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ADVANCING DEVELOPING COUNTRY INTERESTS IN WTO NEGOTIATIONS

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ABSTRACT

The Tenth WTO Ministerial Conference meeting in Nairobi, Kenya, ended in circumstances that left many members questioning the future of the WTO and the path that should be adopted to conclude the Doha Round, with diverging opinions amongst member states on whether the mandate of the Doha Round is still relevant sixteen years after its adoption is the real question for the WTO. With more than 267 regional trade agreements currently in place, the members' attention has shifted away from multilateral agreements to regional initiatives addressing new issues, such as e-commerce, investment, development assistance, amongst others. The MC11 is likely to address those issues that were left unattended at the MC10, such as agricultural market access and domestic support, special safeguard measure, fisheries subsidies, among others.

The Tenth WTO Ministerial Conference (MC10) meeting in Nairobi, Kenya, ended in circumstances that left many members with a bittersweet taste: whilst the Nairobi package managed to agree on a decision regarding the phase out of export subsidies, no decision was achieved on market access and domestic support. Additionally, some members started questioning the future of the WTO and the path that should be adopted to conclude the Doha Round, initiated back in 2001: whilst some members are pushing for a change in the existing negotiating mandate, including additional topics, other members prefer to exhaust the existing mandate before taking on any new issues. This division was expressed in the ministerial declaration:

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.

WTO 2015, Nairobi Ministerial Declaration, WT/MIN(15)/DEC, para. 30.

Whether the mandate of the Doha Round and the way in which the WTO carries out the negotiations are still relevant sixteen years after its adoption is the real question for the WTO. With more than 267 regional trade agreements (RTAs)² currently in place³, the members' attention has shifted away from multilateral agreements to regional initiatives addressing new issues, such as e-commerce, investment, development assistance, amongst others.

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² The term "regional trade agreement" refers to any kind of trade agreement by which a reciprocal trade preference is granted. This include free trade agreements and customs union. It excludes the unilateral trade preferences, i.e. Generalised Scheme of Preferences and AGOA.

³ See WTO – Regional Trade Agreements. Available at:
https://www.wto.org/english/tratop_e/region_e/region_e.htm

And developing countries are not an exception to this situation: African, Caribbean and Pacific (ACP) countries, divided into seven specific groups, have negotiated a series of economic partnership agreements (EPAs) with the European Union (EU); Africa has concluded the Tripartite Free Trade Agreement (TFTA) formed by 26 African countries, representing almost half of the African Union (AU) Membership, 51 percent of the continent's GDP, and a combined population of 632 million, and the overall continent is currently negotiating the outcome of a "mega-regional" trade agreement, the Continental Free Trade Area (CFTA), expected to bring together 54 African Countries with a combined population of more than one billion people and a combined gross domestic product of more than USD 3.4 trillion.

As mentioned above, some WTO members are pushing for the introduction of new topics into the negotiations, which are far from being considered "low hanging fruits". These topics, such as digital economy, regulatory coherence, global value chains, labour, environment, and competition policies, are likely to be discussed and considered in order to shape the future trade negotiations and, therefore, the future of the WTO.

DEVELOPING COUNTRIES AND MULTILATERAL TRADE NEGOTIATIONS

Until the establishment of the G-20 right before the 2003 Cancún Ministerial, many developing countries found themselves in a relatively marginalised position during the course of multilateral negotiations, experiencing difficulties in linking their development agenda to the negotiations.⁴ Developing countries' power during negotiations was never fully harnessed, as the reality of negotiations and the decision-making process was, and sometimes still is, much more complex and usually hostage to economic power influences.

In the case of African States, this marginalisation and unawareness was triggered by their limited technical and institutional capacities to fully adapt their national laws and fulfil their obligations as required and take full advantage of the provisions of multilateral trade agreements agreed during the Uruguay Round.⁵ Sadly, this situation is not surprising nor uncommon across developing countries, which sometimes attend ministerial conferences without previously receiving the proper training and preparation.

As highlighted by Van den Bossche and Zdouc (2013), many developing-country Members still lack the resources and expertise to participate effectively in WTO negotiations and decision-making. In addition to the relative lack of experienced trade negotiators, two particular problems faced by many of these developing-country Members are: (1) the lack of effective coordination between ministries and government agencies; and (2) the lack of a structured, institutionalised, dialogue with domestic stakeholders.⁶ Additionally, another problem is the existing capacity gap between the countries' delegations and their capitals. These problems often result in a situation in which a Member does not have a clear picture of its offensive and defensive interests in specific negotiations.

