Policy brief

INSTITUTE OF ECONOMIC AFFAIRS

Annual Lecture
Outcome of the 6th WTO Ministerial Conference

Introduction:

The Ministerial Conference is the topmost body of the WTO under the governance structure set up by the "Agreement establishing the WTO". This body has to meet at least every two years. It brings together all members of the WTO, all of which are countries or customs unions. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements. The Fifth Ministerial Conference in Cancun, Mexico, in September 2003, was intended as a stock-taking meeting where members would agree on how to complete the rest of the negotiations. However, the conference ended abruptly without consensus on any of the items on its agenda. After long negotiations, WTO members on 31st July 2004 agreed on a framework package to keep the Doha Round trade negotiations alive: "July Package". The Sixth WTO Ministerial Conference was then held in Hong Kong, China, 13–18 December 2005. This meeting had varied outcomes. In this regard, IEA –Kenya organized an annual lecture, where Hon. Mukhisa Kituyi, The Minister for Trade and Industry gave the keynote address. The discussions were as follows:

➲ *Agriculture*

The three pillars for agriculture are; Domestic support; Export subsidies and Market access. The Doha mandate and the July framework provided the basis for the Hong Kong negotiations. The major highlights in the endorsed declaration were:

1) Domestic Support

- ☑ Three bands of tariff reduction on final bound total AMS (Aggregate Measure of Support) and in the overall cut in trade distorting domestic support, with higher linear cuts in higher bands.

2) Export Subsidies

- ☑ Parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by 2013.The progressive and parallel manner in which this is to be achieved will be specified in the modalities.
- ☑ Export credits, export credit guarantees or insurance programmes with repayment of 180 days and below should be self financing, reflecting market consistency and the period should be sufficiently short so as not to effectively circumvent real commercially – oriented disciplines.
- ☑ Disciplines to exporting STEs (State Owned Enterprises) will extend to the future use of monopoly powers so that such powers cannot be exercised in any way to thwart the direct

disciplines on STEs on export subsidies, government financing and underwriting of losses.

3) Market Access

- ☑ Four Bands will be adapted to structure tariff cuts. A relevant threshold should be agreed on for both developed and developing countries.
- ☑ Developing countries have the flexibility to self designate an appropriate number of tariff lines as special products guided by indicators based on food security, livelihood security and rural development.
- ☑ Special safeguard mechanism will be based on import quantities and price triggers.
- ☑ Special products and special safeguard mechanisms will be an integral part of the modalities and outcomes of agricultural negotiations.

4) Cotton

- ☑ All forms of export subsidies for cotton will be eliminated by developed countries in 2006
- ☑ Developed countries to give duty and quota free access for cotton exports from LDCs
- ☑ Trade distorting domestic support for cotton should be reduced more ambitiously than under whatever formula agreed on. The implementation period should take a shorter period.

5) Food Aid

- ☑ Maintain an adequate level of food aid to take into account the interest of food aid recipient countries
- ☑ A 'safe box' for bona fide food aid will be provided to ensure an effective way of dealing with emergencies.

➲ Services

Paragraph 25 reiterated the Doha mandate for negotiations to conclude economic growth for all trading partners and the development of developing and least-developed countries. It reaffirms the objectives and the principles of the GATS, Doha Mandates, guidelines and procedures for negotiations, modalities for special treatment of LDCs (LDC modalities) and the July framework.

- ☑ The request and offer method will remain the main method of negotiation.
- ☑ In addition to bilateral negotiations, paragraph 7 agrees that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principle of GATS and the guidelines and procedures for the negotiations in trade in services.
- ☑ Small economies shall be given consideration in the negotiations.
- ☑ Initial offers are to be submitted as soon as possible, plurilateral requests are to be submitted by the 28th February 2006, revised offers by 31 July 2006 and final draft schedules by 31 October 2006.

➲ Non-Agriculutral Market Access (NAMA)

- ☑ Adopt a Swiss formula with coefficients at levels which shall reduce or as appropriate eliminate tariffs including the reduction or elimination of tariff peaks, high tariffs and tariff escalation for products of special interest to developing countries
- ☑ Take fully into account special needs and interest of developing countries including through less than full reciprocity in reduction commitments

- ☑ The sectoral approach to tariff elimination should be on a voluntary basis.
- ☑ Negotiating group to resolve the difference on product coverage
- ☑ Horizontal and vertical approaches to Non Tariff Barriers (NTBs) negotiations.

