

# ACP-EC COTONOU AGREEMENT

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**AFRICAN, CARIBBEAN AND  
PACIFIC GROUP OF STATES**

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**COUNCIL OF  
THE EUROPEAN UNION**

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**Brussels, 22 January 2010**

**ACP-CE 2102/10**

## **COVER NOTE**

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from: Secretariat of the ACP States

to: General Secretariat of the Council

date of receipt: 22 December 2009

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Subject: Decisions and resolutions adopted at the 90th session of the ACP Council of Ministers, Brussels, 16 - 19 November 2009

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Delegations will find attached decisions and resolutions adopted at the 90th session of the ACP Council of Ministers on 16 - 19 November 2009 (doc. ACP/25/014/09).

**ACP/25/014/09**  
**[Final Version]**

**Brussels, 19<sup>th</sup> November 2009**

**DECISIONS AND RESOLUTIONS OF THE**  
**90TH SESSION OF THE ACP COUNCIL OF MINISTERS**  
**HELD IN BRUSSELS (BELGIUM)**  
**FROM 16<sup>th</sup> TO 19<sup>th</sup> NOVEMBER 2009**

**DECISION No.1/XC/09  
OF THE 90<sup>TH</sup> SESSION OF THE ACP COUNCIL OF MINISTERS  
HELD IN BRUSSELS FROM 16 TO 19 NOVEMBER 2009**

**APPOINTMENT OF SECRETARY-GENERAL OF THE ACP GROUP**

**The ACP Council of Ministers,**

- Meeting in Brussels, Belgium, from 16 to 19 November 2009,

**HAVING REGARD TO** the revised Georgetown Agreement creating the ACP Group;

**HAVING REGARD TO** the Staff Regulations of the ACP Secretariat;

**HAVING REGARD TO** Decisions 1 and 2 of the 89<sup>th</sup> Session of the Council of Ministers held in Brussels from 25<sup>th</sup> to 27<sup>th</sup> May 2009 relating, respectively, to the modalities and the timetable for appointing the Secretary-General and Assistant Secretaries-General of the ACP Group;

**CONSIDERING** that the term of office of the current Secretary-General expires on 28<sup>th</sup> February 2010;

**HAVING EXAMINED** the report of the Bureau of Council dated 16<sup>th</sup> November 2009;

**HEREBY DECIDES:**

1. **Dr. Mohamed Ibn CHAMBAS (Ghana)** is appointed Secretary-General of the ACP Group for a period of 5 years, with effect from 1<sup>st</sup> March 2010;
2. the term of office of **Dr. Mohamed Ibn CHAMBAS** shall be governed by the Georgetown Agreement, the Staff Regulations of the ACP Secretariat, and any other relevant text adopted by the competent organs of the ACP Group.

Done in Brussels on 19 November 2009



**Hon. Eunice KAZEMBE, MP  
Minister of Industry and Trade of Malawi  
President of the ACP Council of Ministers**

**DECISION NO 2/XC/09  
OF THE 90TH SESSION OF THE ACP COUNCIL OF MINISTERS HELD IN BRUSSELS  
FROM 16 – 19 NOVEMBER 2009**

<b>SEVENTH SESSION OF THE WORLD TRADE ORGANIZATION MINISTERIAL CONFERENCE</b>
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**The ACP Council of Ministers**

- Meeting in Brussels, Belgium, from 16 – 19 November 2009

**RECALLING** the objectives contained in the Georgetown agreement and the Cotonou Partnership Agreement;

**RECALLING** its previous decisions, declarations and resolutions on the WTO Doha Work Programme;

**WHEREAS** the Seventh Session of the World Trade Organization Ministerial Conference will take place in Geneva, Switzerland from 30 November – 2 December 2009;

**HAVING REGARD** to the report of the ACP Ministers of Trade held in Brussels from 12 – 13 November 2009;

**CONSIDERING** that paragraphs 8 to 22 of Document **ACP/61/046/09 Final** contain elements that are useful in respect of the debate on the review of the WTO activities, including the Doha Work Programme;

