



Ministers Strike ‘Historic’ Deal in Nairobi

After five days of intense negotiations in Nairobi, Kenya, WTO Members successfully concluded their 10th Ministerial Conference (MC10) on December 19, 2015.

The agreed package includes issues of importance to developing countries – particularly least-developed countries (LDCs), but also decisions on three high profile agricultural issues: the special safeguard mechanism (SSM), public stockholding for food security purposes, and export competition. The latter had been the hardest fought topic as Members held strong views on when to eliminate export subsidies as well as how to deal with other issues included in this agriculture pillar; export credits, food aid, and state-trading enterprises (STEs).

After two long nights of negotiations on agriculture, Ministers ultimately agreed to a package that was lauded as “historic” due mostly to the consensus reached over the elimination of export subsidies, but also the symbolic aspect carried by the agreement – the first development package deal struck on the African continent.

“This is the WTO’s most significant outcome on export competition in agriculture” said WTO Director General, Roberto Azevêdo at the end of the conference. “It includes the ending of export subsidies that many Member countries have long been calling for” he added.

“I am pleased with the package we have concluded. It will contribute to the growth of all developing countries, including the LDCs, the small vulnerable economies and the Cotton 4 (Benin, Burkina Faso, Chad, and Mali), said Amina Mohamed, the Kenyan Minister for Foreign Affairs and Trade, who chaired the MC10.

“It’s fitting that our work in Nairobi delivered a meaningful package that will aid development around the world,” U.S. Trade Representative, Michael Froman, said of the MC-10, which welcomed two new LDCs – Liberia and Afghanistan.

The Nairobi Package

The Nairobi package features ministerial decisions on agriculture and several LDCs issues including:

- **Preferential rules of origin** that would allow LDCs’ exports to benefit from the preferential market access available to them through non-reciprocal preference programs. The decision enhances the transparency of Members’ preferential rules of origin regimes, by committing them to notify the measures being taken to implement the decisions’ provisions by December 31, 2016.
- **Duty-free quota-free market access benefits for LDCs’ cotton** and a commitment to continue meeting twice a year to discuss the latest developments on market access, domestic support, and export subsidies for cotton, particularly from LDCs, and provide assistance to support the cotton sector in developing countries. In addition developed countries would immediately eliminate their export subsidy for cotton and developing countries would end theirs on January 2017.
- **Extending the timeframe for the participation of LDCs in services trade** until 2030 during which preferences may be extended to LDCs under the LDC services waiver.
- An agreement to pursue the **transition period for LDCs to implement specific intellectual property rights (IPR) rules for medicines until 2033.**

The agriculture portion of the Ministerial decisions includes:

- An immediate elimination of all **export subsidies** by developed countries, except Canada, Switzerland, and Norway, which have been given until 2020 to end theirs as long as they do not concern products exported to LDCs. Developing countries will end their subsidies in 3 years (2018) with an exception to use them until 2022 for those which have notified their support to the WTO. In addition, developing countries will be allowed to use limited export subsidies for transportation and marketing until 2023 (article 9.4) subject to certain conditions. LDCs and net food importing developing countries (NFIDC) have until the end of 2030 to eliminate their export subsidies.

Canada, Norway, and Switzerland fought hard for their exception as they continue to provide subsidies for processed products, dairy products, and swine meat. Although all three agreed to eliminate their export subsidies, the group voiced concerns with respect to the impact the immediate effect would have had on them. Nevertheless even with that exception, the U.S. stressed that the provision “ensures an end to Canadian dairy and Indian sugar export subsidies, while also preventing export-oriented countries like Brazil from taking advantage of such measures going forward.”

- Developed countries and particularly the U.S. have been granted an 18 months maximum repayment period for **export credits**, three times longer than the 180 days proposed in the draft 2008 agriculture modalities (Rev. 4). This is seen as a big win for the U.S. although its current legislation allows repayment of up to 24 months.
- **Food aid** is another area seen as a big win for the U.S. as the Nairobi decision seeks to minimize or eliminate impacts on commercial markets. “These new disciplines ensure that the United States is able to continue to provide recipient countries with food assistance through programs currently operated. This will multilateralize the United States’ best practices in food aid delivery and ensure emergency feeding and agricultural development objectives are met,” the USTR stressed in a statement.
- Members also agreed to minimize the trade-distorting effects of **agricultural export state-trading enterprises (STE)** and to work towards the elimination of the export monopoly powers of these entities.

