

**GEGAFRICA**  
GLOBAL ECONOMIC GOVERNANCE

DISCUSSION PAPER | NOVEMBER 2017

# WTO MINISTERIAL COMMITMENTS FROM NAIROBI

KEY ISSUES FOR SOUTH AFRICA AT MC11

Faith Tigere & Clarence Siziba



---

## ABOUT GEGAFRICA

The Global Economic Governance (GEG) Africa programme is a policy research and stakeholder engagement programme aimed at strengthening the influence of African coalitions at global economic governance forums such as the G20, BRICS, World Trade Organization and World Bank, among others, in order to bring about pro-poor policy outcomes.

The second phase of the programme started in March 2016 and will be implemented over a period of three years until March 2019.

The programme is expected to help create an international system of global economic governance that works better for the poor in Africa through:

- undertaking substantial research into critical policy areas and helping South African policymakers to prepare policy papers for the South African government to present at global economic governance platforms;
- ensuring that African views are considered, knowledge is shared and a shared perspective is developed through systematic engagement with African governments, regional organisations, think tanks, academic institutions, business organisations and civil society forums; and
- disseminating and communicating research and policy briefs to a wider audience via mass media and digital channels in order to create an informed and active policy community on the continent.

For the next three years the work of the programme will be focused on three thematic areas: development finance for infrastructure; trade and regional integration; and tax and transparency.

---

GEGAFRICA is funded by the UK Department for International Development and managed by a consortium consisting of DNA Economics, the South African Institute of International Affairs and Tutwa Consulting.

© GEGAFRICA 2017

All rights are reserved. No part of this publication may be reproduced or utilised in any form by any means, electronic or mechanical, including photocopying and recording, or by any information or storage and retrieval system, without permission in writing from the publisher. Opinions expressed are the responsibility of the individual authors and not of GEGAFRICA nor its funders.

Cover image: The buses line up at a red light, ready to zoom away during the heavy & chaotic rush hour of Buenos Aires © Jack Zalium, <https://www.flickr.com/photos/kaiban/5690802542>



**DISCUSSION PAPER  
NOVEMBER 2017**

---

# **WTO MINISTERIAL COMMITMENTS FROM NAIROBI**

**KEY ISSUES FOR SOUTH AFRICA AT MC11**

---

**Faith Tigere & Clarence Siziba**

# CONTENTS

---

<b>ABSTRACT</b> .....	<b>III</b>
<b>AUTHORS</b> .....	<b>III</b>
<b>ACKNOWLEDGEMENT</b> .....	<b>IV</b>
<b>INTRODUCTION</b> .....	<b>5</b>
<b>AGRICULTURE</b> .....	<b>6</b>
Public stockholding .....	7
Export competition: Export subsidies .....	9
Agricultural domestic support .....	12
Cotton .....	14
Market access .....	15
Export restrictions .....	15
SSM for developing country members .....	15
<b>LDC ISSUES</b> .....	<b>17</b>
Ministerial Decision on Preferential Rules of Origin for LDCs .....	17
New issues .....	18
<b>THE AGENDA FOR MC11</b> .....	<b>19</b>
<b>CONCLUSION AND RECOMMENDATIONS</b> .....	<b>20</b>
<b>ANNEX A: SUMMARY OF RECOMMENDATIONS FOR SOUTH AFRICA</b> .....	<b>23</b>



---

## ABSTRACT

At the WTO's 10<sup>th</sup> Ministerial Conference, held in Nairobi from 15–19 December 2015, members agreed on several outcomes relating to public stockholding, export competition, cotton, domestic support and a special safeguard mechanism for developing countries. Ahead of the next ministerial conference, which will be held in Buenos Aires on 10–13 December 2017, this discussion paper assesses the implementation of the Nairobi Package, and identifies gaps in this process. The 11<sup>th</sup> Ministerial Conference (MC11) comes at a time when developed countries are calling for the abandonment of the Doha Development Round to focus on new 21<sup>st</sup> century trade-related issues. Yet some developing countries remain committed to the conclusion of Doha before moving on to new issues. These disagreements have resulted in numerous proposals with no consensus emerging for the upcoming conference. As a result, there is no set agenda for MC11. This paper explores potential issues that it is anticipated will be on the agenda of the ministerial conference. This assessment is conducted bearing in mind South Africa's interests. The paper also considers how the implementation gaps could influence outcomes in December 2017. It provides recommendations for key focus areas, and suggestions for policy alignment among members sharing similar interests.

## AUTHORS

**Faith Tigere** is a researcher at Tutwa Consulting Group. Prior to this she worked for the Mandela Institute, conducting research on international economic law; and as a legal advisor at [ProBono.Org](http://ProBono.Org), focusing on public interest law issues. She has also conducted independent research for academics and consultants.

**Clarence Siziba** is a PhD candidate at the World Trade Institute, University of Bern, Switzerland. His research interests are in international trade, regional integration, sustainable development, and business and human rights.

---

## ACKNOWLEDGEMENT

This paper reflects inputs from Prof. Danny Bradlow, Peter Draper and Nadira Bayat. The authors are grateful for the advice and guidance provided. The authors would also like to thank DFID UK for the GEG Africa project funding during which this paper was researched and produced.

Please note that the paper was prepared in August 2017 on the basis of information available at the time. It does not consider developments in the WTO preparations for the ministerial conference from September 2017 onwards.





## INTRODUCTION

The WTO's Doha Round is the latest and longest round of multilateral trade negotiations among WTO members. Also referred to as the Doha Development Agenda (DDA), its objective is to lower trade barriers and revise trade rules in areas of priority interest to developing countries. The negotiations commenced in 2001 at the [WTO's 4<sup>th</sup> Ministerial Conference](#) in Doha, and a series of ministerial meetings and WTO ministerial conferences have been held since then. In 2008 negotiations stalled when members failed to reach consensus on a proposed package to address agriculture, industrial [tariffs](#), [non-tariff barriers](#), services and trade remedies. Although negotiations have since resumed in subsequent conferences, members still disagree on the nature of the negotiation package. Some WTO members, including the African Group, want to continue with DDA issues as the main priority of the WTO. Other members, especially developed country members, want an agreement that incorporates new issues. One of the main challenges lies in the varying interests and aspirations of the members.