**FURTHER CONSIDERING** that paragraphs 23 to 25 of Document **ACP/61/046/09 Final** contain elements that are useful in respect of the debate on WTO's recovery, growth and development;

**DESIROUS** of playing its rightful role in the multilateral trading system in unity of purpose and in the spirit of solidarity;

**CONSCIOUS** of the need to make a positive contribution to the success of the Seventh Session of the WTO Ministerial Conference;

**Hereby decides to**

1. **take note** of the Chairman's Report on the ACP Ministers of Trade [**Document ACP/61/050/09**];
2. **endorse** the following documents which contain the position of the ACP Group:
  - a. Report of the ACP Senior Trade Officials as adopted by the ACP Ministers of Trade [Document **ACP/61/046/09 Final**];
  - b. Communiqué to the Seventh Session of the WTO Ministerial Conference issued in Brussels on 13 November 2009; and
  - c. ACP Declaration on the Seventh Session of the WTO Ministerial Conference [Document **ACP/61/045/09 Final**]
3. **mandate** the ACP Coordinator in Geneva to present the ACP position as contained in the Communiqué to and Declaration on the Seventh Session of the WTO Ministerial Conference, to be part of the working documents for the Conference;

Done in Brussels 19 November 2009



**Hon. Eunice KAZEMBE, MP**  
**Minister of Industry and Trade of Malawi**  
**President of the ACP Council of Ministers**

**DECISION No. 9/XC/09  
OF THE 90<sup>TH</sup> SESSION OF THE ACP COUNCIL OF MINISTERS  
HELD IN BRUSSELS, FROM 16 TO 19 NOVEMBER 2009**

<b>ACP MINISTERIAL FISHERIES MECHANISM</b>
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**The ACP Council of Ministers**

- Meeting in Brussels, Belgium, from 16 – 18 November 2009

**RECALLING** the objectives contained in the Georgetown agreement and the Cotonou Partnership Agreement;

**RECALLING** its previous resolution on the establishment of a ministerial fisheries mechanism adopted at its 87<sup>th</sup> Session in Addis Ababa in June 2008;

**HAVING REGARD** to the report of the First Meeting of the ACP Ministers in charge fisheries which took place Brussels in June 2009;

**COGNIZANT** of the significant importance of fisheries in the majority of ACP States;

**DESIROUS** of ensuring that our fisheries resources are exploited in a sustainable and beneficial manner by addressing international fisheries issues in a proactive and systematic approach;

**HEREBY DECIDES TO:**

- a) **adopt** the Rules of Procedure of the ACP Fisheries Mechanism;
- b) **endorse** the ACP fisheries related proposals in the current negotiations of the Cotonou Agreement;
- c) **endorse** the request to the EC to delay the entry into force of the EU Regulation on IUU Fishing;

- d) **mandate** the Committee of Ambassadors to finalise the ACP Position Paper on the EC Green Paper on the reform of the Common Fisheries Policy before the closure of the consultations on 31 December 2009 for submission to the EC;
- e) **instruct** the Committee of Ambassadors in liaison with the new Management of the ACP Secretariat to take the necessary measures in order to ensure the creation of and recruitment for the post of Fisheries Expert within the ACP Secretariat;
- f) **mandate** the Committee of Ambassadors to explore how the ACP countries affected by acts of Piracy could be assisted;
- g) **request** the President of Council to forward this decision to the Council of the European Union and its Member States, the ACP-EU Joint Parliamentary Assembly and the European Commission.

