the important work undertaken by least developed countries to identify sectors and modes of supply of particular export interest to them in developing the LDC Collective Request (S/C/W/356, S/C/W/356/Corr.1 and S/C/W/356/Corr.2);

*Commending* the positive indications of intended preferences announced at the High-level meeting held on 5 February 2015;

*Appreciative* of the twenty-one notifications received so far, covering a wide range of preferences which may provide for removal or reduction of restrictions, and/or special procedures, in favor of LDC services and service suppliers;

*Welcoming* the expeditious approval of notifications that included preferential treatment beyond GATS Article XVI by the Council for Trade in Services;

*Noting* the need to strengthen the domestic service supply capacity in LDCs with a view to maximizing benefits from trade opportunities, including through preferences afforded to them;

*Decides* as follows:

1.1. Due to the extended period between the adoption of the Waiver in December 2011 and the notification of preferences in 2015, the Waiver is extended as of the date of this Decision until 31 December 2030. Preferences notified so far may, as appropriate, be extended accordingly.

1.2. Developed and developing Members, in a position to do so, that have not notified preferences under the Waiver are urged to redouble efforts to promptly notify preferences which have commercial value and promote economic benefits to LDCs.

1.3. In negotiations pursuant to GATS Article VI:4, Members shall give special priority to addressing regulatory barriers of interest to LDCs.

1.4. With a view to further increasing LDC participation in services trade and to complement notification of preferential treatment under the Waiver, Members are encouraged to undertake specific technical assistance and capacity building measures to orient LDC service suppliers to preference benefits available so that such suppliers can utilize the preferences granted.

1.5. The Council for Trade in Services shall:

- maintain a standing agenda item to review and promote the operationalization of the Waiver;
- expeditiously consider approval of notified preferences relating to measures other than those described in GATS Article XVI, in accordance with the Waiver;
- with a view to furthering the objectives of GATS Article IV, facilitate an exchange of information by Members on technical assistance measures undertaken to promote the increasing participation of LDCs in world services trade;
- initiate a process to review the operation of notified preferences, on the basis of information provided by Members. In support of that process, Members may request WTO Secretariat inputs, as appropriate; and
- further discuss any issues that may facilitate benefits provided under the notified preferences.

1.6. The Council for Trade in Services may make recommendations on steps that could be taken towards enhancing the operationalization of the Waiver.

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## A Comparison of the Four Drafts and Final Version of the Nairobi Ministerial Declaration

### Part I

DMD <sup>1</sup>	1st Rev. <sup>2</sup>	2nd Rev. <sup>3</sup>	3rd Rev. <sup>4</sup>	Final <sup>5</sup>
<p><u>Para 2bis</u></p> <p>We reaffirm the Doha Development Agenda (DDA), and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and further reaffirm our full commitment to conclude the DDA negotiations on that basis.</p>	<p><u>Para 2bis</u></p> <p>-do-</p>	<p><u>Para 2bis</u></p> <p>-do-</p>	<i>No mention</i>	<i>No mention</i>
<p><u>Para 2ter</u></p> <p>We reaffirm the Doha Development Agenda (DDA), and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then including the Decision</p>	<p><u>Para 2ter</u></p> <p>-do-</p>	<p><u>Para 2ter</u></p> <p>-do-</p>	<i>No mention</i>	<i>No mention</i>

<sup>1</sup> Nairobi Draft Ministerial Declaration, released by WTO on 9th December 2015

<sup>2</sup> First revision of DMD, released by WTO on 16th December 2015

<sup>3</sup> Second revision of DMD, released by WTO on 17th December 2015

<sup>4</sup> Third revision of DMD, released by WTO on 19th December 2015

<sup>5</sup> Final Nairobi Ministerial Declaration, released by WTO on 21st December 2015

