

ACP DECLARATION ON THE FOURTH MINISTERIAL CONFERENCE

Brussels, 5 to 6 November 2001

Communication from Kenya

The following communication, dated 8 November 2001, has been received from the Embassy of Kenya, Brussels, with the request that it be circulated to Members.

We, the Ministers responsible for trade matters from the African, Caribbean and Pacific Group of States, meeting in Brussels, Belgium from 5 – 6 November 2001 to, *inter alia*, prepare for the Fourth Ministerial Conference of the World Trade Organization (WTO);

Having examined the draft WTO Ministerial Texts comprising the Draft Ministerial Declaration; the Draft Decision on Implementation Related Issues and Concerns; the Draft Declaration on Intellectual Property and Public Health; the Compilation of Outstanding Implementation Issues Raised by Developing Country Members; as well as the Proposed Procedures for Extensions Under Article 27.4 of the Agreement on Subsidies and Countervailing Measures for Certain Developing Country Members;

Having considered the outcomes of relevant meetings convened by various ACP regions and other developing country regions and interest groups and in particular the Ministerial Declaration of the 4th OAU/AEC meeting of Ministers of Trade held in Abuja, Nigeria, and the Zanzibar Declaration of LDC Trade Ministers;

Having considered Resolution AAP/3315/Comp on WTO negotiations adopted on 1 November 2001 by the 3rd Session of the ACP-EU Joint Parliamentary Assembly;

Having considered Resolution APP/3201/A/fin on the impact of sanctions and, in particular, of embargoes on the people of the countries on which such measures are imposed, also adopted on 1 November, 2001, by the 3rd Session of the ACP-EU Joint Parliamentary Assembly;

Recalling the relevant sections of the Declaration of the Third meeting of ACP Ministers of Trade held in December 2000;

Concerned about the inordinate delay in the granting of the WTO waiver request for the ACP-EC Cotonou Partnership Agreement;

Whereas the key challenge confronting the international community is the marginalization of many developing countries in the global economy, particularly those in the ACP;

Whereas the WTO was established to, *inter alia*, ensure that developing countries, and particularly the least developed among them, secure a share in international trade commensurate with the needs of their economic development;

Whereas an equitable and strengthened rules-based system that provides enhanced certainty and security is essential to achieve this;

Whereas the Uruguay Round Agreements resulted in disciplines that are extensive and with far reaching implications for national economic and trade policies of members;

Whereas the Uruguay Round Agreements are imbalanced and embody deficiencies that have had an adverse impact on trade and development interests of the ACP and other developing countries;

Whereas the implementation of these Agreements requires institutional, human, administrative and financial capacities currently lacking in many ACP countries;

Aware that ACP States and other developing countries have a definite interest in reforming the multilateral trading system in a manner that promotes and responds to their development needs;

Asserting that the multilateral trading system must address decisively and adequately development issues in order to enhance its legitimacy and create a basis for a new equitable global economic order for the benefit of all WTO members;

Considering the importance and urgency of integrating ACP States into the multilateral trading system and, in that regard, that development issues should be at the core of any future work programme of the WTO;

Considering the need to examine the relationship between trade, debt and finance and transfer of technology, given their importance to the development of ACP States;

Recognizing the assistance provided by a number of organizations to ACP States to facilitate their participation in the work of the WTO and realising the need for additional support;

Declare as follows:

With regard to

The multilateral trading system

1. We reaffirm our commitment to the rules-based Multilateral Trading System (MTS) as an instrument for the promotion of economic development, facilitation of the integration of ACP States into the global economy, and eradication of poverty. In this context, we affirm the importance of having flexibility in the rules and their application.
2. We emphasize that there is an urgent and fundamental need for developmental issues to be put at the centre-stage of the WTO Work Programme in order to enhance the development potential of ACP States.
3. We consider it important that any future WTO Work Programme should be based on a development agenda and should take into account the capacities of ACP States to participate effectively in any such Work Programme. Any trade rules should fully take into account the development needs of ACP States. Inclusion of any new issues will require a fuller understanding of their development implications and agreement by all members.