Done in Brussels on 19 November 2009



**Hon. Eunice KAZEMBE, MP**  
**Minister of Industry and Trade of Malawi**  
**President of the ACP Council of Ministers**

## RESOLUTIONS

**RESOLUTION  
OF THE 90<sup>TH</sup> SESSION OF THE ACP COUNCIL OF MINISTERS  
HELD IN BRUSSELS, BELGIUM, FROM 16 TO 19 NOVEMBER 2009**

<b>ECONOMIC PARTNERSHIP AGREEMENTS (EPAS) AND OTHER TRADE MATTERS</b>
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**The ACP Council of Ministers**

- Meeting in Brussels, Belgium, from 16 – 19 November 2009
- A. RECALLING** the objectives contained in the Georgetown agreement and the Cotonou Partnership Agreement;
- B. RECALLING** its previous decisions, declarations and resolutions on the Economic Partnership Agreements;
- C. HAVING REGARD** to the report of the ACP regional EPA configurations on the state of play of the EPA process - **[Document ACP/61/073/09]**;
- D. HAVING REGARD** to the report of the ACP Ministers of Trade held in Brussels from 12 – 13 November 2009, including the report of the Technical Follow-up Group on EPA negotiations and implementation – **[Document ACP/61/00/059/09]**;
- E. WHEREAS** for regions that were still negotiating, areas of divergences had been narrowed, in some cases leading to signature of the Interim Agreements by some of the ACP States in three regions;
- F. CONCERNED** that for some ACP States, the contentious issues had continued to pose a problem thus curtailing progress in the process and deadlock reached in certain cases;
- G. STRESSING** that these issues, including MFN clause, substantially all trade, regional levies, standstill clause, export taxes, development cooperation, definition of parties and non-execution clause must be addressed and resolved;

- H. CONCERNED** that the definition of “substantially all trade” and transition periods are still a major problem for most of the regions that deem it necessary to provide differentiation for least developed countries;
- I. WHEREAS** some statistical and economic studies have produced results that justify market access offers of less than 80 percent;
- J. CONCERNED** about the surging use of export subsidies by the European Union as following the global economic and financial crisis;
- K. CONCERNED** that on development aspects of EPAs, most regions were concerned that EU commitment to provide EPA related development support was phrased in a non-binding language in the EPA texts;
- L. WHEREAS** EPA related development programmes drawn up by the regions show that the needs far exceed the resources available from the EDF and Aid-for-Trade;
- M. WHEREAS** the non-execution clause remains controversial in the EPA discussions;
- N. STRESSING** that the negotiations should aim to clinch an equitable, well balanced and beneficial outcome and therefore should not be dictated by deadlines;
- O. CONCERNED** by the trend of the European commission to conclude bilateral free trade agreements which have the effect of seriously eroding the preferences which ACP States have been offered in the context of EPAs;
- P. REITERATING** that in the circumstances it would be necessary to seek a renegotiation of affected provisions and put in place remedial measures;
- Q. AWARE** that the implementation of EPAs will pose a major challenge to ACP States signatory to the interim or full EPAs, calling for, *inter alia*, legislative changes to give effect to commitments to be honoured at the entry into force of the Agreement and soon thereafter; establishing adequate institutional and human resource capacity and training where necessary; drafting rules of procedures to facilitate the commencement of the work of the established joint institutions; sharing implementation responsibilities between institutions at national and regional levels; and compiling the data required by the WTO to facilitate a factual examination of the notified EPAs;

- R. CONSCIOUS** of the need to establish a clear institutional link between the EPAs and Cotonou agreement in order to avoid duplication and create synergy with existing arrangements;
- S. CONCERNED** that the financial crisis will negatively impact on ODA flows, the remittances, Foreign Direct Investment (FDI) and trade finance;
1. **Urges** the European Commission to inject genuine flexibility into the EPA process so that ACP regions which are still negotiating can make market access offers below the threshold of 80 per cent of trade and above 15 years of transition period - parameters that the EC is demanding.
  2. **Calls** for the convening of the Joint Ministerial Trade Committee meeting, at the earliest opportunity as soon as the new European Commission is installed, in order to address developments in the EPA process and other bilateral trade matters of interest and concern to the ACP.
  3. **Urges** on the European Commission to ensure that pending conclusion and signature of comprehensive EPAs, those ACP States which have initialed or signed the interim EPAs should continue to benefit from preferential market access so as to avoid trade disruption;
  4. **Invites** the European Union and the European Commission, with a view to preserving and promoting regional integration to take fully into account tariff dismantlement agenda in their regions;
  5. **Calls** for an improvement in the Rules of Origin, *inter alia*, through the adoption of identical rules of origin that may also enable full cumulation at the all ACP level and with neighboring developing countries.
  6. **Agrees** that the liberalization of commodities has to be approached cautiously in light of the EC continued use of subsidies.
  7. **Reiterates** the concern that available financial resources will not be adequate to meet the adjustment costs and at the same time address other EPA implementation needs, including creating and enhancing regional competitiveness.
  8. **Stresses** the need and call for binding provisions on development cooperation in the EPAs.
  9. **Acknowledges** the need to mobilize other sources of funding to cater for EPA support programmes in addition to the ACP-EU financial framework.

