

# Third World Network - Africa

## Briefing Note

### *What Africa Wants at MC11*

African Ambassadors and Experts in Geneva have outlined clear and unequivocal positions on the issues ahead of the 11<sup>th</sup> World Trade Organisation (WTO) Ministerial Conference (MC11) scheduled for 10-13<sup>th</sup> December 2017 in Buenos Aires, Argentina. The issues include those mandated under the Doha Work Programme (i.e. Agriculture, Cotton, Special and Differential Treatment, Fisheries Subsidies and Services) as well as issues without mandate (i.e. e-commerce, Investment Facilitation and Micro Small and Medium Enterprises (MSMES)). These are contained in a position paper by the Africa Group in Geneva on the State of Play of the WTO Negotiations as preparations towards MC11.

#### **Mandated Issues Ahead of the Ministerial**

Of prime importance to Africa is the issue of Agriculture (domestic support, public stock holding). Domestic support by developed countries has wreaked havoc on poor farmers and producers across Africa. It has been one of the thorny and long-winding issues in the WTO since the Doha Ministerial in 2001, which ‘promised’ to deal with these harmful domestic subsidies by developed countries. In fact, as the position paper puts it, “the launch of the Doha Work Programme was intended to redress the systemic imbalances inherited from WTO Agreements in the Uruguay Round, in the Agreement on Agriculture where harmful subsidies are permitted. The African Group has a longstanding position of calling for the redressing of these systemic imbalances and asymmetries in the Agreement on Agriculture”.

The promised reforms such as disciplining the harmful subsidies within the domestic support pillar in the agricultural trade are yet to be seen. At the last Ministerial conference in Nairobi, two years ago, attempts were made not only to bury longstanding demands to discipline these harmful subsidies, but also kill off the Doha Work Programme and move to the so-called 21<sup>st</sup> Century issues. Hence, ahead of MC11, the Africa Group is, again, calling for reforms in agricultural trade. “Agriculture is a vital sector for most African countries in terms of economic growth, employment, food and livelihood security and sustainability. Hence, Agriculture is Africa’s number one priority in the WTO, and agricultural reform efforts multilaterally will support the fulfilment of the African Union (AU’s) Comprehensive Africa Agriculture Development Programme”. The group stated. Meanwhile, most developed countries such as the US and the European Union (EU) remain opposed to the Doha Work Agenda as they falsely claim that the Doha negotiations no longer exist.

Related to the above is the issue of the Public Stocking Holding (PSH). Public stockholding programmes are used by developing countries to purchase food at administered prices for food security purposes. But this has been objected to by developed countries. So, countries have been pushing for a permanent solution to guarantee them the space to buy food from poor farmers and

Credit: African Group Geneva Report on State of Play in WTO Negotiations in preparation for the 11th WTO Ministerial Conference September 2017. For more information contact Sylvester Bagooro ([sbagooro@twnafrica.org](mailto:sbagooro@twnafrica.org)) at Third World Network-Africa (TWN-Africa). TWN-Africa is the Secretariat of the Africa Trade Network (ATN)

producers. A stop-gap compromise in the form of a Peace Clause that insulated countries from being hauled before the WTO Dispute Settlement Committee for programmes that were in place before the ninth Ministerial in Bali, Indonesia, was reached at that Ministerial. At the last Ministerial conference in Nairobi in 2015, there was no agreement on a permanent solution to the Public Stock Holding and hence the Africa Group, with other developing countries such as India, is calling for a permanent solution on PSH in the Buenos Aires Ministerial.

Another issue that has lingered on is Special and Differential Treatment (S&DT). African Ambassadors and Experts have argued that it is necessary for Africa's much needed structural economic transformation. However, concerns have been raised about the stiff opposition from developed countries on this, even though these countries used these very means, which offered them protective walls, to develop. "Many countries, including the developed and many advanced developing countries developed a large manufacturing base behind protective walls, in Europe and Asia". The United Nations Economic Commission for Africa (UNECA) has argued that there is need for some form of "smart protectionism" for African countries. "The State ought to be able to intervene in strategic sectors of the economy, without which it will be difficult to industrialize" the Africa Group added.