4. We call for increased financial and technical support to ACP States, in particular non-resident States, to participate effectively in, and contribute meaningfully to, the work of the WTO.
5. We reiterate our call for the elimination of the continued use of coercive and unilateral economic measures, against developing countries, which contravene international law and constitute a violation of WTO rules.

Implementation Issues and Mandated Reviews

6. We recall the WTO General Council Decisions of 3 May 2000 and of 15 December 2000, reaffirming that the General Council shall address and resolve all the outstanding implementation-related issues and concerns no later than the Fourth Session of the Ministerial Conference. We therefore call on firm decisions to be taken on the outstanding implementation issues at the Doha Ministerial Conference. In the event that all outstanding issues are not resolved, we urge that any remaining implementation issues be addressed as a matter of priority, in the post-Doha Work Programme, with a view to resolving them no later than the end of 2002.
7. We call upon WTO members to grant an extension for the use of export incentives until 2018 by developing ACP countries, in order to preserve their fiscal incentives to export-oriented manufacturing and complete their on-going export diversification.
8. We urge the full operationalisation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on LDCs and Net Food Importing Developing Countries (NFIDCs).
9. We affirm that within the framework of the Agreement on Agriculture, Article 9 and Article 10 of the SPS Agreement and Article 11 and Article 12 of the TBT Agreement should be made mandatory.

Special and differential treatment

10. We reaffirm that Special and Differential (S & D) treatment for developing countries is a core principle of the WTO and thus should be incorporated into the architecture of future WTO agreements and rules. We further call on our developed country partners to commit themselves to ensuring that S & D provisions are made meaningful, operational and responsive to the developmental needs of developing countries by adopting a Decision at Doha to make Special and Differential provisions legally binding and enforceable.

Trade Preferences

11. We reiterate that trade preferences have a crucial role in the development of ACP States. Preferences must be meaningful, effective and binding and should not be subject to any conditionalities not related to trade. Any new preferences granted should not undermine existing terms and conditions of access provided to ACP States. Furthermore, ACP States should be given assistance to make full use of and benefit from preferences, including assistance to address supply side constraints and productive capacities.

WTO Waiver

12. We note with great concern the delay in the consideration and approval of the waiver request for the ACP-EC Partnership Agreement. This inordinate delay is unprecedented and runs counter to the trade and development interests of the ACP States. It also seriously

undermines the confidence of the ACP States in the Multilateral Trading System. In this regard, we urge that the waiver be granted at the Doha Ministerial Conference.

Capacity building and technical assistance

13. We note that the ACP States continue to be constrained by limited financial, technical, administrative and institutional capacities to understand and analyse the full implications of WTO Agreements, adapt their national laws and fulfil their obligations as required and to take full advantage of the multilateral trade agreements in accordance with their national objectives and priorities.
14. We call upon the WTO to increase technical assistance and capacity building activities, including strengthening supply side capabilities, through programmes such as JITAP extended to all ACP States, the Integrated Framework, and through effective cooperation with relevant development institutions and organizations.
15. We affirm that technical assistance and capacity building are core functions of the WTO, and call for increased, predictable and secure funding through the WTO's regular budget and other mechanisms, as appropriate.
16. We affirm that funding for technical assistance and capacity building, whatever its source, should be demand-driven and not be accompanied by any conditionalities.

Least developed countries

17. We emphasize the urgency of the full implementation of the commitments on trade of the Programme of Action adopted by the Third United Nations Conference on the Least Developed Countries (LDC III), and call on WTO members to make the commitments binding. We take note of the initiatives for improved market access for products originating from LDCs. These initiatives can be improved by having realistic and simplified rules of origin which match the industrial capacity of LDCs. It is also important to address adequately their supply side constraints. The Integrated Framework has the potential to deliver trade related technical assistance. We urge that it be enhanced and expanded to the other LDCs.

Small economies

18. We stress the need for the multilateral trading system to take account of the particular problems and special needs of small, island and vulnerable developing economies. In this regard, we call on WTO members to establish a work programme to address these problems and special needs and recommend that positive and concrete measures be adopted by the WTO General Council before the end of 2002.