10. **Mandates** the Committee of Ambassadors to explore the possibility of proposing amendments to the provisions of Article 96 and 97 of the Cotonou Agreement in the context of the on going Second five-year revision process with a view to exempting ACP-EU trade cooperation from the application of these articles.
11. **Encourages** ACP EPA configurations to meet as necessary in order to share information and experiences in the implementation of interim and full EPAs. In this regard, the first such meeting could take place in the CARIFORUM region, which was the first to conclude its EPA negotiations and has embarked on implementation.
12. **Agrees** that the Ministerial Trade Committee should be mandated to monitor, evaluate and review all matters related to the ACP-EU trade, including EPAs;
13. **Requests** that the commissioning of the study on the feasibility of establishing an All-ACP free trade area be expedited;
14. **Expresses** the need for ACP States and regions to take necessary measures to limit the impact of the financial and economic crisis including where necessary adjusting the pace of liberalization.
15. **Requests** the President of Council to forward this resolution to the Council of the European Union and its Member States, the ACP-EU Joint Parliamentary Assembly and the European Commission.

Brussels 19 November 2009

**RESOLUTION OF THE 90<sup>TH</sup> SESSION OF THE ACP COUNCIL OF MINISTERS  
HELD IN BRUSSELS (BELGIUM) FROM 16 TO 18 NOVEMBER 2009**

**COTTON**

**The ACP Council of Ministers,**

- Meeting in Brussels, Belgium, from 16 to 18 November 2009,
- A. Having regard to** the declarations made by Trade Ministers from the countries author of the Cotton Initiative (C4) on 8 October 2009 in Ouagadougou, Burkina Faso;
- B. Having regard to** the final conclusion of the High-Level Meeting on Cotton held in Geneva in March 2007;
- C. Recalling** the ACP Declaration on Cotton to the 34<sup>th</sup> ACP-EC Council of Ministers held in Brussels on 28 May 2009;
- D. Willing to implement** the commitment made by all WTO Members to address the cotton dossier ambitiously, expeditiously and specifically;
- E. Welcoming** the sustained efforts of the representatives of cotton-producing and ACP countries in Geneva to propose implementation modalities agreeable to all and consistent with the set criteria of ambition, expeditiousness and specificity;
- F. Recalling** the proposals made by the C4, supported by the African Group, the LDC and ACP Groups and reproduced in the draft modalities text of December 2008 submitted by the Chairman of the Special Session of the Committee on Agriculture;
- G. Deploing the lack of reaction to the proposals of the African cotton-producing countries or the lack of ambition in the reaction from the members requested to reduce, with a view to total abolition, the illegal support provided to cotton producers;**
- H. Recalling** the major role played by cash crops, such as cotton, in the economic stability of the States, as well as in rural development and food security;
- I. Recalling** the ambition expressed by the European Union and the African cotton-producing countries of the ACP Group in concluding an EU–Africa Cotton Partnership in Paris, on 6 July 2004;
- J. Noting** that the mid-term review of the Partnership organised in March 2009 concluded that the Partnership constitutes a pertinent response to the cotton sector crisis in Africa and remains consistent with the principles of European aid;

