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DRAFT INPUTS INTO MC10 DECLARATION FROM THE ACP GROUP

The following communication, dated 6 November 2015, is being circulated at the request of the delegation of Barbados on behalf of the ACP Group.

1. We, the Ministers, have met in Nairobi, Kenya, from 15 to 18 December 2015 at our Tenth Session. As we conclude our Session, we would like to express our deep appreciation to the Government and people of Kenya for the outstanding organization and the gracious welcome we have received in Nairobi.
2. We reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization. We also recall the Declarations and Decisions we adopted at Doha and at the Ministerial Conferences we have held since then and reaffirm our full commitment to give effect to them.
3. We reiterate the need for the WTO to remain the premier negotiating forum to improve multilateral trade rules and respond to the dire need for this institution to deliver on substantive market access for trade and competitiveness of our weaker and vulnerable Members, in particular LDCs. However, it is imperative that the achievements we have made overtime on inclusive, Member-driven, consensus-based, and transparent conduct of negotiations is improved upon.
4. We affirm the role the WTO can play in delivering on the 2030 Development Agenda.

1 PART I - THE IMPORTANCE OF THE WTO AS AN ORGANIZATION INCLUDING ITS ACHIEVEMENTS, IN PARTICULAR IN THE CONTEXT OF ITS 20TH ANNIVERSARY;

- 1.1. In celebration of the 20th anniversary of the World Trade Organization (WTO), we reaffirm our commitment to the priority to integrate developing countries at all levels of development, in particular least developed among them into the multilateral trading system, with measurable sustainable development gains in all pillars of WTO work.
- 1.2. While the WTO has not delivered on all of its promises, it has nevertheless had several successes. On the eve of our Fourth Session, the Members agreed on new transitional periods on trade-related investment measures for developing countries and other measures in favour of developing countries and LDCs.
- 1.3. At our Fourth Session, we launched for the first time in the history of the GATT and the WTO, a Development Round, including our agreement that implementation issues and special and differential treatment provisions would be addressed. At the same time, we agreed on new decisions on implementation issues and on the subsidies agreement for developing countries. While the world watched in earnest, the WTO also overcame the challenge to address the nexus between the need for the institution to respond to public health concerns of the poorest Members, in particular in Africa, by agreeing on the TRIPS and Public Health Declaration and our agreement on the related ten year transition period for LDCs.

1.4. Following on this success, the institution entered protracted negotiations that bore fruit of global proportions in the TRIPS paragraph 6 amendment, which is still in the process of ratification by a few Members. By our Fifth Session, we saw the expiry of the phase out of the Multifibre Arrangement as implemented through the Agreement on Textile and Clothing, which was a key gain for many developing countries in the Uruguay Round. While we agreed that year to the first extension of the non-pharmaceutical aspects of the TRIPS Agreement for LDCs, many developing country Members came into compliance under agreed Uruguay Round implementation periods, others required more time and additional mechanisms to assist in their reforms and capacity building efforts.

1.5. Although the built-in agenda negotiations in agriculture and services were launched in 2000, the promised agreement on agricultural reforms, in particular to eliminate trade distorting supports, that were to open markets for developing countries and LDCs, including on cotton, continued to elude us.

1.6. The other regular work of the WTO has also kept pace with the requirements of the multilateral trading system in the monitoring and implementation of the Uruguay Round Agreements and the admission of new Members. Out of fifty-five countries in the accession process, thirty-three have acceded; out of the thirty-three, eighteen are developing countries. From 128 Members in 1995 to now 162 Members, we can take umbrage in the fact that the performance in accessions confirms that significance of Membership on the global platform remains paramount.

1.7. While developing countries have increased in their participation in WTO deliberations and rulemaking and the institution has increased awareness on the centrality of development in trade, including enhancements in technical assistance and capacity building initiatives, developing countries, in particular LDCs and SVEs still account for only a marginal share of world trade. LDCs still account for only 1.2 per cent of world merchandise trade and 0.7 per cent of world exports of commercial services. Clearly, more work remains to be done. With the exception of our decision in Bali on food security and the special and differential treatment chapter in the trade facilitation agreement, they have yet to realise binding and effective outcomes on proposals that they have made in the last two decades. It is important that this session we have been able to agree on decisions with concrete responses to some of their proposals.

1.8. Within the current framework, we were able to achieve agreement on trade facilitation agreement at our Ninth Session. Following on our Ninth Session, the WTO responded to the call of developing countries and LDCs by launching and establishing the Trade Facilitation Facility, which includes a last resort trust fund and other mechanisms to assist in the operationalization of the development features of the agreement. However, we also reiterate the importance of targeted and sustainable financial, technical, and capacity building assistance programmes to support the developing countries, in particular LDCs, to implement their agreements, to adjust to the reform process, and to benefit from opportunities presented.