The WTO's 10<sup>th</sup> Ministerial Conference (MC10) was held in Nairobi, from 15–19 December 2015. The discussions took place in circumstances that were criticised by some as lacking transparency and inclusivity. There was little agreement in advance of the conference on the agenda and the issues to be discussed. Many developing country members claim that they were excluded from meetings held in small

groups.<sup>1</sup> Eventually, WTO members agreed on several outcomes that culminated in the adoption of the Nairobi Package. The package contains ministerial decisions on agriculture (a special safeguard mechanism, or SSM, for developing country members, public stockholding for food security purposes, and export competition);

---

## Some WTO members, including the African group, want to continue with DDA issues as the main priority of the WTO

cotton; and issues related to least-developed countries (LDCs) (preferential rules of origin for LDCs, implementation of preferential treatment in favour of services and service suppliers of LDCs, and an increase in LDC participation in services trade).<sup>2</sup> Following MC10, members agreed to continue with negotiations, particularly on the SSM for developing country members.

The remainder of this discussion paper consists of five sections. The first addresses the agricultural issues of public stockholding, export competition, agricultural domestic support, cotton, market access, export restrictions and SSMs. The second section considers LDC issues, in particular the Ministerial Decision on Preferential Rules of Origin for LDCs. The third discusses new issues, and the fourth section deals with the agenda for the 11<sup>th</sup> Ministerial Conference (MC11). The final section provides the conclusion and recommendations for the upcoming conference.

## AGRICULTURE

Reforming the global agriculture sector is a contentious issue that has dominated the WTO agenda for many years. WTO members continue in their efforts to address the subsidies and high trade barriers that distort agricultural trade. The sector is underpinned by the WTO Agreement on Agriculture (AoA), which aims to increase market access for agricultural products on the basis of a level playing field. The AoA was established during the Uruguay Round of agricultural negotiations under the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT), and came into force on 1 January 1995.<sup>3</sup> It provides a framework for the long-term reform of agricultural trade and domestic policies, with the intention of ensuring fairer competition and a less distorted sector.

The WTO Committee on Agriculture is responsible for implementing the AoA, and for monitoring how WTO members are complying with their commitments from

---

1 Personal interview, developing country delegate, Geneva, 2 August 2017.

2 WTO, 'Tenth Ministerial Conference, Nairobi, 2015: Nairobi Package', [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/nairobipackage\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/nairobipackage_e.htm), accessed 12 August 2017.

3 WTO, 'Agriculture: Explanation – Introduction', [https://www.wto.org/english/tratop\\_e/agric\\_e/ag\\_intro01\\_intro\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/ag_intro01_intro_e.htm), accessed 14 August 2017.



the ministerial conferences on agricultural issues. Members are required to share information and may ask each other questions or raise concerns about each other's agricultural policies. This section examines the previous ministerial conference commitments on agriculture reform, in which WTO members reached decisions on public stockholding for food security purposes; the elimination of subsidies for farm exports; agricultural domestic support; trade rules for cotton; market access; export restrictions; and an SSM for developing country members.

## PUBLIC STOCKHOLDING

### BOX 1 MINISTERIAL DECISION ON PUBLIC STOCKHOLDING FOR FOOD SECURITY PURPOSES<sup>a</sup>

'2 Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session ("CoA SS"), in dedicated sessions and in an accelerated time-frame, distinct from the agriculture negotiations under the Doha Development Agenda ("DDA").'

a WTO, 'Tenth Ministerial Conference, Nairobi, 2015: Public stockholding for food security purposes', Ministerial Decision of 19 December 2015, WT/MIN(15)/44 — WT/L/979, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/1979\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/1979_e.htm), accessed 12 August 2017

The 9<sup>th</sup> Ministerial Conference (MC9), which was held in Bali from 3–7 December 2013, saw members committing to improving food security. They agreed to adopt, on an interim basis, a temporary solution to the public stockholding issue. The temporary provision allows developing countries public stockholding of traditional food staple crops, in compliance with certain requirements. Public stockholding does have its risks, including possible trade-distorting effects, the distortion of

---

**The WTO's director-general stated that in the case of public stockholding ... little progress has been made given the divergent views of WTO members**

international market prices, and the potential threat to food security of other states. Members agreed and committed to finding a permanent solution to the issue, and reaffirmed this commitment during MC10 in 2015. However, at a workshop

organised by the members of the Group of 33 (G33)<sup>4</sup> coalition in the lead-up to MC11, which will be held in Buenos Aires on 10–13 December 2017, the WTO's director-general, Roberto Azevêdo, stated that in the case of public stockholding – as in several other areas – little progress has been made given the divergent views of WTO members.<sup>5</sup> The G33, which includes China, India and Indonesia, has also emphasised the importance of finding a permanent solution in this area in WTO

---

**The upcoming MC11 will again prioritise the issue of public stockholding for food security purposes and WTO members will be encouraged to reach consensus and adopt a permanent solution**

talks. It has tabled a proposal on public stockholding for food security purposes, which would exempt developing countries from having to count food purchased at minimum prices towards their overall limit on trade-distorting support at the WTO.<sup>6</sup> The group agrees that farm subsidy rules should provide greater flexibility to developing countries that buy food at minimum prices as part of their public stockholding programmes for food security purposes.<sup>7</sup>