### **Issues Without Mandate Ahead of the Ministerial**

Most developed countries have continued to champion issues without mandate such as e-commerce, Investment Facilitation and Micro Small and Medium Enterprises (MSMES) and new services agenda going into the Ministerial. These issues aim to capture regulatory control in developing countries through binding rules on them. On all these issues the Africa Group's position remains an unambiguous 'no' to all of them.

On the issue of e-commerce specifically, African Ambassadors and Experts have stated that although e-commerce can be used for development and has many benefits, the kind of rules being proposed at the WTO are not necessarily going to contribute towards development. Cross-border e-commerce is highly unbalanced in nature and monopolized by companies and countries. Coincidentally, most of these technological giants are US-based and hence ahead of MC11 Africa Group says before African will be in a position to contemplate multilateral rule-making in e-commerce, there are some fundamental questions that have arisen in their internal discussions. These include and are not limited to: What constitutes the development dimension of e-commerce? E-commerce is evolving and developing without multilateral rules. Why is there a need to have rules? And which rules will promote development? How will digital trade rules constrain or support Africa's ability to industrialize, structurally transform and continentally integrate? How will the proposed multilateral rules help Africa develop its own digital capabilities or shape digital flows in order to influence trade and play catch-up?

Electronic trading is not the problem. What many are opposed to is the so-called multilateral rules being pushed by big corporations such as Google, Facebook, Amazon, Apple, and Microsoft among others. These are seeking to get multilateral rules that would ensure free data flows, no localisation rules, and no disclosure of source code under the guise of "e-commerce." And this invariably is entrenching their monopolies and dominance in the market.

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Again, the Africa Group has rejected any negotiations on domestic regulation in services and has stated that the proposed rules will hinder the regulatory capacity for development purposes, and facilitate ‘regulatory capture’ by allowing all foreign service providers and WTO Members to intervene in the process of regulation-making in Africa’s domestic processes and economies and limit the space for development-driven regulation, thereby undermining Africa’s development. Specifically, “The current new proposed rules suggest that before African countries adopt any laws and regulations, they must first publish them in advance, with sufficient detail, to allow members and also non-state actors to determine whether and how their interests will be affected. In so doing countries must explain themselves, on the purpose and rationale for such law and/or regulation. In the event that those interests are affected, African countries must allow them to comment and also consider their comments” the position paper stated.

The same trend and threat is with the proposals on the so-called MSMES Agenda to control behind the border measures. African Ambassadors have kicked against these too. The Group stated that following the Nairobi Ministerial Conference (MC10), a number of members advanced proposals for MSMES/SMEs as a disguised means to advance specific issues of their interest. Those can be grouped in two main categories, namely some members pushing rules relating to (i) e-commerce and cross-border trade; (ii) scrutinizing the domestic regulatory process in the name of MSMES for a potential “regulatory capture” by external companies at the expense of national sovereignty.

Thus, ahead of the MC11 Africa is saying that while all African countries are engaged in the development of MSMES which contribute to GDP growth, multilateral rules that are currently proposed to address obstacles facing MSMES in international trade are not yet clear. More especially in terms of how such rules would address African MSMES in the current global competitive environment given their basic constraints rooted in the structural impediments of Africa’s economies such as productive capacities and capabilities; lack of technology; and access to finance among others.

Finally, investment facilitation has been promoted by a number of developed countries. On this, Experts and Ambassadors have argued that it is another attempt to invade Africa’s development space under the guise of investment facilitation. They have stated that many countries have developed national frameworks based on principles and guidelines developed in other international organizations. The rationale and value of discussing investment facilitation at the WTO is not clear since it will duplicate work that has already been produced by other international organizations and implemented in many national jurisdictions. Hence, the Africa Group has stated that “current proposals tabled seem to focus on capturing administrative processes, regulatory actions and transparency in the formulation of investment-related policies. That is countries would undertake stringent obligations to publish measures and policies promptly, notify new or existing laws, regulations or administrative guidelines, respond to specific information requests within given timelines”.

With all these issues outlined as part of preparation towards MC11, Africa seems set and looks forward to a showdown in the Argentine capital, Buenos Aires from the 10-13<sup>th</sup> of December 2017.

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