1.9. We recognize that while tariffs have been reduced by several countries this has been offset by increasing barriers to trade, which continue to hamper the development and particularly the export performance of many developing countries and we commit to examine this problem to identify ways in which developing countries in need of assistance in dealing with this burden, can be given assistance.

1.10. We launched the Integrated Framework for LDCs in our first years of our maiden voyage and achieved the establishment of the Enhanced Integrated Framework for LDCs; at this session we also accomplished agreement on the phase II pledging conference, which must deliver on our promises to assist LDCs on the supply side toward better integration into the multilateral trading system.

1.11. In the two decades the WTO has been in operation, only three LDCs have graduated. In this regard, we acknowledge the need for the WTO to explore ways to improve the participation of LDCs in world trade and in the meeting their development goals in a manner that addresses their inadequate infrastructure and weak productive capacities and that will support the diversification of their exports. In that regard, we continue to emphasise the need for priority attention to be accorded to LDCs with multifaceted initiatives to facilitate their full integration into the multilateral trading system, including taking binding commitments to provide predictability and certainty for their traders.

2 PART II - DELIVERABLES FOR MC10: REGULAR WORK UNDER THE GENERAL COUNCIL AND RELATED DECISIONS; DDA DELIVERABLES;

REGULAR WORK UNDER THE GENERAL COUNCIL

2.1. We welcome the progress in the regular work under the General Council, including under the mandates that we gave at our Eighth Session, and the following decisions we have adopted at our Ninth Session:

- TRIPS Non-violation and Situation Complaints – Ministerial Decision;
- Work Programme on Electronic Commerce – Ministerial Decision;
- Work Programme on Small Economies - Ministerial Decision;
- Working Group on Technology Transfer – Ministerial Decision;
- Aid For Trade – Ministerial Decision.

2.2. We further welcome the following decisions taken in Geneva:

- Decision adopted by the TRIPS Council concerning the extension of the transitional period under the Doha Declaration on the TRIPS Agreement and Public Health and TRIPS Agreement Article 66.1 for pharmaceuticals and the waiver of TRIPS Agreement Articles 70.8 and 70.9 for Least-Developed Country Members in document -----;
- Decision on the Accession of Liberia

2.3. We welcome those new Members who have completed their accession processes since our last Session. In particular, we note with satisfaction that, at our present Session, we have adopted the Decision on the Accession of the Republic of Liberia (WT/MIN(15 -----)). We recognize the contribution of accession to strengthening the multilateral trading system and remain committed to efforts to accelerate accessions, in particular of developing countries and LDCs in a manner that they can make concessions commensurate with their size and development needs and current WTO rules and standards. We also urge that technical assistance and resources to support acceding ACP States in the process of accession negotiations is provided. In addition, we urge the implementation of the General Council's Decision of 25th July 2012 on Accession of LDCs aimed at strengthening, streamlining and operationalising the 2002 LDCs Accession Guidelines, pursuant to the 2011 MC8 Decision.

DOHA DEVELOPMENT AGENDA DELIVERABLES

2.4. We welcome the progress in the DDA, which is embodied in the following Decisions and Declarations we have adopted at our Tenth Session:

Agriculture

- Export Competition – Ministerial Declaration;
- Cotton – Ministerial Decision.

Development and LDC issues

- Special and Differential Treatment Agreement Specific Proposals –Ministerial Decision;
- Preferential Rules of Origin for Least-Developed Countries – Ministerial Decision;
- Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries – Ministerial Decision;
- Duty-Free and Quota-Free (DFQF) Market Access for Least-Developed Countries –Ministerial Decision ;
- Preservation of Flexibilities Treatment for developing countries, in particular LDCs and Small, Vulnerable Economies in agriculture, NAMA and Services Negotiations. Ministerial Decision;
- Development and Food Security aspects of Fisheries Subsidies – Ministerial Decision.

3 PART III – FUTURE WORK OF THE WTO/POST NAIROBI

3.1. We reaffirm our commitment to the WTO as the pre-eminent global forum for trade, including negotiating and implementing trade rules, settling disputes and supporting development through the integration of developing countries into the global trading system. We reaffirm the Ministerial declarations and General Council Decisions relevant to the Doha mandates; and our determination to take concrete steps to conclude the remaining issues raised in the DDA, addressing all unresolved issues in the development mandate and yielding specific development milestones for our weaker Members as soon as possible.

3.2. We agree that the guiding principle for both agricultural and non-agricultural goods tariff negotiations different tariff reduction targets should be defined for developed countries and for developing countries, and SVEs in accordance with the principles of special and differential treatment and less than full reciprocity, and we confirm that LDCs shall be exempt from making tariff reductions. In the case of services, negotiations shall be consistent with the GATS architecture and mandates.