The EU and Brazil suggest that public stockholding should be addressed jointly with domestic support, but the G33 has argued against establishing a linkage between the two areas.<sup>8</sup> Against this background of discussion, the chair of the WTO's Committee on Agriculture, Kenya's Ambassador Stephen N Karau, reminded negotiators that the upcoming MC11 also represented the agreed deadline for establishing a permanent solution to the problems some developing countries face under WTO farm subsidy rules when buying food at minimum prices, as part of their public stockholding programmes.<sup>9</sup> The biggest challenge lies in building consensus among

- 
- 4 The Group of 33 (G33) is also known as the 'Friends of Special Products' in agriculture. It is a coalition of developing countries striving for flexibility for developing countries to undertake limited market opening in agriculture.
- 5 Speech given by Roberto Azevedo, Director-General of the WTO, on 'Food security is of paramount importance to all members', G33 Workshop on Delivering Development in the 11<sup>th</sup> Ministerial Conference, Geneva, 31 May 2016.
- 6 ICTSD (International Centre for Trade and Sustainable Development), 'WTO farm talks chair urges members to accelerate work for Buenos Aires Ministerial', *Bridges*, 21, 27, 27 July 2017a, <https://www.ictsd.org/bridges-news/bridges/news/wto-farm-talks-chair-urges-members-to-accelerate-work-for-buenos-aires>, 4 September 2017.
- 7 ICTSD, 'EU, Brazil call for WTO rules on farm subsidies, food security', *Bridges*, 21, 26, 20 July 2017b, <https://www.ictsd.org/bridges-news/bridges/news/eu-brazil-call-for-new-wto-rules-on-farm-subsidies-food-security>, 4 September 2017.
- 8 ICTSD, 2017a, *op. cit.*
- 9 ICTSD, 'WTO agriculture negotiators review Buenos Aires ministerial options', *Bridges Africa*, 8 June 2017c, <https://www.ictsd.org/bridges-news/bridges-africa/news/wto-agriculture-negotiators-review-buenos-aires-ministerial-options>, accessed 3 September 2017.

members with opposing positions.<sup>10</sup> The upcoming MC11 will again prioritise the issue of public stockholding for food security purposes and WTO members will be encouraged to reach consensus and adopt a permanent solution.

## EXPORT COMPETITION: EXPORT SUBSIDIES

### BOX 2 MINISTERIAL DECISION ON EXPORT COMPETITION – EXPORT SUBSIDIES<sup>a</sup>

- 6 Developed Members shall immediately eliminate their remaining scheduled export subsidy entitlements as of the date of adoption of this Decision.
- 7 Developing country Members shall eliminate their export subsidy entitlements by the end of 2018.
- 8 Developing country Members shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2023, i.e. five years after the end-date for elimination of all forms of export subsidies. Least developed countries and net food-importing developing countries listed in G/AG/5/Rev.10 shall continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture until the end of 2030.
- 9 Members shall not apply export subsidies in a manner that circumvents the requirement to reduce and eliminate all export subsidies.
- 10 Members shall seek not to raise their export subsidies beyond the average level of the past five years on a product basis.
- 11 Members shall ensure that any export subsidies have at most minimal trade distorting effects and do not displace or impede the exports of another Member. To that effect, Members using export subsidies shall give due consideration to the effects of any such export subsidies on other Members, and shall consult, upon request, with any other Member having a substantial interest as an exporter with respect to any matter related to the export subsidies in question. The Member applying such export subsidies shall provide, upon request, such a Member with necessary information.

<sup>a</sup> WTO, 'Tenth Ministerial Conference, Nairobi, 2015: Public stockholding for food security purposes', Ministerial Decision of 19 December 2015, WT/MIN(15)/44 — WT/L/979, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l979\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l979_e.htm), accessed 12 August 2017

10 Zhuawu C & T Soobramanien, 'WTO Ministerial Conference in Buenos Aires: What's at stake for small, least developed and sub-Saharan African countries?', *Commonwealth Trade Hot Topics*, 144, Commonwealth Secretariat, 2017, <http://dx.doi.org/10.14217/f76a73bc-en>, accessed 20 September 2017.

In the MC10 Ministerial Decision on Export Competition, WTO developed country members agreed to eliminate and phase out agricultural export subsidies with immediate effect; and developing country members by the end of 2018. With the exception of 18 WTO members, which were granted an extension to subsidy entitlements, all agricultural export subsidies have since been eliminated. Canada, Switzerland, Norway and the EU, for example, were granted the exception to extend their export subsidy entitlements on dairy, processed products and swine meat up to 2020. This exception is only applicable on the condition that the aforementioned countries eliminate these subsidies for LDCs in 2016. Members still have to submit their new schedules to the agricultural committee.

New Zealand and Panama are among the 18 WTO members with export subsidy entitlements, but they have already phased out their use of export subsidies. However, these have not been implemented and neither has sent its modifications. To date Australia is the only member to have notified implementation of this ministerial declaration to the WTO, and phased out its use of export subsidies on 17 February 2017. Australia submitted a draft containing modifications to Part IV of Schedule I to eliminate its export subsidy entitlements pursuant to the Ministerial Decision on Export Competition.<sup>11</sup> Canada, Israel, South Africa and Switzerland have indicated that they will follow Australia in modifying their legal commitments at the WTO.<sup>12</sup> See Table 1 for an overview of the 18 members' schedules for eliminating their export subsidies.