- **On SSM**, the Nairobi decisions reiterate the right for developing countries “to have recourse” to the mechanism and urge Members to further discuss this in Geneva. **On public stockholding** the Nairobi Declaration also reaffirms the continuation of the discussion on the provision until a permanent solution is reached which is expected to be reached at the time of the MC11 (December 2017).

Much Needed Breathing Room for the MTS

The WTO was under huge pressure to deliver in Nairobi as many – delegates and observers alike – saw the MC10 as the last chance to save the multilateral trading system (MTS) and particularly the negotiating function of the WTO.

“Our work to secure a global ban on export subsidies will help level the playing field for American farmers and ranchers,” Froman stressed adding that “the WTO’s actions in this area will put an end to some of the most trade distorting subsidies in existence and demonstrates what is possible when the multilateral trading system comes together to solve a problem.”

“We have also been successful in renewing the multilateral system,” Amina Mohamed said at the end of the conference. “We are ready to work hard over the next two years so that we can do more at the next Ministerial Conference than we have done today.” She added.

However, this objective already looks like huge challenge for Members as they disagreed in Nairobi as to whether the ministerial declaration should include the reaffirmation of the commitment to conclude the remainder of the Doha Development Agenda (DDA) on the basis of the current mandate.

“We recognize that many Members reaffirm the Doha Development Agenda, and the Declarations and Decisions adopted at Doha and at the Ministerial Conferences held since then, and reaffirm their full commitment to conclude the DDA on that basis. Other Members do not reaffirm the Doha mandates, as they believe new approaches are necessary to achieve meaningful outcomes in multilateral negotiations. Members have different views on how to address the negotiations,” the declaration reads.

India and Venezuela, in particular, voiced concerns with respect to the non-commitment to continue the negotiations under the DDA, especially when it comes to agriculture domestic support, market access, as well as NAMA and services, the other two legs of the so-called tripod. The U.S. and the EU, meanwhile, have made clear that a change was needed in the way the

negotiations will be tackled in the future, effectively demanding the end of the Doha mandate. The U.S. also wants new issues, such as investment, to be addressed at the WTO

“Members agreed on a series of important outcomes on agriculture and development, and very importantly, started a new phase in the WTO’s evolution;” USTR Michael Froman said.

“In the midst of feverish work this week on the Nairobi Package, Members engaged in honest and focused conversations on the limitations of the Doha Development Agenda framework. While opinions remain divided among the WTO Membership, it is clear that the road to a new era for the WTO began in Nairobi,” the USTR continued.

Many believe that the U.S. and other developed countries’ objective is to continue slicing the negotiations by taking on issues through plurilateral deals – whether on a Most-Favoured Nation (MFN) basis, as was used for the successfully concluded Information Technology Agreement (ITA) among 53 WTO Members – the first tariff-cutting deal in the WTO’s 20 year history – or by excluding certain countries from benefiting from the agreement as they are currently experiencing with a coalition of willing countries negotiating services (TiSA).

“As WTO Members start work next year, they will be freed to consider new approaches to pressing unresolved issues and begin evaluating new issues for the organization to consider,” Froman said in a statement.

“While we concur that officials should prioritize work where results have not yet been achieved, some wish to identify and discuss other issues for negotiation; others do not. Any decision to launch negotiations multilaterally on such issues would need to be agreed by all Members,” the Nairobi Declaration stresses.

“Success was achieved here despite members’ persistent and fundamental divisions on our negotiating agenda – not because those divisions have been solved. We have to face up to this problem. Members must decide – the world must decide – about the future of this organization,” Azevêdo said.

Members will brainstorm “ways to advance negotiations” when they return to Geneva in the New Year.

Geneva Watch is published by Dairy Farmers of Canada, Chicken Farmers of Canada, Egg Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers to report on the various events occurring in Geneva, particularly on the WTO negotiations on agriculture.

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