<p>adopted by the General Council on 1 August 2004, and further reaffirm our full commitment to conclude the DDA negotiations on that basis.</p>				
<p><u>Para 5</u> We pledge to strengthen the multilateral trading system so that it provides a strong impetus to inclusive prosperity and welfare for all Members and responds to the specific development needs of developing country Members, in particular [the small and vulnerable amongst them, and] the least-developed country Members.</p>	<p><u>Para 5</u> -do-</p>	<p><u>Para 5</u> <b>... in particular the least-developed country Members.</b></p>	<p><u>Para 5</u> -do-</p>	<p><u>Para 5</u> -do-</p>
<p><u>Para 6bis</u> We acknowledge that international trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral</p>	<p><u>Para 6bis</u> -do-</p>	<p><u>Para 6</u> -do-</p>	<p><u>Para 6</u> -do-</p>	<p><u>Para 6</u> -do-</p>

<p>trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the centre of the work in the WTO.</p>				
<p><u>Para 6</u> We reaffirm the centrality of development in the WTO's work and commit to continuing to make positive efforts designed to ensure that developing country Members, and especially the [small and vulnerable economies and] least-developed country Members, secure a share in the growth of world trade commensurate with the needs of their economic development.</p>	<p><u>Para 6</u> -do-</p>	<p><u>Para 6</u> <b>...and especially the least-developed country Members, secure a share in the growth of world trade commensurate with the needs of their economic development.</b></p>	<p><u>Para 7</u> -do-</p>	<p><u>Para 7</u> -do-</p>
<p><u>Para 7</u> We recognize the role the WTO can play in contributing towards achievement of the 2030 Sustainable</p>	<p><u>Para 7</u> -do-</p>	<p><u>Para 7</u> -do-</p>	<p><u>Para 8</u> -do-</p>	<p><u>Para 8</u> -do-</p>



<p>Development Goals, in so far as they relate to the WTO mandate, and bearing in mind the authority of the WTO Ministerial Conference.</p>				
<p><u>Para 8</u> We recognize the importance of strengthened coherence in global economic policy-making. We underscore the Marrakesh coherence mandate, and encourage initiatives for cooperation with other international organizations in pursuit of our common objectives, while respecting the competence of each organization.</p>	<p><u>Para 8</u> -do-</p>	<p><u>Para 8</u> -do-</p>	<p><u>Para 9</u> -do-</p>	<p><u>Para 9</u> -do-</p>
<p><u>Para 9</u> On the occasion of the WTO's twentieth anniversary, we acknowledge important achievements under the functions of the Organization described in Article III of the Marrakesh Agreement.</p>	<p><u>Para 9</u> -do-</p>	<p><u>Para 9</u> -do-</p>	<p><u>Para 10</u> -do-</p>	<p><u>Para 10</u> -do-</p>
<p><u>Para 10</u></p>	<p><u>Para 10</u></p>	<p><u>Para 10</u></p>	<p><u>Para 11</u></p>	<p><u>Para 11</u></p>

<p>We reaffirm the importance of work in regular bodies in furthering the objectives of the WTO Agreements and in facilitating meaningful exchange of information and sharing of experiences regarding the effective implementation and operation of their provisions. We note that the WTO's trade monitoring work, including trade policy reviews, has contributed consistently to the functioning of the multilateral trading system, by achieving greater transparency in, and understanding of, the trade policies and practices of Members.</p>	<p>-do-</p>	<p>-do-</p>	<p>-do-</p>	<p>-do-</p>
<p><u>Para 11</u> We reiterate that the WTO shall remain the main forum to negotiate multilateral trade rules. We have made some progress in the negotiations. <i>[We will redouble our efforts to build on the progress that has been achieved.]</i> We recall the adoption of the Protocol</p>	<p><u>Para 11</u> We reiterate that the WTO shall remain the main forum to negotiate multilateral trade rules. We have made some progress in the negotiations. <i>[We will redouble our efforts to build on the progress that has been achieved.]</i> <b>At our Fourth Session, we launched</b></p>	<p><u>Para 11</u> ... We welcome the Decisions and the Declaration listed in Parts I and II of the Bali Ministerial Declaration, and [welcome] the subsequent General Council Decision of November 2014 on Public Stockholding for Food Security Purposes. <b>We note, however, that much less progress has</b></p>	<p><u>Para 12</u> We reiterate that the WTO shall remain the main forum to negotiate multilateral trade rules. We have made some progress in the negotiations. <b>At our Fourth Session, we launched for the first time in the history of the GATT and the WTO, a Development Round; the Doha Work Programme.</b></p>	<p><u>Para 12</u> -do-</p>