➲ ***Trade Facilitation***

- ☑ Intensify negotiations and move these negotiations towards text drafting mode with respect to all aspects of the mandate
- ☑ Identify training needs and priorities by individual members.
- ☑ Identify the cost implication of possible measures
- ☑ Make the provision for TACB (Technical Assistance and Capacity Building) during the negotiations fully operational "in a timely manner"
- ☑ Special attention needs to be paid to support for that will allow developing countries and LDCs to participate effectively in the negotiations.
- ☑ Agree on and integrate S&DT (Special and differential treatment) proposals and considerations in the Trade facilitation negotiations.

The Major Challenges

1.1 Agriculture

Under export subsidies, parallel elimination of all forms of export subsidies and disciplines on all export measures by end-2013 implies that there is need to quantify indirect subsidies and then work out a detailed phase-out programme.

In domestic support, member countries will be classified into three bands depending on the amount of domestic support they offer. As per this classification the EU would fall in top band, the US and Japan in middle band and rest in bottom band. An agreement is to be reached on the size of subsidy reduction and more importantly plugging loopholes to prevent members from box shifting.

The implication of the four bands for structuring tariff cuts with different thresholds for developing countries, implies that an agreement has to be reached on the size of tariff cuts and further specific details on treatment of 'special' and 'sensitive' products.

The main challenge under cotton is not the elimination of export subsidies but the elimination of domestic support by the developed countries, particularly the US which heavily subsidizes its farmers and thus distorting market prices.

1.2 Services

Annex C has focused on market access and does not aim to fulfill the development objective of the negotiations. Secondly, the modal objectives infringe on the GATS flexibilities for developing countries as it focuses on liberalization without development considerations. This implies that Kenya will end up opening sectors in services that it is not ready to open. It is important to note that Chair report TN/S/23, which formed the basis of annex C of the Hong Kong Ministerial text was a non- consensus document outlining market access objectives. Should it be used?

It is not clear how the proposals of small economies will be taken into account. Considering trade-related concerns of small economies in negotiations provides an opportunity for furthering proposals on development related concerns.

Under LDC modalities activities mandated in this paragraph include members' assistance to LDCs in identifying their sectors and modes of export interest; however, the Ministerial Declaration weakens this by agreeing to paragraph 6 (which require members to give special priority in market access in sectors and modes of supply of export interest to LDCs) on a best endeavor basis. Besides, the LDC modalities do not commit members to conclude implementation by end of this round.

Given the emphasis on plurilateral approach, it is not clear how this will work in practice or how it will relate to bilateral negotiations

1.3 Non Agricultural Market Access (NAMA)

The coefficients are quite difficult to operationalise in negotiation terms as these coefficients provide leeway for steep tariff cuts and less steep cuts.

There is no operational language for the effective delivery of special and differential treatment provisions. The declaration does not clarify how the principle of less than full reciprocity will be operationalized.

Some members have advocated for the sectoral approach (based on critical mass) to eliminating duties. Some of the sectors important to Kenya in this proposal are: fisheries, forest products and textiles. The sectoral approach is voluntary in nature. However, there is concern that this could result in arm-twisting of recalcitrant developing countries, who still need to protect certain sectors.

1.4 Development Dimensions

The major concern in this category is the duty and quota free market access for LDCs. There is no specific mention of this in the July framework, however, it reaffirms the commitments made at Doha concerning LDCs and renews its determination to fulfill these commitments. In Hong Kong, there was an agreement on duty and quota free access for all products originating from all LDCs by 2008. Members facing difficulties shall provide duty and quota free market access to 97 percent of products originating from LDCs by 2008. What constitutes "appropriate flexibilities" for developing country members and preferential rules of origin applicable to imports from LDCs must be negotiated.

There have been several discussions on the need to expand aid for trade. In Hong Kong the Director General (DG) would constitute a task for to give recommendations to the General Council by July 2006. We need to decide on what form of aid we need: aid in cash or in kind, depending on the circumstances under which the aid is required.

There are several issues Kenya should ponder through as a country :

The Negotiating Process

There seems to have been a breakdown on the coherence of the LDC, ACP (African Carribean and Pacific) and developing countries with regard to sustaining demands through the negotiating process– perhaps these groups fell prey to targeted promises some of which already existed for example:

- ☑ The EU promise of eliminating the export subsidies by 2013 is a fate accomplished through the ACP. In this connection, they gave nothing.
- ☑ The US promise of eliminating the export subsidies by 2006 is again empty to the extent that the WTO had already made a ruling against the US cotton subsidies in 2005.

What does this bring out about the LDC and developing countries negotiators?