Accession

19. In view of the difficulties experienced by a number of ACP States - most of which are LDCs, small and island economies - in their accession to the WTO, we call on WTO Members to refrain from placing excessive or onerous demands on such applications, and to exempt them from undertaking commitments which are inconsistent with their development needs and capacities. We also urge that negotiations for accession be expedited, streamlined, made more transparent and that acceding countries be given an adequate transition period to adjust to the challenges of the MTS; henceforth, we call for the provision of adequate financial and technical assistance for them to accede speedily.

Mandated negotiations

Agriculture

20. Given the conditions of agriculture in most ACP States, we affirm that Special and Differential treatment shall be an integral part of all aspects of these negotiations. We stress the need for the 4th Ministerial Conference to take the necessary decisions for achieving the fundamental reform of agriculture by redressing the inequitable nature of existing provisions in the Agreement on Agriculture. We emphasize the need for provisions which offer developing countries adequate flexibility to develop their agriculture through *inter alia*, the advancement of their non-trade concerns, namely, food security, sustainable rural development, rural livelihoods and poverty alleviation. We recognise the proposals made by developing countries on a "Development Box" to be an important element of such flexibility. We call on WTO members to provide meaningful market access by, *inter alia*, addressing export subsidies and domestic support, for all agricultural products originating from ACP States, while preserving existing preferential arrangements. The negotiations shall address the concerns of LDCs, Small Island Developing States (SIDS) and small economies as well as single commodity producers.

Services

21. We emphasize the need for effective implementation of GATS provisions on improving market access in sectors and modes of export interest to ACP countries. In this regard, we emphasize the need for effective implementation of GATS Articles IV and XIX. 2, concerning liberalization of market access in sectors and modes of supply of export interest to developing and least developed countries; and the need for greater liberalization of Mode 4 (Movement of Natural Persons), especially by developed countries, through the elimination of barriers to market access. Furthermore we call for the provision of credit for autonomous liberalisation in services sectors undertaken by ACP countries.

Singapore Issues

22. We recall the Singapore Ministerial Decision on Investment and Competition Policy, that: "it is clearly understood that future negotiations, if any, regarding multilateral disciplines in these areas, will take place only after an explicit consensus decision is taken among WTO members regarding such negotiations".
23. We affirm that ACP States are not prepared at this time to engage in negotiations on Singapore issues. We call for the continuation of the work of various working groups that have been established to study the respective subjects, as set out below:

Trade and Investment

- a) We are concerned that the relevance for the development of a multilateral investment agreement in the WTO has neither been fully discussed nor understood. Thus we call on the study process in this area to focus in particular, on the relationship between trade and possible multilateral disciplines on investment before any rules in this area are considered.

Trade and Competition Policy

- b) We note that most ACP States do not have the necessary legal and administrative infrastructure and pre-requisites to deal with competition policy. Furthermore, the inter-relationship between competition and economic development is complex, and

needs to be explored fully before we can consider agreeing to multilateral regulation in this area.

Transparency in Government Procurement

- c) We note that issues relating to Transparency in Government Procurement are complex, and that many important issues are still not clarified. In view of the lack of clarity of the implications of a multilateral framework on Transparency in Government Procurement on the social and economic development of ACP States, we urge the continuation of the study process.

Trade Facilitation

- d) We hold the view that Trade Facilitation measures are necessary and beneficial to all countries. In this context, on-going work within and outside the WTO (e.g. rules of origin, customs valuation) should continue. Improved trade facilitation measures should not constitute part of WTO disciplines, but remain the subject of domestic initiatives.

Core Labour Standards

24. We reiterate the position taken at the First WTO Ministerial Conference in Singapore that Core Labour Standards should remain under the purview of the ILO.

Trade and Environment

25. We support the on-going work-programme on the interface between trade and environment. We reaffirm our commitment to sustainable development. While reaffirming our commitment to implementing environmental standards as defined by the relevant international conventions, we reiterate that issues such as environmental standards should not be incorporated into the multilateral trading negotiations as these can be used for protectionist purposes.