- K. Recalling** that building the capacity of cotton sector stakeholders is one of the priority goals of the EU-Africa Cotton Partnership;
- L. Welcoming** the conclusion of the feasibility study on the Cotton Business School Project and the support possibility identification carried out by consultants commissioned by the European Commission, which confirmed the usefulness and relevance of the project.
- M. Deploring** the fact that since completion of the feasibility study on the financing of the Cotton Business School Project and its presentation to the European Commission, which commissioned the study, the latter has not taken any action.
1. **Calls on** the European Communities to provide support for the Cotton Business School Project, as recommended by the study, so as to enable all regions and countries to benefit from the project;
  2. **Calls on** the European Communities to demonstrate more ambition in their support for the positions of the Co-authors of the Cotton Initiative and the ACP Group at the WTO;
  3. **Reaffirms** that if the outcome of the WTO Doha Development Agenda negotiations are to be balanced, there must be ambitious, expeditious and specific treatment for cotton. To this effect, it renews its support for the defense of the cotton dossier at the WTO as one of the major indicators of the development component of the ongoing Round;
  4. **Requests** the President of the ACP Council of Ministers to forward this resolution to the Chief Negotiators of the Economic Partnership Agreements, the Council of the European Union, the European Parliament, the European Commission and the WTO.

*Brussels, 19 November 2009*

**RESOLUTION**  
**OF THE 90<sup>TH</sup> SESSION OF THE ACP COUNCIL OF MINISTERS**  
**HELD IN BRUSSELS (BELGIUM) FROM 16<sup>TH</sup> TO 18<sup>TH</sup> NOVEMBER 2009**

<b>SUGAR</b>
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**The ACP Council of Ministers,**

- Meeting in Brussels, (Belgium), from 16<sup>th</sup> to 18<sup>th</sup> November 2009,

- A. HAVING REGARD** to the resolution on sugar adopted by the 89<sup>th</sup> session of the ACP Council of Ministers held in Brussels, from 25 to 27 May 2009;
- B. HAVING REGARD** to the Commission's Regulation No. 828/2009, which will henceforth regulate the import of sugar into the EU from the ACP and other LDCs suppliers of sugar;
- C. HAVING REGARD** to the Declaration of the ACP Trade Ministers on the Seventh Session of the WTO Ministerial Conference;
- D. ANXIOUS** to maintain the value of the market access for sugar on the EU market, including the maintenance of an adequate level of remunerative price underpinned by a managed market;
- E. UNDERSCORING** the fundamental principle that, under the new EPA sugar arrangements, no single ACP country should be worse off;
- F. MINDFUL** that the new trade regime would require the establishment of appropriate institutional structures at the various levels which would have to take into account the configurations of the various ACP stakeholders;
- G. AFFIRMING** the ACP states' full understanding of current trade policy trends while **UNDERSCORING** the development agenda included in the WTO Doha Round negotiation ;
- H. NOTING** that not all ACP Sugar Supplying States had initialled an Interim Agreement or full EPA;
- I. RECALLING** that the provisions in the various full or interim EPA agreements contain legally binding international obligations whereby ACP States can supply any type of sugar without any discrimination and as such the EPA prevail on the EC Regulations on sugar;

- J. ACKNOWLEDGING** the fact that the EC is negotiating with the Group of Central American Countries, with the aim of concluding a Free Trade Agreement (FTA), which is likely to include concessions on Market Access for Sugar that will further erode the Preferences ACP Sugar supplying countries have in their respective EPAs, thus adversely affecting their competitiveness;
- K. STRONGLY OPPOSED** to any re-opening of the July 2008 convergence package and to the concept of “reverse engineering” whereby the scheduling of tariffs conversions would come before agreement on modalities as this would be inappropriate and would adversely affect the interest of the ACP;
- L. RE-EMPHASISING** that the Accompanying Measures Support Programme for Sugar Protocol countries (AMSP) had been established primarily to assist ACP member states in the context of the 36% price cut to develop a sustainable and competitive sugar cane industry and to face the various challenges of the new situation in the EU market and to successfully adapt to the post-reform period;
- M. NOTING** that some countries were experiencing long delays in accessing the required financial support and insisting on the need to be able to adapt their MAAS to changing circumstances;
- N. DEEPLY CONCERNED** that because of the provisions of Article 96 of Cotonou Fiji's sugar funding for 2008 and 2009 under the AMSP was being withheld and that this constituted a serious setback in the implementation of its MAAS;
- O. MINDFUL** that the resources under the Accompanying Measures were less than the loss of export earnings resulting from the drastic 36% cut in the price of sugar;
- P. RECALLING** that negotiations of the second yearly revision of the Cotonou Agreement are being held without any information on the Financial envelope which will be made available for the period covered by the Revised agreement starting in 2013;
- Q. RE-EMPHASISING** that institutional and developmental aspects of the commodity protocols be maintained in the revised Cotonou Partnership Agreement with the objective of maintaining their development aspects and benefits ;
- R. NOTING** that major investments in all sugar industries are amortized over much longer periods than the six years remaining to the end of the current regime;