Developing countries, considered as a whole, have become, especially since the launch of the Doha Round, important players in world trade. Specifically, several developing countries have

⁴ Rolland, S. E. 2007, Developing Country Coalitions at the WTO: In Search of Legal Support, *Harvard International Law Journal*, Vol. 48, Number 2, Summer, p. 483.

⁵ See Lacker, J. P. 2014, African Participation at the World Trade Organization: Legal and Institutional Aspects, 1995-2010, *Graduate Institute of International and Development Studies*, Volume 13, p. 6.

⁶ VdB, p. 148.

embraced the importance of being integrated in the global economy and look to trade as a vital tool for development: whilst in 2001 the share of developing countries in world trade accounted for approx. one third of global trade, in 2015 it accounted for 45 per cent.

Nevertheless, not all regions seem to be participating in the world trading system as fully as others. The ACP countries lags behind the rest of the developing world in general. Despite representing more than half of WTO developing country Members, the ACP group only represents 2 percent of the world's exports and 2.6 percent of its imports in 2015, in comparison to 1.5 and 1.7 percent in 2001. The ACP situation is explored further as an example of the sclerosis facing some developing countries in advancing their own interests in the WTO Rounds.

THE ACP GROUP AT THE WTO

The ACP Group, and its Secretariat, came into existence as a coordination tool between its Member States and the European Union, with the objective to negotiate and implement cooperation agreements with the then European Communities. Afterwards, this group was replicated at the WTO. The ACP Group consists of 79 members: 48 countries from Sub-Saharan Africa, 16 from the Caribbean and 15 from the Pacific. All of them, except Cuba, are signatories of the Cotonou Agreement with the EU.

One of the main characteristics of the ACP group is its diversity: it contains least developed countries, small island developing states (SIDS), small vulnerable economies, landlocked developing countries (LLDCs), preference dependent economies, net food importing developing countries, low income countries, middle income countries, highly indebted poor countries, heavily indebted middle income countries, limited commodity exporting countries, and countries in war, post-conflict, and facing post-natural disaster situations.⁷

Additionally, and as result of its diverse composition, it is worth remarking the divergence of interests and problems inside the group. Whilst the Caribbean region has traditionally been significantly pro-free trade, the Pacific States usually face problems with the accession process and their main interests rely on fisheries and services. The African group englobes a heterogeneous group of countries: from SIDS to LLDCs, and includes big economies, such as South Africa. Also, the three regions operate under different spheres of influence: whilst the EU has the biggest impact and trade with Africa, it's importance in the Pacific is more limited in comparison to Australia and New Zealand, and the Caribbean is heavily influenced by the United States and North America.

The Group has proved to be a natural alliance for defending preferences and securing special and differential (S&D) treatment of its Members.⁸ Nevertheless, the ACP countries will, inevitably, face an erosion of their current preferences as multilateral and regional initiatives take place. And the approach adopted to tackle this issue also highlights the differences amongst the group: whilst Africa insists in maintaining its border protections, the Pacific and the Caribbean have adopted a more liberal approach by reducing border protection, leaving Africa as a "tariff island".

⁷ ACP – ACP Group Faces Tough Challenges at Global Trade Conference in Nairobi. Available at: <http://www.acp-indepthnews.net/index.php/news/4-article-4>

⁸ Medinilla Aldana, A. 2015, The ACP and WTO: Ambitions in trade and development. *ECDPM Talking Points blog*, July 16. Available at: <http://ecdpm.org/talking-points/the-acp-and-wto-ambitions-in-trade-and-development/>

CONCLUSION: PREPARING FOR THE 11TH WTO MINISTERIAL

One of the most discussed topics during the Doha Round has been agriculture trade, with a variety of sub-issues: export subsidies, domestic support, stockpiling for food security, safeguard mechanisms, export restrictions, export state trading entities, and cotton subsidies. Whilst the Nairobi package managed to agree on a decision regarding the phase out of export subsidies, no decision was achieved on market access and domestic support. It is worth mentioning that whilst the achieved outcome is important, the effect of export subsidies can also be achieved through domestic support, by simply removing the export contingency.⁹

The biggest disagreement, however, goes beyond specific substantive issues:

Whilst the EU and the US want to include new issues, such as investment, e-commerce, competition etc., mimicking the regional agenda at the WTO, many developing countries including India, China, and the ACP Group, call for the completion of Doha before incorporating new issues into negotiations.¹⁰

Such a position was repeated by the ACP Group, and others, at the mini-ministerial in Oslo on October 2016. Issues raised were:

- Call for a credible outcome addressing fisheries subsidies;
- Permanent solution for public stockholding programs for food security;
- The need to deal with the Special Safeguard Mechanism (SSM);
- Accelerate the work on special and differential flexibilities and developmental issues in the Doha Work Program;
- A decision on cotton will also be sought in MC-11; and
- The necessity to achieve an outcome on the reduction of domestic support.