The Committee on Agriculture held a series of meetings where members with scheduled export subsidy commitments provided regular updates on the steps taken towards implementation. The first dedicated meeting on export competition after MC10 took place in June 2016. Members discussed specific measures in relation to the implementation of the Nairobi ministerial decision. The Cairns Group submitted a paper that supplemented the WTO Secretariat's background document and drew some key conclusions from the analysis.<sup>13</sup> It concluded that the MC10 ministerial decisions on export subsidies require members with scheduled export subsidy entitlements to amend their schedules and eliminate them. It further

- 
- 11 WTO, *Committee on Agriculture, Export Subsidies, Export Credits, Export Credit Guarantees or Insurance Programmes, International Food Aid and Agricultural Exporting State Trading Enterprises*, G/AG/W/125/Rev.6, 2017, [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S006.aspx?MetaCollection=WTO&SymbolList=\\*AG%2fw%2f125%2frev.6&Serial=&IssuingDateFrom=&IssuingDateTo=&CATITLE=&ConcernedCountryList=&OtherCountryList=&SubjectList=&TypeList=&FullTextHash=371857150&ProductList=&BodyList=&OrganizationList=&ArticleList=&Contents=&CollectionList=&RestrictionType Name=&PostingDateFrom=&PostingDateTo=&DerestrictionDateFrom=&Derestriction DateTo=&ReferenceList=&Language=ENGLISH&SearchPage=FE\\_S\\_S001&ActiveTab Index=0&languageUIChanged=true](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?MetaCollection=WTO&SymbolList=*AG%2fw%2f125%2frev.6&Serial=&IssuingDateFrom=&IssuingDateTo=&CATITLE=&ConcernedCountryList=&OtherCountryList=&SubjectList=&TypeList=&FullTextHash=371857150&ProductList=&BodyList=&OrganizationList=&ArticleList=&Contents=&CollectionList=&RestrictionType Name=&PostingDateFrom=&PostingDateTo=&DerestrictionDateFrom=&Derestriction DateTo=&ReferenceList=&Language=ENGLISH&SearchPage=FE_S_S001&ActiveTab Index=0&languageUIChanged=true), accessed 3 September 2017.
- 12 ICTSD, 'Export subsidies in the spotlight at WTO Agriculture Committee meeting', *Bridges*, 21, 21, 15 June 2017d, <https://www.ictsd.org/bridges-news/bridges/news/export-subsidies-in-the-spotlight-at-wto-agriculture-committee-meeting>, accessed 2 September 2017.
- 13 The Cairns Group is a coalition of agricultural exporting nations lobbying for agricultural trade liberalisation.

concluded that members had improved in terms of reporting their notifications of export subsidies.<sup>14</sup>

**TABLE 1 STATUS OF THE SCHEDULES OF MEMBERS WITH SCHEDULED EXPORT SUBSIDY, 2016**

MEMBER	YEAR LAST NOTIFIED FOR EXPORT SUBSIDIES	PROCESS ELIMINATING SCHEDULED COMMITMENTS
Uruguay	2015	No change
Brazil	2014	No change
Canada	2014	No change
EU	2014	No change
Israel	2014	No change
New Zealand	2014	At zero since 2000
Norway	2014	No change
Australia	2013	No change
Iceland	2013	No change
South Africa	2013	No change
Switzerland–Liechtenstein	2013	No change
Mexico	2012	No change
US	2012	No change
Indonesia	2011	No change
Colombia	2010	No change
Panama	2003	At zero since 2000
Turkey	2000	No change
Venezuela	1998	No change

Source: WTO, *Annual Export Competition Review*, Submission from the Cairns Group to the 80<sup>th</sup> meeting of the Committee on Agriculture in June 2016, G/AG/W/153, 2016, <https://www.tralac.org/images/docs/9804/submission-from-the-cairns-group-to-the-80th-meeting-of-the-wto-committee-on-agriculture-31-may-2016.pdf>, accessed 12 August 2017

According to a South African official based in Geneva, countries are unable to adopt WTO measures relating to export subsidies without first changing their respective national processes. Parliamentary approval is also required to initiate such changes.<sup>15</sup> Three members have made commitments to submit revised schedules in the second half of 2017. Developing countries have until the end of 2018 to submit revised

14 WTO, *Annual Export Competition Review*, Submission from the Cairns group to the 80<sup>th</sup> meeting of the Committee on Agriculture (COA), June 2016, <https://www.tralac.org/images/docs/9804/submission-from-the-cairns-group-to-the-80th-meeting-of-the-wto-committee-on-agriculture-31-may-2016.pdf>, 12 August 2017.

15 Personal interview, South African delegate to the WTO, Geneva, 2 August 2017.

schedules. Most members have so far adopted a ‘wait and see’ approach, with the possibility that once a few members have submitted revised schedules, more may follow.

### BOX 3 MINISTERIAL DECISION ON COTTON – TRADE COMPONENT: DOMESTIC SUPPORT<sup>a</sup>

‘7 We acknowledge the efforts made by some Members to reform their domestic cotton policies and which may contribute to the objective of reduction of the trade distorting domestic subsidies for cotton production.

8 We emphasize however that some more efforts remain to be made and that these positive steps are not a substitute for the attainment of our objective. In doing so, Members shall ensure that necessary transparency is provided through regular notifications and the subsequent review process in the Committee on Agriculture.’

<sup>a</sup> WTO, ‘Tenth Ministerial Conference, Nairobi, 2015: Cotton’, Ministerial Decision of 19 December 2015, WT/MIN(15)/46 — WT/L/981, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/1981\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/1981_e.htm), accessed 12 August 2017

## AGRICULTURAL DOMESTIC SUPPORT

Under the 2015 Nairobi Ministerial Decision on Cotton, developed countries and developing countries able to do so committed to granting, to the extent provided for in their respective preferential trade arrangements (PTAs), duty-free and quota-free market access for exports of cotton and cotton-related agricultural products from LDCs. Furthermore, under the Nairobi Ministerial Decision on Export Competition, ministers agreed to abolish agricultural export subsidies by no later than 1 January 2017.<sup>16</sup> All agricultural exports have been eliminated, with a few that still need to be implemented.