**1. Calls on the European Union and the European Commission to:**

- i.** ensure that any problem arising from the implementation of the EC Import Regulation (No. 828/2009) is urgently examined and that immediate corrective measures are adopted, particularly on the triggering of the safeguard clause, and the validity of the licenses for different types of sugar;
- ii.** further ensure that there is a managed market which ensures an adequate level of remunerative price which safeguards the interests of all ACP sugar suppliers;
- iii.** take into account that major investments in all sugar industries are amortized over long periods thus the need for a continuation of preferential sugar access after 2015;
- iv.** ensure that a new provision is enshrined in the Cotonou Agreement in order to guarantee the EC's commitment to support the ACP Commodity sector, including sugar, after 2013 ;
- v.** ensure that accompanying measures are provided beyond 2013, while ensuring the full and effective use of the resources already provided for the period 2007-2013;
- vi.** provide support in the form of additional accompanying measures to meet the challenges posed by preference erosion;
- vii.** ensure an acceleration of the disbursement of AMSP funds through measures such as fast-tracking and front-loading;
- viii.** address the concerns of the ACP countries whose AMSP funds are being withheld due to the provisions of Article 96 of Cotonou;
- ix.** ascertain that allocations should be fully utilized in the context of the EC Financial Perspectives and ways and means be explored in order to avoid that available resources are forfeited;
- x.** oppose, in the WTO negotiations, both the re-opening of the July 2008 convergence package and the concept of reverse engineering;
- xi.** ascertain for sugar and products with high sugar content (a) the implementation of tariff cuts in equal instalments spread over ten years following a two-year moratorium as detailed in the July 2008 convergence package; (b) should the EC declare sugar as sensitive, the lowest TRQ expansion introduced through ten equal instalments; (c) the binding of tariffs in specific (i.e. non-Ad Valorem Equivalent) rates; and (d) the maintenance of the Special Safeguard Clause

2. **Agrees** to the proposal to set up an ACP Ministerial Committee on Sugar to be supported by a committee at ambassadorial and technical levels. In this respect, mandates the Committee of Ambassadors to draw up and adopt the rules of procedure;
3. **Requests** the President of the Council of Ministers to forward this resolution to the European Commission, the Council of the European Union, the European Parliament and the Director General of the WTO.

Brussels, 19 November 2009

**RESOLUTION**  
**OF THE 90<sup>th</sup> SESSION OF THE ACP COUNCIL OF MINISTERS**  
**HELD IN BRUSSELS (BELGIUM) FROM 16<sup>th</sup> TO 18<sup>th</sup> NOVEMBER 2009**

<b>BANANAS</b>
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**The ACP Council of Ministers,**

- meeting in Brussels, Belgium, from 16<sup>th</sup> to 18<sup>th</sup> November 2009,
  
- A. HAVING REGARD TO** the Resolution on bananas adopted by the 89<sup>th</sup> session of the ACP Council of Ministers held in Brussels, from 25 to 27 May 2009;
  
- B. HAVING REGARD TO** the Declaration of 13 November 2009 by the ACP Trade Ministers on the Seventh Session of the WTO Ministerial Conference;
  
