

Report on WTO Workshop with Kenyan civil society

6 November 2015

The 10th Ministerial Conference of the World Trade Organisation (WTO MC10) is scheduled to be held in Nairobi, Kenya, from 15 to 18 December 2015. It is the first time the Ministerial will be held on the African continent.

Ahead of the Ministerial, the Trade Law Centre (tralac) hosted a workshop with Kenyan civil society in Nairobi. The workshop was held in collaboration with the Centre for Regional Integration (CefRI), a recently established non-governmental organisation offering research, training, and advisory services on regional integration in Africa. The workshop was held at the Serena Hotel, on 6 November 2015. The workshop followed a breakfast meeting with Kenyan private sector on 5 November. The meeting was attended by a cross-section of civil society organisations (including think tanks and academics) and partners.

Dr. Henry Mutai (tralac Associate) welcomed participants to the meeting and highlighted the importance of the meeting in promoting dialogue with civil society on aspects that are pertinent to Kenya and other African countries, as negotiations continue in Geneva towards the Ministerial meeting in December. He also notified the meeting of tralac's willingness to provide training on trade policy and law to civil society in Kenya and the EAC region.

Discussions during the workshop centred on presentations delivered by respective resource persons as follows:

- **Overview and State of Play of WTO negotiations – *Professor Jasper Okelo, WTO Chair, University of Nairobi***

Professor Okelo highlighted the uneasy state of negotiations towards agreement on a workplan for further negotiations under the current Doha Development Round, which commenced in 2001. He also recognised the heightened responsibility on the African continent to deliver a successful Ministerial Conference in the face of competing interests from developed countries and other developing countries in the WTO. He reiterated the importance of Kenya's role in ensuring such delivery while asserting the interests of the African continent.

- **Kenya's trade profile and prospects for the CFTA – Prof. Ron Sandrey, *tralac Associate***

Prof. Sandrey presented results of an analysis of Kenya's trade profile both globally and with African countries. He noted Kenya's dominant position in the trade of the EAC region. A notable concern highlighted is the lack of actual trade data for Kenya since Kenya does not report to the International Trade Centre where the data was sourced, and hence the data utilised for the study is mirror data, which may not be sufficiently representative. Agriculture dominates Kenya's exports while manufacturing products dominate imports. The WTO reports that the average assessed duty in 2013 was 12.7% on all goods; 19.8% on agricultural goods and a lesser 11.6% on manufactured.

He noted that overlapping membership brings with it a significant challenge to intra-REC trade in East Africa. The research found that Kenya has much to gain from reductions in tariffs and non-tariff barriers, particularly the reduction of the time taken for goods in transit. This would have to be done with the aim of increasing its international competitiveness.

- **Trade and development issues – Mr. Abdirizak Musa on behalf of Ms. Serah Kimani, *Lecturer, Kenyatta University School of Law***

Mr. Musa presented the development issues relevant to developing and least developed countries (LDCs) in the Doha Round as well as the different interests pursued by respective United Nations (UN) groupings. He highlighted how special and differential treatment for such countries has been a contentious issue, with calls for some developing countries not to benefit from these provisions, thereby complicating the positions of the respective groupings. However, he noted that African Union (AU) Ministers and African, Caribbean and Pacific (ACP) Ministers have adopted positions for further negotiations in the WTO ahead of the Ministerial. He cited the adoption of the new UN sustainable development goals (SDGs) as an opportunity for breathing new life into the WTO process and urged civil society members to advocate for a wider understanding of development in this context, and to ensure it informs WTO processes going forward.

- **The Agreement on Agriculture – Dr. Mirriam Omolo, *Programmes Coordinator, Institute of Economic Affairs***

Dr. Omolo noted that the Doha Development Round has been in a gridlock mostly due to lack of convergence in negotiations on Agriculture. This saw the development of the Bali Package – adopted at the last Ministerial in 2013 - which was a subset of issues being negotiated under the Doha round and focused on tariff rate quota

administration, export subsidy and public stockholding for food security. There has not been much progress and the MC10 issues that will form part of the discussions on agriculture include: domestic support; market access; export competition, where export subsidies have fallen to zero with the exception of a few members; domestic support in cotton; public stockholding for food security purposes; LDC issues, including an LDC Services Waiver in which 17 members have so far notified their intention to offer preferences in sectors and modes of supply of export interest to LDCs.

- **Aid for Trade – *Dr. Henry Mutai, tralac Associate***

Dr. Mutai highlighted aid for trade as an important aspect of the negotiations as its objective is to enable developing countries to use trade more effectively to promote growth and build supply side capacity. As it stands, there are 146 developing countries, 59 donors and USD 246.5 billion disbursed since 2006 focused mainly on transport and storage; energy generation and supply; agriculture; and banking. He noted that there are issues to consider both nationally such as consultations between government and private sector and formulation of bankable projects but with an in-built monitoring and evaluation mechanism. At the WTO level, it is important that the linkage between aid for trade and the sustainable development goals be established.

- **Trade facilitation and non-tariff barriers to Kenya's trade – *Mr. William Mwanza, tralac Researcher***

Mr. Mwanza highlighted non-tariff barriers affecting Kenya's trade among them delays in inspection and certification, infrastructural challenges, standards and other technical requirements. He noted that the trade facilitation agreement (TFA), adopted as part of the Bali package, would be key in addressing some of the NTBs. Two-thirds of the WTO members need to have ratified the TFA for it to enter into force. So far 51 WTO Members have ratified the TFA and it is not expected that the agreement will enter into force before MC10. He discussed the respective commitments that EAC members have notified to the WTO. He highlighted the importance of ensuring that Governments implement commitments made under the agreement. In this regard, he highlighted the role of civil society in ensuring that a strong monitoring, enforcement and dispute settlement mechanism exists so that benefits from trade facilitation measures being undertaken by respective Governments accrue to producers and consumers in Kenya and other EAC countries.

The presentations were followed by stimulating discussions by participants, who broadly appreciated the enhanced understanding on key WTO issues and on Kenya's trade profile gained from them, and highlighted their engagement ahead of the Ministerial.

The following aspects were agreed in terms of the way forward:

- It is important for civil society organisations in Kenya to consolidate a common position and to follow this with vigilant and proactive engagement in the run up to the Ministerial Conference. In this regard, the discussions at the current workshop were seen as important input into a civil society meeting to be held for this purpose later in November, 2015.
- There is need for greater capacity building on WTO and other trade related issues which should be targeted at national and local institutions as well as different segments of the population such as women and young people. Tralac reaffirmed its commitment to this capacity building role and invited proposals from prospective partners in Kenya and East Africa, where it looks to increase its engagement.

In closing, Dr. Mutai thanked participants for their effective engagement during the workshop. He indicated that tralac intends to host another workshop with civil society after the WTO Ministerial so as to review the outcome of the meeting and chart a way forward for further engagement.

Dr. Wanyama Masinde (Director of CefRI) thanked tralac for partnering with his organisation to host the workshop in Nairobi. He thanked participants for their fruitful engagement during the meetings and also reiterated the importance of continued engagement both before and after the Ministerial.

Ms. Caroline Kago (Kenyatta University School of Law) offered a vote of thanks on behalf of participants.

With special thanks to our partners:

