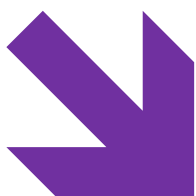


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TOWARDS THE 10TH WTO MINISTERIAL CONFERENCE

EAC CIVIL SOCIETY PERSPECTIVES ON PRIORITY ISSUES
FOR THE REGION

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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 forthcoming Ministerial will for the first time be hosted in Sub-Saharan Africa in Nairobi Kenya, December 2015.

Although the WTO is a member driven organization, the venue of the conference could be an opportunity to bring to the fore issues of interest to the region and Africa. This note explores East Africa Community civil society organizations (EAC CSOs) perspectives, on what could be the main priorities for both the region and Africa, towards fostering their 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. It is in light of these issues that a number of CSO's in the region were approached to share their perspectives. These

included Kenya Small Scale Farmers Forum; Society for International Development; Kenya Human Rights Commission; Southern and Eastern Africa Trade Information and Negotiation Institute (SEATINI)– Kenya and Uganda; East Africa Civil Society Forum; and Economic and Social Research Foundation.

This brief note summarizes the above CSOs perspectives on what would be the priorities for EAC and Africa in general, for the forthcoming Ministerial Conference.

Issues of priority

The EAC region and indeed most of sub-Saharan Africa is well endowed with arable land as well as natural water bodies, making it highly dependent on the **agriculture sector**, which contributes significantly to employment, and as a source of livelihoods. Never the less, a number of challenges have hindered the optimal leveraging of the sector towards development, poverty eradication, and self-sustenance. Such challenges include low productivity which has resulted in these set of countries becoming net food importers, as opposed to exporters; lack of requisite infrastructure and technological capacity to transform agricultural produce through value addition; high dependence on traditional modes of production making them susceptible to weather vagaries; and lack of access to lucrative international agricultural markets that would incentivize higher production, to mention but a few.

Moreover, several factors in the multilateral trade system such as **trade distorting domestic support**, which is being used

mainly by developed countries, hinder the development of the LDCs' agriculture sector as well as its integration into world trade. Analysis has proven that domestic support through subsidies of the agriculture sector mainly utilized by developed countries, results in depression of world agriculture prices, which becomes a disincentive for the weaker countries such as the EAC to develop their agriculture sector in which they would otherwise have a comparative advantage and eventually driving them out of the market. These mechanisms hamper the development of the EAC countries' agriculture sector. Due to the latter's enormous importance for the EAC population's livelihood, domestic support of all forms should be eliminated and at the very least reduced.

Moreover, EAC CSOs are also of the view that a final decision on the **cotton issue** is a priority for the forthcoming WTO Ministerial. To this end, they advocate the implementation of the Hong Kong Ministerial declaration, i.e. that all forms of export subsidies for cotton are eliminated and DFQF market access is facilitated for cotton exports from LDCs. However, the United States, amongst other major cotton producing countries like China, has implemented new subsidies for its domestic cotton farmers. Under the framework of the "2014 Farm Bill" the US has introduced new insurance-based schemes against shortfalls from US cotton farmers' expected revenues. The new bill reduces risks substantially for US cotton farmers, thereby incentivizing them to increase their cotton production. This in turn is likely to put downward pressure on world market prices, resulting in losses for cotton-producing

countries around the world. According to a recent study by the International Centre for Trade and Sustainable Development (ICTSD), prices reduction is estimated at "almost 7%" and "cotton-producing countries around the globe are expected to suffer monetary damages of nearly US\$ 3.3 billion". Considering that many African countries are highly dependent on cotton for economic development, EAC CSOs call for disciplines that will hinder market disruptions by policies such as the recent US "2014 Farm Bill", at the upcoming Ministerial Conference.

Further, a result on **NAMA** is another important outcome for the EAC, from the forthcoming WTO. The fact that NAMA products today represent 90% of the world's merchandise exports, exemplifies its importance in multilateral trading. In order for the region to successfully attain its goal of industrializing, there is a need for favorable multilateral trading opportunities in this regard. As mandated in the Doha Ministerial Declaration, the reduction and/or elimination of tariffs, including tariff peaks, tariff escalation, more so those faced by least-developed Members, to which the majority of EAC countries belong, is a priority. Success has already been achieved in the past: in developed countries, tariff averages have been decreased from 6.3% to 3.8%, while binding coverage for NAMA products has been increased from 21% to 73% in developing countries. EAC CSOs are of the view that while developed countries and the bigger developing countries should continue to avail market access, smaller Members especially LDCs and low income countries such as Kenya should be availed the policy space

required to develop their infant industries, promote value added exports, and facilitate technological transfer. The outcomes on NAMA should be cognizant of these important issues.

EAC CSOs also consider **Trade in Services (TIS)** as important for the region. They are cognizant of the fact that the services sector in the region is growing, but remains substantially behind developed and larger developing countries. Therefore any decisions on services should consider the situation of the EAC and similarly situated countries, in order to enhance their effective integration in the multilateral trading system. The ongoing operationalization of the LDC services waiver, designed to facilitate the LDCs' market access, as per the decision of the last WTO Ministerial Conference is a positive step in this direction. So far LDCs have submitted their requests for sectors to which the Service Waiver should apply and requirements to be waived, including requirements for visa, work and residence permits and for the recognition of qualifications. A number of developed and developing countries have announced offer for LDCs special treatments in some form. However, it remains unclear which of the LDCs' requests will be included in the granting countries' final notifications. LDCs should therefore follow up on previously made announcements and continue consultations with developed and developing countries that have not yet responded to the LDCs' requests in order to further the operationalization of the Service Waiver.