<p>Amending the TRIPS Agreement. At our Fourth Session, we launched for the first time in the history of the GATT and the WTO, a Development Round; the Doha Work Programme. We welcome/ draw particular attention to the adoption of the Agreement on Trade Facilitation (TFA) as the first multilateral agreement since the establishment of the WTO. We commend those Members that have already accepted the respective Protocols and look forward to additional acceptances. We welcome the Decisions and the Declaration listed in Parts I and II of the Bali Ministerial Declaration, and [welcome] the subsequent General Council Decision of November 2014 on Public Stockholding for Food Security Purposes. We note, however, that much less progress has been made in Agriculture, [NAMA] [, Services] [, Rules] [, Development] and other central components of the</p>	<p><b>for the first time in the history of the GATT and the WTO, a Development Round; the Doha Work Programme. We recall the adoption of the Protocol Amending the TRIPS Agreement. We draw</b> particular attention to the adoption of the Agreement on Trade Facilitation (TFA) as the first multilateral agreement since the establishment of the WTO. We commend those Members that have already accepted the respective Protocols and look forward to additional acceptances. We welcome the Decisions and the Declaration listed in Parts I and II of the Bali Ministerial Declaration, and [welcome] the subsequent General Council Decision of November 2014 on Public Stockholding for Food Security Purposes. We note, however, that much less progress has been made in Agriculture, [NAMA] [, Services] [, Rules] [, Development] and other</p>	<p><b>been made in Agriculture and other central components of the WTO's negotiating agenda, namely NAMA, Services, Rules and Development.</b></p>	<p><b>We recall the adoption of the Protocol Amending the TRIPS Agreement. We welcome/ draw particular attention to the adoption of the Agreement on Trade Facilitation (TFA) as the first multilateral agreement since the establishment of the WTO. We commend those Members that have already accepted the respective Protocols and look forward to additional acceptances. We welcome the Decisions and the Declaration listed in Parts I and II of the Bali Ministerial Declaration, and the subsequent General Council Decision of November 2014 on Public Stockholding for Food Security Purposes.</b> We note, however, that much less progress has been made in Agriculture and other central components of the WTO's negotiating agenda, namely NAMA, Services, Rules and Development.</p>	
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<p>WTO's negotiating agenda/ [We are particularly concerned with the lack of progress in issues built-in agenda, such as Agriculture and Services.</p>	<p>central components of the WTO's negotiating agenda/ [We are particularly concerned with the lack of progress in issues built-in agenda, such as Agriculture and Services.</p>			
<p><u>Para 15</u> We recall the commitments made by Ministers at all of our previous sessions, as well as by the international community at the Fourth UN Conference on Least-Developed Countries in Istanbul, to assist LDCs secure beneficial and meaningful integration into the multilateral trading system and the global economy. We recognize that LDCs remain vulnerable and continue to face structural difficulties in the global economy. We underscore the continued importance of initiatives aimed at fully and meaningfully integrating LDCs into the multilateral trading system in a more</p>	<p><u>Para 15</u> -do-</p>	<p><u>Para 15</u> -do-</p>	<p><u>Para 14</u> -do-</p>	<p><u>Para 14</u> -do-</p>

effective manner.				
<p><u>Para 16</u>  We recognize the contribution of the Enhanced Integrated Framework (EIF) in mainstreaming trade in development policies of LDCs and building their trade capacity. This significant role in helping LDCs achieve their development objectives is duly recognized by the 2030 Agenda for Sustainable Development. We are determined to further intensify our efforts to secure the necessary level of financial contributions to the program with the view to enabling the delivery of predictable trade-related support to LDCs, based on the programme needs as set out in the EIF Phase Two Programme Framework.</p>	<p><u>Para 16</u>  -do-</p>	<p><u>Para 16</u>  -do-</p>	<p><u>Para 15</u>  -do-</p>	<p><u>Para 15</u>  -do-</p>
<p><u>Para 17</u>  We recognize the importance of the Aid for Trade initiative in supporting developing country Members to build</p>	<p><u>Para 17</u>  -do-</p>	<p><u>Para 17</u>  -do-</p>	<p><u>Para 16</u>  -do-</p>	<p><u>Para 16</u>  -do-</p>