WTO members are currently divided into two groups in terms of their progress on agricultural domestic support: those favouring an overall limit – fixed or floating; and those calling for the elimination of the aggregate measurement of support (AMS) entitlements as a prerequisite for any other domestic support reform.<sup>17</sup> Some members have called for the substantial reduction of AMS. Others have demanded its elimination for developed country members, or aligning AMS with the value of

<sup>16</sup> WTO, *Annual Export Competition Review*, *op. cit.*

<sup>17</sup> WTO, *Committee on Agriculture Special Session, Report by the Amb Stephen Ndūn’gū Karau to the Committee on Agriculture in Special Session*, JOB/AG/107, 2017, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/JOBS/AG/107.pdf>, accessed 2 September 2017.



production in the case of developing members. Brazil, Colombia, Peru, Uruguay and the EU have proposed an overall limit on domestic support. China and India have argued that existing ‘amber box’<sup>18</sup> entitlements should be eliminated first. LDCs and small vulnerable economies are seeking the preservation of special flexibilities identified in the course of the negotiations, including through exemption from any reduction commitments, *de minimis* entitlements, and the provision of technical assistance and capacity building to address institutional and financial constraints faced in the implementation of disciplines.<sup>19</sup>

China, India and the US continue to disagree on issues relating to the reform of domestic support. The US has said it will reduce domestic support on the condition that China and India, which are also major subsidisers, follow suit. It is alleged that there has been tension between the US and some developing countries on the application of ‘trade-distorting’ domestic support at the WTO meetings, even when most have zero AMS entitlements. The US insists on developing country members reducing their domestic support before negotiating on domestic support disciplines. Eliminating the large AMS entitlements of developed countries, and thoroughly reforming the ‘green box’, would at least contribute towards levelling the currently imbalanced playing field in the WTO’s agricultural trade rules.<sup>20</sup>

Trade negotiators from the majority of WTO member countries regard domestic agricultural support as a priority for MC11, although large data gaps in the reporting of members’ farm support are hampering efforts to do so.<sup>21</sup> This is a priority issue, as member states need an outcome in order to go forward with AMS reform

---

## Trade negotiators from the majority of WTO member countries regard domestic agricultural support as a priority for MC11

because the two issues are linked. The application of agricultural subsidies by some members has negative implications for the competitiveness of agriculture exports. As it stands, WTO members disagree on how best to proceed, including over how to define ‘trade-distorting’ support and what types of special arrangements should be

---

18 According to the WTO’s general terminology, subsidies are identified by ‘boxes’ that are given the colours of traffic lights: green (permitted); amber (slow down, or be reduced); and red (forbidden). The WTO AoA (Agreement on Agriculture), however, has no red box – although domestic support exceeding the reduction commitment levels in the amber box is prohibited – and there is a blue box for subsidies that are tied to programmes which limit production.

19 Zhuawu C & T Soobramanien, *op. cit.*

20 *Ibid.*

21 ICTSD, ‘US announces US\$300 million in payments for cotton producers’, *Bridges*, 20, 22, 16 June 2016, <https://www.ictsd.org/bridges-news/bridges/news/us-announces-us300-million-in-payments-for-cotton-producers>, accessed 4 September 2017.

made for developing economies.<sup>22</sup> The WTO's chair, Stephen Karau, has suggested that farm trade talks on domestic support may need to continue beyond MC11.<sup>23</sup>

## COTTON

At MC10, ministers adopted a decision on cotton that acknowledged efforts made by some members to reform their domestic cotton policies and restated the objective of reducing trade-distorting domestic subsidies for cotton production. The Cotton 4 (C-4) countries – comprising the West African cotton-producing countries of Benin, Burkina Faso, Chad and Mali – proposed reducing the level of trade-distorting support provided by wealthier countries. The EU and Brazil proposed that cotton be singled out for special attention at MC11, reiterating ministers' past commitments to ensure that the sector is addressed 'ambitiously, expeditiously and specifically'.<sup>24</sup> US cotton producers have been lobbying their government, which compelled the US Senate and House of Representatives to write to President Donald Trump and the agriculture secretary, Sonny Perdue, requesting that a temporary support programme for cotton ginner be made permanent.<sup>25</sup> US cotton producers benefit from domestic support, thus any suggestions from the C-4 to remove domestic support would be unwelcome.

The chair of the Committee on Agriculture has recently convened meetings with both the C-4 and the EU, where 'most participants reiterated their support for a meaningful and specific outcome on cotton domestic support'.<sup>26</sup> Despite this, however, the chair noted that 'a couple of participants' have been less optimistic, given their assessment of the overall prospects for the negotiations.<sup>27</sup> The US trade representative, Robert Lighthizer, said in June 2017 that Washington does 'not advocate a meeting that seeks major deliverables or significant negotiated outcomes',<sup>28</sup> although he also opined that MC11 should still be a success.

According to a WTO member delegate, the Chair of Agriculture in Special Session has called many dedicated sessions to discuss this matter. Reaching a consensus among members on cotton issues is difficult, because of the affiliated domestic subsidies and market access issues.

---

22 ICTSD, 2017c, *op. cit.*

23 *Ibid.*

24 ICTSD, 2017b, *op. cit.*

25 ICTSD, 2017a, *op. cit.*

26 ICTSD, 2017b, *op. cit.*

27 *Ibid.*

28 ICTSD, 2017a, *op. cit.*

## MARKET ACCESS

### BOX 4 MINISTERIAL DECISION ON COTTON – TRADE COMPONENT: MARKET ACCESS<sup>a</sup>

'4. Developed country Members, and developing country Members declaring themselves in a position to do so, shall grant, to the extent provided for in their respective preferential trade arrangements in favour of LDCs, as from 1 January 2016, duty-free and quota-free market access for exports by LDCs of relevant cotton-related products included in the list annexed to this decision and covered by Annex 1 of the Agreement on Agriculture.'

a WTO, 'Tenth Ministerial Conference, Nairobi, 2015: Cotton', Ministerial Decision of 19 December 2015, WT/MIN(15)/46 — WT/L/981, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l981\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l981_e.htm), accessed 12 August 2017.

