

# WORLD TRADE ORGANIZATION

WT/MIN(99)/ST/116  
2 December 1999

(99-5326)

---

MINISTERIAL CONFERENCE  
Third Session  
Seattle, 30 November - 3 December 1999

Original: English

## KENYA

### Statement by The Honourable Kipyator N.K. Biwott, Egh, MP, Minister for Tourism, Trade and Industry

May I on behalf of the Kenyan delegation take this opportunity to thank the United States Government for hosting this conference organized by the WTO Secretariat.

The implementation of the multilateral trading system faces daunting challenges; among which is the failure to accelerate the integration of developing countries – particularly the countries of the African, Caribbean and Pacific Group – into this system. Unless we integrate these countries fully into the multilateral trading system, we cannot enjoy optimal economic and social justice. Our citizens need to see the benefits of the multilateral trading system in tangible ways – for example, in terms of higher standards of living and employment generation.

This system should therefore work towards providing meaningful access to international markets for export products of interest to developing countries.

We should use this occasion to assess the implementation process of WTO agreements, taking into account the various problems and limitations encountered by developing economies like Kenya and other African countries. In this regard, the Member States of the Common Market for Eastern and Southern Africa (COMESA), of which I am privileged to be the current Chairman of the Council of Ministers supports the position taken by the African Members of the WTO. Similarly, we associate ourselves with the position taken by the just concluded ACP Summit in the Dominican Republic regarding the continued preferential market access to the European Union market.

My delegation wishes to make the following brief observations regarding the implementation of specific WTO agreements.

#### A. THE AGREEMENT ON AGRICULTURE

Market access for agricultural products from developing countries continues to be adversely affected by the arbitrary implementation of tariff rate quotas and export subsidies as well as non-tariff barriers. Except as a special and differential provision for developing countries, Kenya recommends the inclusion of specific disciplines regarding tariff quota implementation and the complete abolition of export subsidies and all other agricultural subsidies by the beginning of the year 2001.

WTO Member countries should consider the elimination of tariff escalation and reduction of high tariff peaks on agricultural products.

B. THE AGREEMENT ON SANITARY AND PHYTOSANITARY MEASURES

We in developing countries have experienced serious difficulties occasioned by instances of arbitrary sanitary and phytosanitary requirements which have reduced our market access. In this regard, we propose a comprehensive review to take into account the numerous difficulties faced by developing countries in the formulation and application of SPS measures. We propose that there should be a consultative mechanism to vet the information of SPS measures. We also propose a transparent non-partisan arbitration system of dispute settlement with sufficient safeguards for consumer protection.

C. THE AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Similarly, on environment, health, safety and technical regulations, the standards imposed by developed countries are unnecessarily restrictive. There is hardly any participation by developing countries in the international standard setting institutions and arrangements. We propose that such standards and regulations should be decided upon through consultations of all interested parties.

Kenya, along with other African developing countries, requires access to modern science and technology and related resources in order to effectively exercise our rightful position and share of international markets.

D. THE AGREEMENT ON TEXTILES AND CLOTHING

We note the positive developments of including textiles and clothing products into the GATT 1994 rules.

E. AGREEMENT ON TRADE-RELATED ASPECTS OF INTERNATIONAL PROPERTY RIGHTS

We support the mandate of the TRIPS Council to review the substantive provisions of Article 27.3(B) which should precede the implementation review. We also subscribe to the African Group position as contained in document WT/GC/W/302 of 6 August 1999 which was circulated to all Members.

In particular, we propose that Article 66.2 of the TRIPS Agreement should substantially be reviewed to allow the effective transfer of modern technology not only to LDCs but also to other developing countries. The extent of such a transfer must be monitored both qualitatively and quantitatively in order to ensure its cumulative success over time.

F. TRADE IN SERVICES

In the area of services, the balanced concessions promised to developing countries as equal partners in the multilateral trading system have so far not been achieved. For example, barriers to the movement of natural persons should be removed. This issue should be given equal treatment to that given to liberalisation of other factors of production such as movement of capital.

G. SPECIAL AND DIFFERENTIAL TREATMENT

Developed countries should commit themselves to legally binding and enforceable commitments on special and differential treatment. Their implementation should be subject to mandatory monitoring on the basis of their contribution to poverty reduction objectives, and the integration of developing countries into the World Trading System. The use of these provisions should focus on building the necessary legal infrastructure as well as institutional and human capacity. In addition, they should focus on broadening the practical application of science and technology

including the use of information technology. The gap between Africa and the rest of the world must be closed.

As you are aware, there are those countries in Africa which, though not LDCs, are poorer than developing countries from the other regions of the world. In the meantime, these countries are members of regional groupings consisting of Member States the majority of which are LDCs.

However, as you are aware, these categories of countries do not benefit from the current debt relief arrangements, external aid and special market access provisions. Kenya believes that requisite support and provisions for necessary financial resources need to be put in place to cater for enhanced growth and development of these countries as they graduate to the next stage of development.

It is also extremely important that regional and sub-regional bodies including COMESA, EAC, IGAD, are adequately supported as regional economic blocs.

In this vein, I call upon this Conference to urge the various WTO bodies to expeditiously recognize and accord observer status to the existing regional integration arrangements among them COMESA and the East African Community to enable them to follow developments and decisions at the multilateral level more closely and ensure that programmes and policies that they devise and adopt at the regional level are coherent and consistent with those of WTO and that act as effective fora in providing technical assistance.

#### H. NEW ISSUES

Concerning the new issues, I wish to observe that Kenya, like most other developing countries, is today overburdened and still grappling with the effects of the implementation of the outcome of the Uruguay Round.

We do of course appreciate the importance of these issues in deepening and facilitating trade and development. Indeed, we are already implementing reforms at the national level to address transparency in government procurement; have put in place legislation on competition and are in the process of debating an environmental bill and an investment code. On the latter, we believe that investment concerns should be dealt with under the current TRIMs Agreement.

We, therefore, advise that all new issues be addressed after the respective working parties have completed their work and submitted their final recommendations. Priority should, therefore, be given to addressing substantive reviews and obstacles in implementation.

#### I. NEW ROUND OF TRADE NEGOTIATION

Regarding the new round of Trade Negotiations, we have a number of working groups which have not finished their work on most of the issues that have been floated for inclusion in the Round.

The position of my delegation is that before we start a New Round, we should finish the work in the built-in agenda and also allow the Working Groups and parties to finalize their work.

#### J. CONCLUSION

Trade remains the key element in sustaining and spreading the benefits of liberalization, interdependence and globalization. Our duty is to improve the equity and fairness of the multilateral trading regime in order to secure a meaningful integration of developing and least developed countries.

In this connection, Kenya would like to register her appreciation and sincere thanks to WTO, UNCTAD, ITC and donor countries that have provided Kenya with trade-related technical assistance in implementing the WTO agreements.

Nonetheless, because of the broad scope of issues involved in implementation, we are still facing administrative, technical, legal and financial difficulties. We, therefore, request for a substantial increase of assistance in this regard.

We welcome the establishment of the Advisory Centre on WTO Law which we recognize as an important and positive step towards enabling developing countries access and benefit from the Dispute Settlement Understanding.

While US demonstrators went out in support of job protection, we left Kenyan farmers on the streets demanding improved market access for their agricultural produce with the WTO arrangements.

In this regard, it is our sincere hope that a positive balance will be struck to take on board our various interests and concerns during our negotiations.

In conclusion, I wish to thank the Seattle organizing committee for hosting the Conference in this beautiful city.

---