<p>supply-side capacity and trade-related infrastructure and we shall accord priority to the LDCs' needs. We take note of the outcomes of the WTO global reviews on Aid for Trade, in particular the Fifth Global Review, and recognize the continuing need for this initiative.</p>				
<p><u>Para 18</u> We note the substantial progress in WTO's technical assistance and capacity building, which focus on the needs and priorities of beneficiary Members. We recognize that dedicated facilities such as the Standards and Trade Development Facility and the Trade Facilitation Agreement Facility are making an important contribution towards assisting developing country Members and LDCs to implement relevant WTO agreements. We also reiterate the importance of targeted and sustainable financial, technical, and capacity building assistance programmes to support the</p>	<p><u>Para 18</u> -do-</p>	<p><u>Para 18</u> -do-</p>	<p><u>Para 17</u> -do-</p>	<p><u>Para 17</u> -do-</p>

<p>developing countries, in particular LDCs, to implement their agreements, to adjust to the reform process, and to benefit from opportunities presented.</p>				
<p><u>Para 19</u>  We celebrate the enlargement of the Organization by accessions in accordance with Article XII of the Marrakesh Agreement. We note that the accessions of the Republic of Yemen, the Republic of Seychelles and the Republic of Kazakhstan to the WTO have been completed since our last Session. In particular, we note with satisfaction that this Conference has completed the accession procedures for two least-developed countries, the Republic of Liberia and the Islamic Republic of Afghanistan. We recognize the extensive commitments and the contribution of the Article XII Members resulting from their accessions to the strengthening of the</p>	<p><u>Para 19</u>  -do-</p>	<p><u>Para 19</u>  -do-</p>	<p><u>Para 18</u>  -do-</p>	<p><u>Para 18</u>  -do-</p>

<p>multilateral trading system. We will work jointly on the expeditious completion of current accessions. We remain committed to efforts to facilitate accessions and provide technical assistance to acceding countries, including in the post-accession phase.</p>				
<p><u>Para 12</u> As we recognize the centrality and primacy of the multilateral trading system, we note that WTO Members have also successfully worked and reached agreements in plurilateral formats.</p>	<p><u>Para 12</u> -do-</p>	<p><u>Para 12</u> -do-</p>	<p><u>Para 19</u> -do-</p>	<p><u>Para 19</u> -do-</p>



## Part II

DMD	1st Rev.	2nd Rev.	3rd Rev.	Final
<p><u>Para 21</u> [We welcome the following decisions we have adopted at this Session:</p> <ul style="list-style-type: none"> <li>· [TRIPS Non-violation and Situation Complaints – Draft Ministerial Decision]</li> <li>· [Work Programme on Electronic Commerce – Draft Ministerial Decision]</li> <li>· [Work Programme on Small Economies – Draft Ministerial Decision]</li> <li>· <i>[Any additional decision to be inserted]</i></li> </ul>	<p><u>Para 21</u> -do-</p>	<p><u>Para 21</u> -do-</p>	<p><u>Para 21</u> We welcome the following decisions we have adopted at this Session:</p> <ul style="list-style-type: none"> <li>● <b>Work Programme on Small Economies - Draft Ministerial Decision- WT/MIN(15)/W/24</b></li> <li>● <b>TRIPS Non-violation and Situation Complaints – Draft Ministerial Decision - WT/MIN(15)/W/25</b></li> <li>● <b>Work Programme on Electronic Commerce – Draft Ministerial Decision - WT/MIN(15)/W/26</b></li> </ul>	<p><u>Para 21</u> We welcome the following decisions we have adopted at this Session:</p> <ul style="list-style-type: none"> <li>● Work Programme on Small Economies - Draft Ministerial Decision- <b>WT/MIN(15)/40 - WT/L/975</b></li> <li>● TRIPS Non-violation and Situation Complaints – Draft Ministerial Decision - <b>WT/MIN(15)/41 - WT/L/976</b></li> <li>● Work Programme on Electronic Commerce – Draft Ministerial Decision - <b>WT/MIN(15)/42 - WT/L/977</b></li> </ul>
<p><u>Para 22x</u> [We welcome the progress in the DDA, which is embodied in the following Decisions and Declarations we have adopted at our Tenth Session:]</p>	<p><u>Para 22x</u> -do-</p>	<p><u>Para 22x</u> -do-</p>	<p><u>Para 23</u> <b>We welcome the progress in the DDA, which is embodied in the following Decisions and Declarations we have adopted at our Tenth Session:</b> <b>Agriculture</b></p> <ul style="list-style-type: none"> <li>● <b>Special Safeguard</b></li> </ul>	<p><u>Para 23</u> We welcome the progress in the DDA, which is embodied in the following Decisions and Declarations we have adopted at our Tenth Session:</p>