- ☑ We have to learn the negotiations tricks. We should maintain stock of what exists to ensure that we do not negotiate away the benefits that had been endowed to us.
- ☑ The technical experts accompanying the minsiter to these meetings should pick out the issues very promptly and assist the minister to extract better benefits from the whole negotiation process.

Did the ACP/LDC network with any other specialized insitutions in order to analyse implications of any statements as the text was being ciruclated?

- ☑ The Kenyan delegation had experts in all fields to advise the minister appropriately and one hopes that the support was appropriately used.
- ☑ Use of informal consultations at times produces better results and ammunitions for the green room. This networks should be strongly establised as they help infiltrate the camps of the partners we are negotiating with.

Did the WTO Hong Kong Ministerial take us forward on the Doha Development Agenda (DDA)?

Hong Kong WTO Gains

- ☑ The EU commitment at the WTO to eliminate subsidies by 2013, though this coincides with their internal ACP program, it has nevertheless demonstrated the willingness of the EU to commit itself globally. This will send a positive message to any other developed or emerging countries from using export subsidies to disadavntaged third world countries.
- ☑ Specal Safegurad Mechanisms: The criteria of livelihoods, rural development and food security on one hand and the acceptance of the volume and price trigger mechanisms will facilitate options of special products (SP)
- ☑ Elimination of cotton subsidies by US in 2006.
- ☑ Sustaining the WTO Process: Inspite of the minimal gains at the Hong Kong WTO Ministerial, the declaration in itself sustains confidence in the multilateral system. Otherwise the thrid world countries stand to be subjected to excess pressure from bilateral conditionalities of accessing donor aid.

Hong Kong WTO Losses

a) Market Access Issues

The WTO only recognises the LDCs on duty/quota free market access. More importantly, how do we negotiate the EPA initiatives in a regional context if LDCs in the same regional block have their cake alreadt cut out. Kenya has special interest in the regional markets given that her manufactures benefit from such matters.

b) Nama and Industrial Tarrifs
What are the implications of adopting the Swiss formula on industrial tarrifs and future trade arrangements. What bands shall be adopted?

c) Opening up of the service Sector
What are the inplications of plurilateral commitements for opening up of the services sector? Have we lost the flexibilities contained in the GATS agreement? There is definitely the need to bulid national service sector capacities in selected services sector under the platform of regional intergrations.

How far did the sector studies in the Ministry of Trade and Industry inform the EPA negotiations support for WTO negotiations?

d)Inadequate negotiating capacities
The fact that the developed world during the WTO negotitaions arm twisted LDCs and developing countries and offered to them less than what was on the table tells a lot. In fact LDCs on Everthing but Arms (EBA) may have missed out since the developed world now reaffirm inclusion of exclusion clause for 3 percent of products of their choice.

Further , the commitment of doubling aid had already been made so it should not have influenced the negotiating process. The promise of resource availablity for capacity building should have been assumed to be given. Similarly, the removal of cotton subsidy by the US should not have been an issue either as WTO had already made a ruling against it and it should not have been counted as an offer.

EU's removal of export subsidies by 2013 was already the Unions's decision and as such any proposal for its removal may not have added any value to the debate.

The concessions in the Services and NAMA negotitations may have been higher costs extracted from us vis-a-vis confidence in the WTO process.

The Way forward

❶ Calling on the National Committee of the WTO (NCWTO) to carry out a post- mortem and identify critical areas of concern including those that still have openings for Kenya's interest.

❷ Find a way of intergrating regional intergartion witihn the WTO frmaework so that Kenya can safeguard the regional markets for her industrialists and the emerging service sector.

Ensuring continued participation in the WTO process during the final phase of the DDA.

1.0 Agriculture
Input towards the implementation modalities of export subsidies, domestic support to ensure eventual competetiveness of Kenya's agricultural sector.
Update our negotiating positions on export competition and food aid.

2.0 Market Access (NAMA)
Influence the number of bands in Kenya's favour as a country and region. There will be need to make reference to existing studies and to fully understand the implications of the swiss formula because they will immediately translate into EPA negotiations.

3.0 Services

There will be need for in-depth studies on various sub sectors in the services industries to ensure that pricing, quality employment and other welfare issues from constituent compenents of the pluralistic service agreement as endorsed by the Hong Kong Ministerial.

The commitments made under the services sector have a mjor bearing on the on going EPA negotiations. Given that the incidence of poverty has deepened in the era of trade liberalization, it is perhaps an indication that time has come for us to rethink the trade mode.

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TRADE INFORMATION PROGRAMME

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