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Note

The WTO Nairobi Ministerial Outcome

Reflections for East African Countries

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Summary

The Nairobi ministerial conference, the first-ever to be held in sub-Saharan Africa, reached several decisions including in the areas of agriculture, cotton, LDC issues and information technology. This note reviews these decisions in light of East African countries' interests in WTO negotiations, to help delegates reflect on their implications, lessons learned, and mapping out the next steps going forward.

Introduction

The World Trade Organization (WTO) Ministerial Conference is the body's highest decision making organ that meets at least once every two years. Its mandate includes the authority to take decisions on all matters under any of the multilateral trade agreements. The 10th Ministerial Conference was for the first time hosted in Africa - Nairobi Kenya, December 2015.

Although the WTO is a member driven organization, the venue of the conference was an opportunity to bring to the fore issues of interest to the region and Africa. This brief note highlights the main outcomes from the conference, in light of East Africa Community (EAC) interests in the WTO. It is intended to serve as the basis for the EAC WTO Delegates deliberations on the way forward. Specifically, for the Delegates to reflect on the implications of MC10 outcomes, lessons learned in Nairobi, and mapping out next steps towards fostering their countries better integration and participation in the multilateral trading system.

The current WTO negotiations under the Doha Development Agenda (DDA) cover a wide range of issues that include Agriculture, Non-Agriculture Market Access (NAMA), Services, Trade Related Intellectual Property Rights (TRIPS), and Trade Facilitation to mention but a few. Moreover, within the above there are more issues such as in agriculture - market access, domestic support, export competition; cross cutting issues such as rules of origin, duty free quota free market access, the cotton subsidies issue etc. The main issues on which the Ministerial conference made decisions are highlighted below:

Agriculture

Special Safeguard Mechanism (SSM) for Developing Country Members

WT/MIN(15)/43 — WT/L/978

Developing members will have the right to temporarily increase tariffs in face of import surges by using an SSM.

Public Stockholding for Food Security Purposes

WT/MIN(15)/44 — WT/L/979

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

Export Competition

WT/MIN(15)/45 — WT/L/980

Developed country members have committed to remove export subsidies immediately, except for a handful of agriculture products, and developing countries will do so by 2018. Developing members will keep the flexibility to cover marketing and transport costs for agriculture exports until the end of 2023, and the poorest and food-importing countries would enjoy additional time to cut export subsidies;

Safeguards to ensure the elimination of subsidies: limit the benefits of financing support to agriculture exporters, rules on state enterprises engaging in agriculture trade, and disciplines to ensure that food aid does not negatively affect domestic production.

Cotton

WT/MIN(15)/46 — WT/L/981

The decision on cotton stresses the vital importance of cotton to LDCs: decision includes three agriculture elements:

Market access

The text calls for cotton from LDCs to be given duty-free and quota-free access to the markets of developed countries

Domestic support

It acknowledges members' reforms in their domestic cotton policies and stresses that more efforts remain to be made

Export competition for cotton

The ministerial outcome mandates that developed countries prohibit cotton export subsidies immediately and developing countries do so at a later date

LDC issues

Preferential Rules of Origin for Least Developed Countries

WT/MIN(15)/47 — WT/L/917/Add.1

It facilitate opportunities for Least-Developed Countries' export of goods to both developed and developing countries under unilateral preferential trade arrangements in favor of LDCs:

- Methods for determining when a product qualifies as “made in an LDC,” and when inputs from other sources can be “cumulated”, or combined together
- Use of non-originating materials up to 75% of the final value of the product
- Simplifying documentary and procedural requirements related to origin.

The Nairobi package promises 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.

Preferential Treatment in Services

The outcome includes provisions for the implementation of Preferential Treatment in Favor of Services and Service Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade (WT/MIN(15)/48 — WT/L/982).

It extends the current waiver period under which non-LDC WTO members may grant preferential treatment to LDC services and service suppliers. The period has been extended 15 years until 31 December 2030.

- WTO members can deviate from their most-favored nation obligation under the General Agreement on Trade in Services (GATS)
- Encourages discussions among members on technical assistance aimed at

increasing the capacity of LDCs to participate in services trade

- Put in place a review mechanism to monitor the operation of the notified preferences

Information Technology Agreement

WTO members representing major exporters of Information Technology (IT) products agreed on 16 December on the timetable for implementing a landmark deal to eliminate tariffs on 201 information technology products valued at over $1.3 trillion per year.

WTO members will have duty-free market access to the markets of the members eliminating tariffs on IT products. Furthermore, it estimates approximately 65% of tariff lines will be fully eliminated by 1 July 2016. Most of the remaining tariff lines will be completely phased out in four stages over three years. This means that by 2019 almost all imports of the relevant products will be duty free. Among the products covered in this agreement are new-generation semi-conductors, GPS navigation systems, medical products which include magnetic resonance imaging machines, machine tools for manufacturing printed circuits, telecommunications satellites and touch screens.

The agreement also contains a commitment to work to tackle non-tariff barriers in the IT sector, and to keep the list of products covered under review to determine whether further expansion may be needed to reflect future technological developments.

Way Forward

Looking ahead, a number of issues in the interest of EAC remain unresolved. For instance in agriculture the issue of developing disciplines on domestic support still remains. Other issues such technical assistance and capacity building to cope with resulting preference erosion through further liberalization also remain to be addressed, in addition to allocating un-utilized tariff rate quotas to LDCs (given majority of EAC countries are LDCs).