			<p><b>Mechanism for Developing Country Members – Draft Ministerial Decision of 19 December 2015 – WT/MIN(15)/W/45</b></p> <ul style="list-style-type: none"> <li>● <b>Public Stockholding for Food Security Purposes – Draft Ministerial Decision of 19 December 2015 – WT/MIN(15)/W/46</b></li> <li>● <b>Export Competition – Draft Ministerial Decision of 19 December 2015 - WT/MIN(15)/W/47</b></li> </ul> <p><b>Cotton</b></p> <ul style="list-style-type: none"> <li>● <b>Cotton – Draft Ministerial Decision of 19 December 2015– WT/MIN(15)/W/48</b></li> </ul> <p><b>LDC Issues</b></p> <ul style="list-style-type: none"> <li>● <b>Preferential Rules of Origin for Least-Developed Countries – Draft Ministerial Decision – WT/MIN(15)/W/38</b></li> <li>● <b>Implementation of Preferential Treatment in Favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade – Draft Ministerial Decision - WT/MIN(15)/W/39</b></li> </ul>	<p><b>Agriculture</b></p> <ul style="list-style-type: none"> <li>● <b>Special Safeguard Mechanism for Developing Country Members – Ministerial Decision of 19 December 2015 – WT/MIN(15)/43 - WT/L/978</b></li> <li>● <b>Public Stockholding for Food Security Purposes – Ministerial Decision of 19 December 2015 – WT/MIN(15)/43- WT/L/978</b></li> <li>● <b>Export Competition – Ministerial Decision of 19 December 2015 - WT/MIN(15)/45 - WT/L/980</b></li> </ul> <p><b>Cotton</b></p> <ul style="list-style-type: none"> <li>● <b>Cotton – Ministerial Decision of 19 December 2015– WT/MIN(15)/46 - WT/L/981</b></li> </ul> <p><b>LDC Issues</b></p> <ul style="list-style-type: none"> <li>● <b>Preferential Rules of Origin for Least-Developed Countries – Ministerial Decision – WT/MIN(15)/47 - WT/L/917/Add.1</b></li> <li>● <b>Implementation of</b></li> </ul>
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				Preferential Treatment in Favour of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade – <b>Ministerial Decision - WT/MIN(15)/48 - WT/L/982</b>
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### Part III

DMD	1st Rev.	2nd Rev.	3rd Rev.	Final
<p><u>Para 23quinquies1</u> [We reaffirm the Ministerial Declarations and General Council Decisions relevant to the Doha mandates; and commit to take concrete steps to conclude the remaining issues in the Doha Development Agenda, with development as a key component.]</p>	<p><u>Para 23quinquies1</u> -do-</p>	<p><u>Para 23quinquies1</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 23quinquies2</u> [We further urge that we ensure that post -Nairobi, all unresolved issues in the DDA on the development mandate are addressed with a view to yielding specific development milestones to conclude the DDA as soon as possible".]</p>	<p><u>Para 23quinquies2</u> -do-</p>	<p><u>Para 23quinquies2</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 23</u> [We welcome the advances made in the Doha Development Agenda. We regret that it has not been possible to reach agreement on all areas of the negotiations, including Agriculture, NAMA, Services, Rules, including fisheries subsidies, and TRIPS. In particular, we note the</p>	<p><u>Para 23</u> -do-</p>	<p><u>Para 23</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>