Two Latin American farm exporting countries, Paraguay and Peru, have called on WTO members to agree on improving agricultural market access. However, many WTO members regard this issue as a low priority, and thus it may not be discussed at MC11.<sup>29</sup>

## EXPORT RESTRICTIONS

Singapore prepared a proposal on how countries could improve transparency on the use of agricultural export prohibitions and restrictions.<sup>30</sup> The proposal suggests that countries provide at least 30 days' notice before introducing these measures. The WTO provisions currently have no specified time limit, other than for these measures to be introduced within a reasonable time frame. For developing country members, export restrictions are a form of a policy tool to support food security needs and to contain price volatility in the event of food shortages.

## SSM FOR DEVELOPING COUNTRY MEMBERS

On 29 May 2017 Russia called for the elimination of the SSM,<sup>31</sup> arguing that the safeguard was meant only to be a transitional tool to help countries adapt to possible

29 WTO, Committee on Agriculture Special Session, *op. cit.*

30 *Ibid.*

31 ICTSD, 2017c, *op. cit.*

adverse effects arising from the liberalisation measures agreed upon at the time.<sup>32</sup> Paraguay, Argentina, Australia, Colombia, New Zealand, Pakistan, Uruguay and Vietnam also called for its elimination during 2016, and proposed that the issue be on the agenda for MC11. However, many developing countries are opposed to this. Proponents of an SSM want a means of curbing volatility that is caused by imports in their domestic markets. An SSM gives developing states the flexibility to adjust their tariffs in the event of an influx of imports that threatens domestic industries. The G33 members have emphasised the importance of negotiating an SSM that developing countries could use to raise tariffs temporarily in cases of sudden surges in import volumes or price depression.

#### BOX 5 MINISTERIAL DECISION ON SPECIAL SAFEGUARD MECHANISM FOR DEVELOPING COUNTRY MEMBERS<sup>a</sup>

1 The developing country Members will have the right to have recourse to a special safeguard mechanism (SSM) as envisaged under paragraph 7 of the Hong Kong Ministerial Declaration.

2 To pursue negotiations on an SSM for developing country Members in dedicated sessions of the Committee on Agriculture in Special Session ("CoA SS").

a WTO, 'Tenth Ministerial Conference, Nairobi, 2015: Special safeguard mechanism for developing country members', Ministerial Decision of 19 December 2015, WT/MIN(15)/43 – WT/L/978, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l978\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l978_e.htm), accessed 12 August 2017

Some WTO members have argued that progress in this area should be linked to market access concessions.<sup>33</sup> The G33 has argued in a new submission that developing countries urgently require an effective and operational SSM to address the negative effects of short-term food price volatility on resource-poor small-scale farmers.<sup>34</sup> Opponents of an SSM say it further distorts trade, and that discussions in this stream should be linked to market access negotiations. Some WTO members are concerned about the potential negative effects of an SSM as a standalone item, which would enable some members to renege on their Uruguay Round commitments.<sup>35</sup> For developing and LDC countries, pushing for an SSM at the upcoming MC11 would be strategic considering their high reliance on the agricultural sector.

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 Zhuawu C & T Soobramanien, *op. cit.*

## LDC ISSUES

### MINISTERIAL DECISION ON PREFERENTIAL RULES OF ORIGIN FOR LDCs

Under this this sector, member states undertook commitments whereby<sup>36</sup>

no later than 31 December 2016 each developed Preference-granting Member, and each developing Preference-granting Member undertaking the commitments in accordance with paragraph 4.1 up to that date or thereafter, shall inform the Committee on Rules of Origin (CRO) of the measures being taken to implement the above provisions.

At MC10 the Committee on Rules of Origin (CRO)<sup>37</sup> was instructed to develop a template for the notification of preferential rules of origin, to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs. The CRO reviewed the availability of trade data regarding PTAs, considered possible methodologies for the calculation of utilisation rates, reviewed the status of notifications of preferential rules of origin, and discussed a template for the notification of preferential rules.<sup>38</sup> A total of 21 WTO members have submitted notifications to the CRO and/or to the Committee on Trade and Development. The 2015 Ministerial Decision also required the CRO to ‘develop a template for the notification of preferential rules of origin to enhance transparency and promote a better understanding of the rules of origin applicable to imports from LDCs’.<sup>39</sup> A template was submitted by Benin on behalf of the LDC group. In terms of the last CRO report, no preference-granting member had notified the committee about implementing the provisions of the Nairobi Decision.

36 WTO, ‘Tenth Ministerial Conference, Nairobi, 2015: Preferential rules of origin for least developed countries’, Ministerial Decision of 19 December 2015, WT/MIN(15)/47 — WT/L/917, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/l917\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/l917_e.htm), accessed 2 September 2017.

37 The Agreement on Rules of Origin established the CRO (Committee on Rules of Origin), whose main function is to review the implementation and operation of the agreement.

38 WTO, Committee on Rules of Origin, *Draft Report (2016) of the Committee on Rules of Origin to the Council for Trade in Goods*. G/RO/W/166/Rev.2, 2016, [https://docs.wto.org/dol2fe/Pages/FE\\_Search/FE\\_S\\_S006.aspx?Query=\(@Symbol=%20g/ro/w/\\*%20\)%20and%20\(%20@DocumentDate%20%3E=%202016/01/01%2000:00:00%20\)%20and%20\(%20@DocumentDate%20%3C=%202016/12/31%2023:59:59%20\)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#](https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?Query=(@Symbol=%20g/ro/w/*%20)%20and%20(%20@DocumentDate%20%3E=%202016/01/01%2000:00:00%20)%20and%20(%20@DocumentDate%20%3C=%202016/12/31%2023:59:59%20)&Language=ENGLISH&Context=FomerScriptedSearch&languageUIChanged=true#), accessed 13 September 2017.