3.3. We instruct that the level of ambition for any of the flexibilities shall be adjusted commensurate with the level of ambition in the negotiations as a whole.

3.4. To aim for key milestones, we also instruct the TNC to conduct work on the following in order to reach areas of convergence.

Agriculture

3.5. Negotiations aimed at establishing a fair, and market-oriented trading system in agriculture, shall fully reflect special and differential treatment for developing countries shall, taking into account the possible negative effects of the implementation of the reform program on least-developed, SVEs and net food-importing developing countries (NFIDCs).

3.6. Negotiations shall aim at substantial reduction in all forms of trade distorting domestic support, in particular by developed countries, including through meaningful disciplines on product specific and non-product specific support. The integrity of Article 6.2 of the Agreement on Agriculture shall be maintained.

3.7. Market access commitments shall result in different tariff reduction levels for developed countries, developing countries and SVEs, following the principle of special and differential treatment and less than full reciprocity in reduction commitments. LDCs shall be exempted from taking any tariff reductions. Such approach shall also take into account the need to reduce tariff peaks and tariff escalation including on tropical products while addressing the concern of preference erosion. Negotiations shall include appropriate flexibilities for special products and a Special Safeguard Mechanism (SSM) that is simple, operational and effective.

3.8. Any outstanding issue on export competition shall be addressed taking into account problems faced by developing countries, and the flexibilities currently envisaged in existing texts.

3.9. We call on Members to work specifically, ambitiously and expeditiously towards a binding outcome on cotton covering all the pillars of the negotiations.

3.10. We call on Members to work expeditiously towards finding an appropriate permanent solution on Public Stockholding for Food Security Purposes accessible by all developing country Members.

NAMA

3.11. Future negotiations on market access aimed at reducing, or as appropriate, eliminating tariffs shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, recognising that the Swiss formula and associated coefficients and flexibilities is not acceptable for many developing country formula applying countries Members.

3.12. As a starting point we agree to preserve, at minimum, the core flexibilities negotiated so far that fully take into account ACP States development priorities and that LDCs shall be exempted from taking any tariff reductions. Developing Members with low binding coverage of non-agricultural goods tariff lines¹ will only be requested to increase their binding coverage. Small vulnerable economies should not be requested to undertake commitments beyond those envisaged in the negotiations so far. Such flexibilities will be adjusted according to any agreement on other formulas as appropriate and in a manner that does not undermine the principles that frame them.

3.13. In continued negotiations, we agree that tariff reduction for those developing Members that are part of a customs union of developing countries which may include LDCs and SVEs shall be no more than the average tariff reduction of all the other Members of the customs union and shall in no case result in final tariffs that are below the Common External Tariff. The tariff reduction commitments shall also be moderated to avoid widening divergences in tariff bindings amongst the Members of such customs unions.

3.14. We also reiterate the need for any agreement to include treatment of preference erosion and that developing Members with low binding coverage of non-agricultural goods tariff lines will be exempt from making tariff reductions consistent with the objectives of found in current texts.

Services

3.15. We affirm that Members may decide how to proceed on their own offers taking into account their particular development objectives and offers from other Members. At the same time, we reaffirm the key principles and flexibilities embedded in the General Agreement on Trade in Services, the Negotiating Guidelines and Procedures, the Hong Kong Ministerial Declaration and its Annex C.

3.16. Domestic regulations negotiations shall continue in accordance consistent with their right to regulate, in particular the need for developing countries to exercise that right. Special and differential treatment shall include self-designation of any transition periods and acquisition of capacity. We consider that developing countries should have the flexibility in their own discretion with regard to taking on any new commitments. We also call upon Members to reaffirm that LDCs shall not be required to take on any new commitments.

3.17. Final offers shall be considered for submission by our Eleventh Session, if final agreement in agriculture and NAMA is achieved by that time.

Rules Negotiations

3.18. Rules negotiations shall include full account for special and differential treatment and the establishment of a Trade Remedies Facility based on the ACP proposal. Specific attention shall be paid to avoiding the introduction of burdensome rules on developing countries, in particular least developed countries.

3.19. Negotiations on fisheries subsidies beyond disciplines that may be agreed to at Nairobi shall continue with appropriate and effective special and differential treatment for developing countries including LDCs and SVEs.

¹ With a binding coverage of non-agricultural tariff lines of less than 35 percent.

Trade Related Intellectual Property Rights

3.20. Negotiations on the basis of proposals from developing countries on the relationship between the TRIPS Agreement and the Convention on Biodiversity and on the extension of higher TRIPS protection to products other than wines and spirits shall be pursued with a view to overcoming the most critical and fundamental stalemates in the negotiations by our Eleventh Session.

Other areas

3.21. Members may continue work in all WTO bodies, including working groups and work programmes and discussing issues raised by Members in those bodies consistent with the mandates of those bodies.