<p>importance of agriculture to many WTO Members, including LDCs. We will therefore address all aspects of agriculture reform as a matter of priority [, including those that impact most on food security of members which lack financial resources to support their agriculture. We note the progress made so far on stabilized principles for flexibilities for developing countries, in particular LDCs and SVEs].]</p>				
<p><u>Para 23bis</u> [We reaffirm the Doha Development Agenda (DDA), and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and further reaffirm our full commitment to conclude the DDA negotiations on that basis.]</p>	<p><u>Para 23bis</u> -do-</p>	<p><u>Para 23bis</u> -do-</p>	<p><u>Para 30</u> <b>We recognize that many Members reaffirm</b> the Doha Development Agenda...  ...held since then, and <b>reaffirm their</b> full commitment to conclude the DDA on that basis. <b>Other Members do not reaffirm the Doha mandates, as they believe new approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations. We acknowledge the strong legal structure of this Organization.</b></p>	<p><u>Para 30</u> -do-</p>
<p><u>Para 23ter</u> [We reaffirm the Doha</p>	<p><u>Para 23ter</u> -do-</p>	<p><u>Para 23ter</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>

<p>Development Agenda (DDA), and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then including the Decision adopted by the General Council on 1 August 2004, and further reaffirm our full commitment to conclude the DDA negotiations on that basis.]</p>				
<p><u>Para 23quater1</u> [On the future of the Doha Development Agenda and the negotiating function of the WTO, we take note of significantly different perspectives, which remain very difficult to reconcile. Despite candid discussions and serious efforts, we have yet to reach an agreement on this key question.]</p>	<p><u>Para 23quater1</u> -do-</p>	<p><u>Para 23quater1</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 23quater2</u> [We nonetheless agree that the outstanding issues of the DDA should continue to be addressed in the WTO. Based on this common understanding, we instruct the officials to continue deliberations on how best to deal with these issues, with the aim of agreeing on a way forward before the end of 2016. We ask them to identify a</p>	<p><u>Para 23quater2</u> -do-</p>	<p><u>Para 23quater2</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>

<p>negotiating approach conducive to an agreement, while taking advantage of the significant progress which has been made so far, including Ministerial Declarations and other Decisions adopted in the context of the DDA, to the extent that it contributes to building consensus.]</p>				
<p><u>Para 23 x</u> [In this context, we agree to address as a matter of high priority the pending negotiating issues of agriculture. We recall the centrality of agriculture for development, regret the lack of implementation of Article 20 of the Agreement on Agriculture and stress the aim to achieve substantial reduction in distortive domestic support, substantial improvements in market access and the total phasing out of export subsidies and equivalent measures [in accordance with the Doha Round mandate]. Special and differential treatment will be an integral part of these negotiations.]</p>	<p><u>Para 23 x</u> -do-</p>	<p><u>Para 23 x</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 24</u> [In reaffirming the centrality of development, we agree that the principles of Special and Differential</p>	<p><u>Para 24</u> -do-</p>	<p><u>Para 24</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>

<p>Treatment and Less Than Full Reciprocity for developing and least-developed country Members shall remain integral parts of the WTO's future work. [In the case of services, negotiations shall be consistent with the GATS architecture and mandates.]</p>				
<p><u>Para 24bis</u> [We agree that special and differential treatment for developing countries, in particular least developed countries shall be an integral part of all WTO outcomes and shall be embodied in schedules of concessions and commitments as appropriate and in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries, in particular least developed countries to effectively take account of their development needs, as set out in paragraph 13 and 16 of the Doha Ministerial Declaration.]</p>	<p><u>Para 24bis</u> -do-</p>	<p><u>Para 24bis</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 25</u> We strongly commit to addressing the marginalization of LDCs in international trade and to improving their effective participation in the multilateral</p>	<p><u>Para 25</u> ....on a priority basis [with a view to <b>achieving positive outcomes.</b> [Special and differential treatment provisions in</p>	<p><u>Para 25</u> ...on a priority basis, <b>with a view to strengthening them, making them commercially meaningful and, when appropriate, legally binding.</b></p>	<p><u>Para 24</u> -do-</p>	<p><u>Para 24</u> -do-</p>