39 WTO, Committee on the Rules of Origin, Implementation of Nairobi Ministerial Decision on Preferential Rules of Origin for Least Developed Countries (WT/L/917/ADD.1, Submission of Benin on behalf of the LDC Group. <https://www.tralac.org/images/docs/9461/implementation-of-nairobi-ministerial-decision-on-preferential-rules-of-origin-for-least-developed-countries-submission-to-wto-committee-on-roo-12-april-2016.pdf>, accessed 13 September 2017.

## NEW ISSUES

New issues have emerged and WTO members hope they will be tackled at MC11. These include e-commerce; investment facilitation; and illegal, unreported and unregulated (IUU) fishing or fisheries subsidies. This section addresses the fisheries issue.<sup>40</sup>

The elimination of IUU is one of the 17 Sustainable Development Goals (SDGs) in the UN 2030 Agenda for Sustainable Development. This goal calls for the prohibition of certain types of fishing subsidies for IUU fishing. These activities are alleged to contribute to overcapacity and overfishing. WTO members are encouraged to refrain from introducing new forms of subsidies in the fishing sector. In December 2016 the WTO Negotiating Group on Rules made three proposals, namely:<sup>41</sup>

- achieving the goals set out in SDG 14.6;
- ensuring effective disciplines while also providing special and differential treatment for developing and LDC members; and
- securing an outcome at MC11 in Buenos Aires.

Countries advocating for the elimination of fishing subsidies include the EU, the African, Caribbean and Pacific (ACP) countries, Argentina, Colombia, Costa Rica, Panama, Peru and Uruguay. In total, three proposals were made on fishing subsidies. The first proposal was submitted by the EU. It seeks to prohibit subsidies linked to overcapacity (including those used to increase the capacity of, or support the construction of, fishing vessels) and to IUU fishing; provide special and differential treatment for developing members and LDCs; and highlight the importance of members' notifying all kind of subsidies that support, directly or indirectly, marine fishing activity.<sup>42</sup>

The second proposal was submitted by the ACP. Its proposal focuses on subsidies provided to large-scale commercial or industrial fishing, and on subsidies to fishing activities outside of members' maritime jurisdictions. The proposal suggests imposing a ban on all IUU subsidies and on all subsidies granted to fishing vessels or fishing activity negatively affecting fish stocks. Flexibilities would be included, allowing developing members with small-scale fishing sectors to increase their capacity to fish.<sup>43</sup> The third is a joint proposal from Argentina, Colombia, Costa Rica, Panama, Peru and Uruguay. It suggests that states use a flexible approach to the application

---

40 The issues of e-commerce and investment facilitation will be addressed in separate papers. See Kidane W, 'Alternatives to Investor-State Dispute Settlement', Discussion Paper (forthcoming), Pretoria: GEG Africa, 2017; Macleod J, 'E-commerce and the WTO – A Developmental Agenda (forthcoming), Pretoria: GEG Africa, 2017.

41 WTO, 'WTO members engage on new fisheries subsidies proposal', 9 December 2016, [https://www.wto.org/english/news\\_e/news16\\_e/fish\\_09dec16\\_e.htm](https://www.wto.org/english/news_e/news16_e/fish_09dec16_e.htm), accessed 3 September 2017.

42 *Ibid.*

43 *Ibid.*



of disciplines by developing members and LDCs, similarly to the WTO's [Trade Facilitation Agreement](#). This proposal would be applied in phases, with negotiations defining each process. In addition to this, technical assistance and capacity building would be provided for LDCs and developing states that need it.

Some WTO members want sanitary and phytosanitary measures to be included on the agenda for MC11. However, the body that would be the most appropriate forum to discuss their submission is still under consideration. These members also noted that they remain open to discussing their submission bilaterally with interested delegations as they plan the next steps.<sup>44</sup>

## AGENDA FOR MC11

The WTO's General Council was charged with preparations for MC11 in the first half of 2017. However, little is known as yet about what will feature on the agenda beyond areas up for renewal or review, such as the public stockholding decision, e-commerce work programme and moratorium renewal, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) non-violation situation complaints moratorium renewal, small economies work programme, stocktaking of the [Global Review 2017 of Aid For Trade](#), and Phase 2 of the [LDC Enhanced Integrated Framework](#). It is possible that issues such as fisheries subsidies, trade in services and investment facilitation will also be discussed at the conference.

Members should work towards completion of the agenda in the lead-up to MC11 to avoid overburdening the ministerial conference with such negotiations in Buenos Aires. Any issue for adoption at the ministerial conference should ideally be agreed to by members well before the event. A cue should be taken from the 'gentlemen's

---

**Members should work towards completion of the agenda in the lead-up to MC11 to avoid overburdening the ministerial conferences with such negotiations in Buenos Aires**

agreement' made in preparation for MC7 and MC8, where members agreed that any agenda for the ministerial conference should have gained the consensus of members at least six weeks prior to the ministerial conference.

MC10 also instructed members to work towards resolving remaining issues in the DDA. Depending on the ability of proposals presented so far on fishing subsidies, agriculture, cotton, services, and special and differential treatment to gain consensus, the extent of potential decisions for ministers at MC11 remains unclear.

---

44 WTO, Committee on Agriculture Special Session, *op. cit.*

Proposals relating to new issues have also been suggested by certain delegations for MC11, but with little sign of multilateral consensus. Paragraph 34 of the Nairobi Ministerial Declaration states that multilateral agreement to negotiate new issues must be by consensus.<sup>45</sup> Some of the issues on agriculture are unlikely to feature on the agenda because members are unlikely to reach agreement on them. An agreement on agriculture may only be reached on public stockholding, as the deadline for it is MC11; and perhaps a road map on domestic support. Many developing countries have expressed the view that there should be no linkages between domestic support and public stockholding, as the latter has a separate and clear mandate. Fisheries is expected to be on the agenda (whether an outcome on this will be occasioned is another matter). New issues, especially e-commerce, are very topical in the WTO. However, many members do not want them included in MC11's agenda.