Therefore, with the current scenario, developing countries must increase work on these items, first, by analysing the different proposals submitted in 2016, and, second, to further develop and argue their common positions. Areas such as the Blue Economy, renewable energy, bio-diversity and fisheries could provide scope for common interests among many Developing Countries. Finally, a knowledge network could focus on the exchange of experiences among countries and sub-regions in different sectors such as tourism, regional integration, trade negotiations and non-tariff barriers to trade and could generate common interest.¹¹

ABBREVIATIONS

ACP	African, Caribbean and Pacific	MC	Ministerial Conference
AU	African Union	RTA	Regional Trade Agreement
CFTA	Continental Free Trade Area	S&D	Special and Differential
DDA	Doha Development Agenda	SIDS	Small Island Developing State
EPA	Economic Partnership Agreement	TFTA	Tripartite Free Trade Area
EU	European Union	WTO	World Trade Organisation
LLDC	Land-Locked Developing Country		

⁹ Lester, S. 2016, Is the Doha Round Over? The WTO's Negotiating Agenda for 2016 and Beyond, *CATO Institute*, Free Trade Bulletin No. 64, February 11. Available at: <https://www.cato.org/publications/free-trade-bulletin/doha-round-over-wtos-negotiating-agenda-2016-beyond>

¹⁰ *Id.*

¹¹ Laporte, G. 2016, A reality check on the ACP-EU Partnership: Can it be revitalised? *International Centre for Trade and Sustainable Development*, Bridges Africa, Volume 4, Number 1.

HOW CAN WE HELP?

Support C-level executives and boards to prepare for different challenges

International Economics can help facilitate internal discussions on strategy by providing technical insights, developing dashboards of key performance measurements, and giving advice to executive boards on building resilience to possible disruptions related to exogenous trade shocks, such as Brexit or Donald Trump's Presidency. We work closely with our clients to brainstorm and identify challenges and opportunities based on our professional experience.

Map market access

In order to quantify the potential costs to your business in engaging in trade, including tariffs, standards, and customs procedures, among many others, we (i) undertake a mapping of which terms are most at risk of changing and by how much, depending on the type of agreements; and (ii) quantify and forecast the potential effect on your business using predictive analytics to generate insights into future outcomes.

Navigate through trade and investment agreements

With more than 400 trade agreements and 2,400 investment agreements already in place, *International Economics'* team is able to navigate through them, guiding and identifying which specific agreement will better suit the interests of our client. Additionally, we have developed optimization techniques, through the use of sophisticated rules and algorithms, to analyse the Free Trade Agreements (FTAs), which are growing in space, depth and complexity, in order to offer insights into investment and trade decisions. With increasing fragmentation of global production networks and the need for careful evaluation of supply chain risks, the tools developed by *International Economics* offer a solid foundation for the adoption of critical decisions by businesses.

Prepare briefings and strategic papers

Our clients need to prepare strategic position papers to assess the issues and prepare responses, whether it be internal restructuring, supply chain re-engineering or addressing policy risks. We assist our clients with short, impactful, and relevant position papers, including setting out the possible impacts of risks at different business levels (policy, financial, structural, etc.) and provide the latest thinking on the issues to date, based on a holistic economic framework.

Undertake a full economic and legal review of the trade and investment exposures to worldwide events

We conduct independent and objective reviews of the impact of different worldwide events on your business and industry. We use deep learning tools, large multi-country macro models and the latest unstructured data to offer insights into the risks, exposure assessments and likelihood of disruptions to supply chain. These provide our clients with a competitive advantage as they prepare mitigation strategies and leverage identified opportunities. We work with our clients to develop the right strategies and make breakthrough decisions.

Brexit: Help the private sector position itself during the UK's trade negotiations

Brexit will affect our clients' business strategies, supply chains, funding, tax positions, regulations, growth and opportunities. *International Economics* works with public affairs companies and specialized firms to offer the full range of trade-related technical support and advice to help companies position themselves and ensure that their interests are addressed in the negotiations.

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