<p>trading system. Towards that end, we shall ensure that all issues of specific interest to LDCs shall be pursued on a priority basis [, with the view to strengthening them and making them, legally binding, and commercially meaningful].</p>	<p><b>the WTO Agreements in their favour shall be reviewed</b>, with the view to strengthening them and making them, legally binding, and commercially meaningful].</p>			
<p><u>Para 25 x</u> x. [We recognize the difficulties that continue to face the Net-Food Importing Developing Countries (NFIDCs) and LDCs since the Uruguay Round, and we reaffirm that we shall continue to accord flexibilities in the agriculture negotiations to address the needs of NFIDCs &amp; LDCs and adopt specific measures with a view to fully implementing the Marrakesh NFIDC decision as well as improving food security and agricultural production in NFIDCs and LDCs.]</p>	<p><u>Para 25 x</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 25 xbis</u> [We reaffirm our commitment to fully implement the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries in recognition of the challenges that these countries</p>	<p><u>Para 25 xbis</u> -do-</p>	<p><u>Para 25 x</u> <b>We reaffirm our commitment to fully implement the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing</b></p>	<p><u>Para 25</u> <b>...Net Food-Importing Developing Countries,...</b> ...the agriculture negotiations, in recognition of the challenges that these countries continue to face.</p>	<p><u>Para 25</u> -do-</p>

<p>continue to face [and the need to improve food security and agricultural production in NFIDCs and LDCs].]</p>		<p><b>[Countries / Country Members], including differential treatment in line with the Marrakesh Decision in the context of the agriculture negotiations, and [favourably consider] the adoption of specific measures in recognition of the challenges that these countries continue to face.</b></p>		
<p><u>Para 26</u> [We reaffirm our commitment to continue to address, in a substantive and meaningful manner, the needs of small, vulnerable economies (SVEs) and to adopt specific measures that would facilitate their fuller integration into the multilateral trading system. We therefore call for priorities of SVEs to be duly addressed in all areas of negotiations [, without creating a subcategory of WTO Members].]</p>	<p><u>Para 26</u> -do-</p>	<p><u>Para 26</u> <b>We reaffirm our commitment to continue to address in every area of WTO work, in a substantive and meaningful manner, the needs of small, vulnerable economies (SVEs) and to favourably consider the adoption of such measures as would facilitate their fuller integration into the multilateral trading system. We will take into account the needs of SVEs in all areas of negotiations, without creating a sub-category of WTO Members.</b></p>	<p><u>Para 26</u> -do-</p>	<p><u>Para 26</u> -do-</p>
<p><u>Para 27</u> We recognize the extensive commitments undertaken by Members that acceded under</p>	<p><u>Para 27</u> -do-</p>	<p><u>Para 27</u> -do-</p>	<p><u>Para 27</u> We recognize the <b>special situation of the Members acceded in accordance with Article XII of the</b></p>	<p><u>Para 27</u> -do-</p>