Moreover, the Nairobi Ministerial Declaration is quite unclear on whether negotiations will continue under the current DDA framework or take another form, since it states that there were divergent views amongst members on this issue. In the period ahead Members will have to deliberate on implications of this declaration and decide on the way forward.

An Appendix is here attached, summarizing the main issues of interest to the EAC countries as per the various groupings they subscribe to within the WTO, stakeholders (civil society) and relevant Ministries, vis a vis the actual MC10 outcomes.

Appendix: Specific Proposals & Misc

Country Group	Nairobi Package	
	Proposed	**Nairobi outcome**
LDCs	A) Adaptation of simple and transparent methods for determining qualification, e.g., ad valorem % criterion = maximum % of non-originating materials of at least 75% in the total value of the final qualifying good; allowing for the deduction of freight and insurance costs B) Providing LDCs with accumulation of working and process operations and materials with other LDCs, with preference-granting countries, with GSP beneficiaries, with countries that are members of the same regional grouping, and with countries with which the preference-granting country has concluded a regional trade agreement C) Abolishing certain requirements such as certificates of non-manipulation or any other form of certification for products shipped by LDCs across other countries, and recognizing self-certification of rules of origin.	**Response to Item A**: the Nairobi conference calls on preference-granting members to consider allowing the use of non-originating materials up to 75% of the final value of the product. Yet more details and efforts remain to be made. **Responses to Item B & C as follows:** ***Agriculture***: - to eliminate subsidies for farm exports; - to set up decision sets out a schedule for ending current programmes; - to prevent governments from introducing new ones; - to 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; ***Cotton***: 1) Given **duty-free and quota-free access** to the markets of developed countries and developing countries (whom they are able to do so) from 1 January 2016. 2) **Domestic support for cotton**: more efforts remain to be made. 3) **Export competition for cotton**: developed countries prohibit cotton export subsidies immediately and developing countries do so at a later date. ***Preferential rules of origin for LDCs:*** 1) A set of multilaterally agreed guidelines to help make it easier for LDC exports to qualify for preferential market access. 2) More detailed directions on specific and technic issues on qualification of a “made in LDC” product. 3) It calls on preference-granting members to consider simplifying documentary and procedural requirements related to origin.
ACP	A) Developing Members with low binding coverage of non-agricultural goods tariff	Items A,B,C,D,F,G,H,I, J are addressed, agreed to commit and develop in the **Nairobi package**. In particularly, the package allows:

	lines will be exempt from making tariff reductions; B) Level of ambition for any of the flexibilities shall be adjusted commensurate with the level of ambition in the negotiations as a whole; C) Flexibilities for developing countries in the services negotiations found in GATS and that these flexibilities shall not be undermined by new proposals; D) Binding decisions in accordance with Doha Declaration paragraph 44, on the twenty-five DDA special and differential treatment agreement; E) Disciplines on fisheries subsidies that impact the food security of developing countries and fish resources (Ensuring that such disciplines would not consign developing countries, especially SIDS (Small Island Developing States), which will need subsidies for their expansion; F) Extension of the transition period under Article 66.1 of the TRIPS Agreement for LDC Members for certain obligations with respect to pharmaceutical products(expires December 2015 prior to the conference); G) Reduction in trade distorting domestic support; H) Concrete and binding decision on cotton; I) Procedures to operationalize the Special Safeguard Mechanism; J) Examination of all types of NTBs (non-tariff barriers) in developed country markets impacting on developing country exports.	- to ban non-violation complaints in TRIPS completely; - the complaints to be handled under the WTO's dispute settlement rules as they apply to other areas, such as to goods and services; - non-violation complaints but subject to "modalities" (i.e. conditions or limits on their application); - to extend the moratorium (for another fixed period) to continue discussions. Item E are not addressed.
Kenya's Civil Society Organization	A) Incorporation of safeguard mechanisms which are simple to apply and which can be readily deployed to tackle the challenges associated with import surge; B) Development of an effective dialogue framework to address the issue of accumulated food stocks; C) Putting in place measure to enable all the new WTO disciplines on domestic support applied to developing countries and LDCs; D) Ensuring that the new developed rules of origin allow for value addition in Kenya to LDC originating inputs for export, without	Items A,B,C, and D are addressed, agreed to commit and develop in the **Nairobi package.** The outcomes of the Nairobi Package contribute significantly to Item E

	losing the benefits of preferential market access when exported to overseas markets; E) Promotion of youth involvement in agriculture through: Access to knowledge, information and education; Access to land programs; Access to financial services; Access to green jobs; Access to markets; Value addition opportunities.	
Cabinet Secretary of MoFAIT* of Kenya, Amina Mohamed	Inclusion of agriculture, comprising an outcome on cotton; an understanding on food security; services; NAMA; trade and environment; fisheries subsidies; an expanded information technology agreement and a package for LDCs.	All included in the package except NAMA, trade and environment; fisheries subsidies. In particular, the plurilateral talks on expansion of the product coverage of the **Information Technology Agreement** (**ITA**) have been initiated. 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 basis, covering products valued at well over $1 trillion annually. Ministers also agreed to continue a global moratorium prohibiting customs duties on electronic transmission of goods (approx. 65% of tariff lines will be fully eliminated by 1 July 2016); most of the remaining tariff lines will be completely phased out in four stages over three years; all imports of the relevant products will be duty free by 2019.

*MoFAIT = Ministry of Foreign Affairs and International Trade

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