Electronic Commerce

26. We recognize the useful work being undertaken on electronic commerce at the WTO and support the continuation of the educative and analytical process.
27. We further reaffirm our decision not to impose customs duties on electronic transmissions, and to review this decision at the 5th Ministerial Conference.

Non-Agricultural Market Access

28. We stress that any decision to engage in industrial tariff negotiations should be on the basis of prior completion of a study process, which should examine the effect of previous and any future tariff reductions on the industries of ACP States. We call on UNCTAD, UNIDO and other relevant agencies to continue their assistance and support to ACP States in this area.

Trade-Related Intellectual Property Rights (TRIPS) Agreement

29. We emphasize that the benefits of intellectual property regimes should be equitably shared between the owners and users of technology. Intellectual property protection should encourage innovation and technological development in a manner that is also conducive to meet public and social policy objectives and transfer of technology to developing countries.

30. We declare that the implementation of the TRIPs Agreement is part of the wider national and international action to address the grave public health problems afflicting many developing and least developed countries. In this regard, we reaffirm that nothing in the TRIPs Agreement shall prevent governments from taking measures for protecting public health and nutrition as well as to ensure access to affordable medicines. We urge the WTO members to so declare at the Doha Ministerial Conference.
31. We further reaffirm that members should develop mechanisms to allow for the disclosure of the sources of traditional knowledge and genetic resources used in inventions in order to achieve a fair and equitable sharing of benefits. The TRIPs Agreement should be supportive of, and not run counter to, the objectives of the CBD.
32. We urge that the review of the TRIPs Agreement should clarify that all living organisms including plants, animals, and part of plants and animals, including gene sequencing and biological and other natural processes for the production of plants and animals and their parts shall not be patented.
33. We further urge developed countries to put into effect meaningful incentives for their enterprises to transfer technology in accordance with their commitments under Article 66.2 of the TRIPs Agreement, which is mandatory.

Regional Trade Arrangements

34. We recognize that regional trade arrangements can be complementary to the multilateral trading system. We therefore stress that regional trade arrangements among developed countries should not discriminate against the interests of developing countries.
35. We reiterate that regional and sub-regional integration among developing countries is essential to reversing the process of marginalization and constitutes a dynamic basis for their effective integration into the Multilateral Trading System. We further reiterate that multilateral rules should provide adequate flexibility to enable the ACP States to advance their interests when concluding WTO compatible trading arrangements with the European Union or any country or group of countries.

Trade, Debt and Finance; Trade and Transfer of Technology

36. We support the establishment of a mechanism that will contribute to a durable solution to the problem of external indebtedness of developing and least developed countries. We further support measures that will facilitate the transfer of technology to these countries. In this regard, we support the proposed establishment of working groups in the WTO to address these issues, with a view to formulating recommendations to the 5th WTO Ministerial Conference.

Observer status

37. We reiterate the need for the WTO to grant Permanent Observer Status to the ACP Group of States and other ACP related inter-governmental and regional organizations.

Decision making process

38. We recognize the critical importance of a transparent, democratic, inclusive and consultative decision-making process in the WTO. We underscore the importance of taking decisions by consensus. This is vital to creating confidence in the Organization and in the Multilateral

Trading System. In this regard, we urge the adoption of a decision at the 4th WTO Ministerial Conference to guarantee that the process of consultation and decision-making in the WTO is transparent and inclusive, and that procedures are clearly spelt out. We call for measures to be taken to facilitate the involvement of members whose missions are not resident in Geneva. A report on these matters should be submitted to the 5th WTO Ministerial Conference.

39. We emphasize that the decision-making process at the WTO Ministerial Conference in Doha should also be transparent and inclusive.
40. We declare that the post-Doha WTO Work Programme should be conducted within the existing structure of the WTO bodies.

Coherence in global economic governance

41. We call for a meaningful implementation of the “Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking”. It is important to enhance coherence amongst the Bretton Woods institutions and the WTO with a view to promoting, without cross-conditionality or additional conditions, consistent and mutually supportive policies, that will contribute to improved co-ordination of technical and financial assistance, reduction of the debt burden, including cancellation, recognition of autonomous liberalization and eradication of poverty.
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