In relation to the above, the issue of meaningful preferential market access through

duty-free-quota-free (DFQF) and simplified rules of origin (RoO) is a priority outcome for the EAC, from the forthcoming WTO Ministerial. In doing so, such an outcome should enable the operationalization of the Hong Kong Ministerial Declaration on DFQF market access that covers at least 97 percent of product lines. Closely linked to the DFQF issue is the determination of a product's origin, since only LDC products qualify for this scheme. Therefore rules of origin have to be streamlined and simplified, thereby enabling effective utilization of the progress that has been made on DFQF.

In addition to addressing tariffs, the issue of eliminating **non-tariff barriers (NTBs)** is critical for EAC, and should be addressed in the forthcoming Ministerial Conference. As tariff barriers continue to decrease, NTBs have become the major obstacle for access to markets of interest for the EAC, and indeed other African countries. Therefore their elimination should be prioritized. A promising initiative with regards to the reduction of NTBs is the Service Waiver, since, upon implementation, should reduce market-access barriers as stated above. Similar initiatives in other sectors should be considered in order to improve market access for LDCs in other sectors.

Another priority for the EAC is the issue of **special and differential treatment (SDT)**. Given that the majority of EAC Members are LDCs, with Kenya being a low-income developing country, SDT flexibilities become very important for their better integration in the multilateral trading system. It is in line with this, that the proposals on SDT currently

being negotiated should be part of the outcomes from the Ministerial conference, and should be legally enforceable so as to ensure their implementation. EAC CSOs consider SDT flexibilities as crucial for development, and should therefore be deepened in the multilateral trading system.

Capacity-building and Technical Assistance is another critical issue for the EAC. In the service sector, business-support provided by developed countries, enhances its readiness to export services once the previously mentioned Service Waiver is implemented. Developed countries have always signaled their willingness to continue providing capacity building and technical assistance, and this should be provided for on a sustainable basis through the Ministerial conference. For instance in agriculture, technology transfers if implemented as provided for in the TRIPS agreement, in addition to capacity building could go a long way in addressing deficits in productivity, technology and value addition.

The **regulation of access to its own market** is another issue that the EAC has to deal with. Herein, the problem is represented by different requirements that the EAC's LDC-countries on the one hand, and Kenya (as developing country) on the other hand, face. A solution has to be found that takes three aspects into account: firstly, LDC countries' flexibility in the reduction of tariffs to protect its infant industries. Secondly, Kenya's requirements to reduce tariff barriers and thirdly, the harmonization of the EAC's trade policy (e.g. the Common External Tariff) in order to further EAC integration.

EAC CSOs call for adoption of a **Special Safeguard Mechanism (SSM)** at the next WTO Ministerial. The rationale is that while tariff barriers are being reduced throughout the world, LDCs and developing countries should be granted the possibility to raise tariffs temporarily in order to counter surges in imports that threaten the development of their industries. Especially for LDCs, and hence for the EAC, the SSM could represent a useful tool to protect themselves against increasing agro-food imports or price volatility in the commodity markets.

The agreement on **Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, which aims at the protection of Intellectual Property (IP) and the facilitation of technology transfer, recognizes the LDCs' need for technical and financial assistance from developed countries in order to implement TRIPS commitments. In a demand-driven process, developing and least developed countries have identified priority issues, through which support could be provided in redressing them. However, this phase is not yet accomplished, and therefore remains a priority for LDCs in the upcoming Ministerial Conference. More specifically, the EAC should seek to obtain support for the establishment of a legal framework for **Geographical Indications (GI)**. This would enable EAC countries to promote better marketability of their products, such as tea, coffee or sugar, and to ensure their products' adequate pricing, which "may lead to a better distribution of income throughout the income chain". In this respect EAC countries should also advocate the proposed extension of GIs to

a wider range of products within the TRIPS agreement.

Expectation on outcomes

The first Ministerial Conference in a Sub-Saharan African country is expected to deliver substantial outcomes for Africa, more so the LDCs' pressing matters. These are summarized as follows:

Sector specific outcomes

On agriculture:

- **Domestic support** should be reduced since it has trade-distorting effects, undermines EAC countries' competitiveness in the world market hampers the development of the EAC's agricultural sector, and represents a threat to the EAC population's livelihood.
- The heavily distorted **cotton market** results in losses for cotton-producing countries around the world, amongst which many are African countries and/or LDCs. The domestic support programs of major cotton producing countries, such as China and the US, should be addressed and their trade distorting effects should be reduced.

On NAMA:

- Further progress on the **reduction of trade barriers** as well as **non-tariff barriers** should be pursued in order to improve market access in this highly important sector.

On Tin Services:

- The **operationalization of the Service Waiver** is a high priority since it could potentially lead to great benefits for LDCs through the reduction of non-tariff trade barriers, such as requirements for visa, qualification, etc. It is important to follow up on the progress that has been made at the 9th Ministerial Conference, i.e. to specify which of the LDC requests are covered by Service Waiver granting countries and to demand responses from countries that have not yet replied to LDC requests

Cross-sector outcomes

- **SDT** for developing countries and LDCs in the EAC should be intensified. Furthermore, it is important that SDT does not hinder the harmonization of a common trade policy within the EAC.
- **Technical Assistance and Capacity-building** measures remain critical for Africa and more the LDCs so as to enable their better integration in the multilateral trading system.
- **SSMs** have the potential to effectively protect the infant industries in case of import surges. Thus, the initiative on "Emergency Safeguard Mechanism", proposed in the services sector, should be adopted, while similar initiatives should be considered for other sectors.
- Technical and financial support for the implementation of the **TRIPS** agreement is still required. With respect to agriculture, the extension of **GIs** should be furthered, since the

EAC's economy could benefit from increased and more highly priced exports of agricultural goods, such as tea, coffee, sugar, etc.