<p>Article XII. [For a balanced outcome, we further recognize the need in negotiations to take into account the higher level of commitments of Article XII Members [, especially the commitments of very recently acceded Members,] [, while fully applying the principle of Special and Differential Treatment] [to the extent possible and] [, in line with their prosperity and weight in global trade] [, in per capita terms].</p>			<p><b>Agreement Establishing the World Trade Organization who have undertaken extensive market access commitments at the time of accession. This situation shall be taken into account in the negotiations.</b></p>	
<p><u>Para 27x</u> [We agree that the WTO should have the ability to take on, at least on an exploratory basis, any trade-related issues deemed necessary in order to stay relevant and in keeping with the evolution of the global economy. We further agree to undertake the exploration of such issues in a manner that does not undermine the ongoing work to deal with outstanding issues.]</p>	<p><u>Para 27x</u> -do-</p>	<p><u>Para 27x</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 28</u> We reaffirm the need to ensure that Regional Trade Agreements (RTAs) remain complementary to, not a substitute for, the multilateral trading system. [We agree to enhance the role of the Committee</p>	<p><u>Para 28</u> -do-</p>	<p><u>Para 28</u> ...the multilateral trading system. <b>In this regard, we [direct / instruct] the [General Council / CRTA] [to consider the need, if any,] to [study / discuss] the systemic</b></p>	<p><u>Para 28</u> ...In this regard, we <b>instruct the Committee on Regional Trade Agreements (CRTA) to discuss</b> the systemic implications of RTAs for the multilateral trading system and their relationship with WTO rules.</p>	<p><u>Para 28</u> -do-</p>

<p>on Regional Trade Agreements so as to map the systemic implications of RTAs and their coherence with WTO rules. We deem it necessary to conduct a study on the systemic implications of RTAs, modalities of which will be decided by the General Council.] With a view to enhancing transparency in, and understanding of, RTAs and their effects, we agree to work towards the transformation of the current provisional Transparency Mechanism into a permanent mechanism, in accordance with the General Council Decision of 14 December 2006 [ , while avoiding duplicating notification requirements].</p>		<p><b>implications of RTAs for the multilateral trading system</b> and their coherence with WTO rules. With a view to enhancing transparency...</p>	<p>With a view to enhancing transparency...  ...in accordance with the General Council Decision of 14 December 2006, <b>without prejudice to questions related to notification requirements.</b></p>	
<p><u>Para 28x</u> [Proposals on specific areas of negotiations, as circulated in the WT/MIN(15)/ series, remain on the table for consideration by Ministers.]</p>	<p><u>Para 28x</u> -do-</p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>
<p><u>Para 28x</u> We agree to reinvigorate the regular work of the Committees and direct the General Council to consider the need for adjustments in the structure of their subsidiary bodies in light of their relevance to</p>	<p><u>Para 28x</u> -do-</p>	<p><u>Para 28x</u> -do-</p>	<p><u>Para 29</u> -do-</p>	<p><u>Para 29</u> -do-</p>

the implementation and operation of the Covered Agreements.				
<i>No mention</i>	<i>No mention</i>	<i>No mention</i>	<p><u>Para 31</u>  Nevertheless, there remains a strong commitment of all Members to advance negotiations on the remaining Doha issues. This includes advancing work in all three pillars of agriculture, namely domestic support, market access and export competition, as well as non-agriculture market access, services, development, TRIPS and rules. Work on all the Ministerial Decisions adopted in Part II of this Declaration will remain an important element of our future agenda.</p>	<p><u>Para 31</u>  -do-</p>
<i>No mention</i>	<i>No mention</i>	<i>No mention</i>	<p><u>Para 32</u>  This work shall maintain development at its centre and we reaffirm that provisions for special and differential treatment shall remain integral. Members shall also continue to give priority to the concerns and interests of least developed countries. Many Members want to carry out the work on the basis of the Doha structure, while some want to explore new architectures.</p>	<p><u>Para 32</u>  -do-</p>

<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><u>Para 33</u>  Mindful of this situation and given our common resolve to have this meeting in Nairobi, our first Ministerial Conference in Africa, play a pivotal role in efforts to preserve and further strengthen the negotiating function of the WTO, we therefore agree that officials should work to find ways to advance negotiations and request the Director-General to report regularly to the General Council on these efforts.</p>	<p><u>Para 33</u>  -do-</p>
<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><i>No mention</i></p>	<p><u>Para 34</u>  While we concur that officials should prioritize work where results have not yet been achieved, some wish to identify and discuss other issues for negotiation; others do not. Any decision to launch negotiations multilaterally on such issues would need to be agreed by all Members.</p>	<p><u>Para 34</u>  -do-</p>