A contentious issue likely to be addressed is the dispute settlement mechanism of the WTO – particularly the Appellate Body (AB). Concerns raised by the US relate to certain procedural issues of the AB and the way some trade disputes have been resolved. However, other members value the function of the AB and uphold it as one of the main institutions of the WTO. Although the US has led the complaints about the conduct of the AB, no alternative solutions have been offered. This issue is likely to be included on the agenda as members need to resolve it.

The success of Buenos Aires will depend to a large extent on the ability of the system to manage a fair and transparent process, and its capacity to cope with expectations

---

**The success of Buenos Aires will depend to a large extent on the ability of the system to manage a fair and transparent process, and its capacity to cope with expectations in terms of outcomes**

in terms of outcomes. The process leading up to MC11 has been marred with criticism for lacking transparency, resulting in members feeling excluded from the process. Thus there have been strong calls for improving transparency by WTO members for MC11.

## CONCLUSION AND RECOMMENDATIONS

An overall update, in the words of the WTO's Chair of the General Council, is that 'different topics are at different levels of maturity' within the WTO agenda. Agricultural export subsidies have been phased out, with notification of implementation being

---

45 WTO, Nairobi Ministerial Declaration WT/MIN(15/DEC (19 December 2015) para. 34, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/mindecision\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/mindecision_e.htm), accessed 10 August 2017.

the only outstanding issue. Regarding other agricultural commitments made at MC10, several proposals have been submitted by different WTO members, including the Cairns Group, the EU, Russia, India and China, mainly on domestic support, public stockholding for food security purposes, SSMs, cotton, export restrictions and market access. Public stockholding for security purposes is one of the major outstanding issues that members hope to finalise at MC11.

At this stage there is no mandate for MC11, and no agreement among members regarding whether to adhere to the original DDA or to move away from Doha and develop a new agenda with new issues. It is important to try and find a way to move forward; and should MC11 fail to reach an outcome, it should at least perform a comprehensive stocktaking of all the issues at hand.

---

### **The African position has prioritised regional integration, industrialisation, structural changes across the continent, market access and the DDA**

Thus far, the African position has prioritised regional integration, industrialisation, structural changes across the continent, market access and the DDA. Obtaining an outcome on these issues should be at the heart of South Africa's approach to MC11. An outcome in the areas of cotton, public stockholding, domestic support, an SSM, trade-distorting domestic support and LDC issues would also be welcome.

MC11 will see WTO members trying to achieve a permanent solution to the crucial issue of public stockholding for food security. As there are diverging views and positions on public stockholding, it would be worthwhile to consider the G33's proposal, which advocates flexible public stockholding rules and exempts developing countries from having to count food purchased at minimum prices towards their overall limit on trade-distorting support at the WTO. Public stockholding is crucial for the African agenda, and South Africa should approach this issue with caution and weigh the benefits of public stockholding in the fight for food security before it rallies behind the G33's proposal. For the WTO members to find a permanent solution, it is best not to negotiate public stockholding in the green box, as green-box subsidies are allowed without limits and thus parties would be limited in trying to curb these subsidies.

Fisheries subsidies have gained momentum over the past years as marine life is threatened by different activities across the globe. This topic is a new priority issue that is not part of the DDA, which is expected to be discussed at MC11. It is also one of the 17 SDGs, the achievement of which are a global target. South Africa, as the leading economic power in the Southern African region, should rally behind this issue. The country has important marine resources and an interest in

developing its ocean economy, which is outlined in Operation Phakisa.<sup>46</sup> South Africa is encouraged to support the ACP's proposal on fisheries subsidies, which are largely representative of its interests.

---

**South Africa should continue to support existing groups that best represent its interests, particularly in the areas of domestic support, public stockholding for food security, and fisheries**

Much still needs to be achieved if all these commitments are to be implemented and the WTO agenda can move forward in a way that is supportive of the goals of developing countries. Members should prioritise their discussions on the various topics and allocate their time accordingly. Although the preparatory phase in advance of MC11 is important in laying the groundwork for successful negotiations, this needs to be realistic and pragmatic.<sup>47</sup> Progress on existing issues and new ones will most likely hinge on incremental steps rather than major leaps. There is little time left until the ministerial conference, and members will need to temper their expectations at MC11 if positive outcomes are to be achieved. South Africa should continue to support existing groups that best represent its interests, particularly in the areas of domestic support, public stockholding for food security, and fisheries.

---

46 Operation Phakisa is an initiative of the South African government that is designed to address issues outlined in the National Development Plan 2030 such as poverty, unemployment and inequality. It is a results-driven approach, which involves setting clear plans and targets, ongoing monitoring of progress, and making these results public. See South Africa, Department of Planning, Monitoring and Evaluation, 'Operation Phakisa', <http://www.operationphakisa.gov.za/Pages/Home.aspx>, accessed 13 November 2017.

47 *Ibid.*

## ANNEX A: SUMMARY OF RECOMMENDATIONS FOR SOUTH AFRICA

- 1 Conduct comprehensive stocktaking of all the issues at hand before introducing any new issues
- 2 Align its priorities with the Africa Group position and focus on regional integration, industrialisation, structural changes across the continent, market access and the DDA.
- 3 Rally behind the G33 proposal for public stockholding. South Africa should, however, proceed with caution and weigh the benefits of restricting public stockholding for agricultural exporting countries.
- 4 Resist from negotiating public stockholding in the green box, to ensure greater flexibility.
- 5 Adopt a position on fisheries subsidies to develop its ocean economy. It would be advantageous for South Africa to support the ACP's proposal, which is more representative of the country's interests.
- 6 Support the call for a transparent and inclusive process in the run-up to MC11.
- 7 Prioritise domestic support in agriculture, cotton and an SSM.



**GEG**AFRICA  
GLOBAL ECONOMIC GOVERNANCE