- C. ALSO HAVING REGARD TO** the "*Key elements of an agreement on bananas between the EC and the MFN Banana producers*" presented by the EC in March 2009 which is still so far the only Proposal communicated to the ACP Countries on the Market Access side of the Agreement;
  
- D. CONSIDERING** the text on the Banana accompanying Measures (BAM), submitted by the EC in September 2009 and the subsequent clarifications;
  
- E. RECALLING** the willingness shown by the ACP banana-supplying States during the discussions with the EC aimed at reaching an agreement on the Support Programme, the Banana accompanying Measures (BAM), as well as on the "*Key elements of an agreement on bananas between the EC and the MFN Banana producers*";
  
- F. AFFIRMING** the ACP states' full understanding of current trade policy trends while **UNDERSCORING** the development agenda included in the WTO Doha Round negotiations ;
  
- G. ACKNOWLEDGING** the fact that the EC is negotiating Free Trade Agreements (FTAs) with various third countries and groups of countries , including the Group of Central American Countries and the Andean Group, which are likely to include concessions on Market Access for Bananas that will further erode the Preferences of ACP Bananas supplying countries, thus adversely affecting their competitiveness;
  
- H. RECALLING** the elements contained in the "*Support Programme for the Adaptation of ACP Banana Sectors to the EC-MFN Agreement on Banana Import Tariff Reduction*" developed by the ACP Banana-supplying States and submitted to the European Commission on 28 July 2009;

- I. **AWARE OF** the need for the EC to fulfill its obligations under article XXVIII of the GATT and for complying with the Findings and Conclusions in the Appellate Body Reports WT/DS27/AB/RW2/ECU (Ecuador) and WT/DS27/AB/RW/USA (United States) issued on 26 November 2008;
- J. **RECALLING** that the EC's import tariff for bananas of € 176/mt has enabled the MFN countries to substantially increase their banana exports to the EU market since its entry into force on 1<sup>st</sup> January 2006;
- K. **RECALLING ALSO** that the latest text on Modalities for Agriculture published on 6 December 2008 by the Chairman of the Special Session of the Committee on Agriculture, recalls *inter alia*, the undertaking by long-standing preference-granting Members to provide additional financial and capacity building assistance to help address supply-side constraints and to promote the diversification of existing production in the territories of preference-receiving Members;
- L. **STRESSING** the necessity for any Agreement to be balanced and to keep with WTO Members undertaking, to provide for a necessary transitional period, including a moratorium, to enable the ACP banana producing countries to adapt to the new market situation;
- M. **UNDERSCORING** the need for any agreement in the framework of the Doha Round negotiations to provide sufficient legal security in order to enable the Banana Stakeholders to devise sustainable medium and long term development policies, including investment planning;
- N. **ACKNOWLEDGING** that negotiations on the second revision of the Cotonou Agreement are being held without any information on the financial envelope which will be made available for the period covered by the Revised Agreement starting in 2013;
- O. **RE-EMPHASISING** that institutional and developmental aspects of the commodity protocols should be maintained in the Revised Cotonou Partnership Agreement with the objective of providing a legal basis for the possible support to be provided to the commodity sector in the framework of the Partnership;
- P. **ALSO RECALLING** the contractual commitments made by the European Communities in (a) the full Economic Partnership Agreement (EPA) signed with CARIFORUM, (b) the Interim EPA signed with Côte d'Ivoire and (c) the individual Interim agreements concluded with several other ACP countries, particularly Cameroon and Ghana as banana-exporting members of the ACP Group;

**Q. REAFFIRMING** the serious social, economic and political dislocation that could result from the destruction of the banana industry in ACP countries, such as massive unemployment, the production and transshipment of illicit drugs as an alternative source of income, as well as the possible growing pressure for inhabitants of ACP banana producing countries to emigrate to Europe or other developed countries, which all serve to generate social and political instability;

1. **Reiterates** that tariff reduction for bananas is not a stand-alone issue, but forms part of a package towards the establishment of modalities on agriculture in the DDA as follows:
  - (i) bananas will have a separate tariff treatment in the DDA modalities on agriculture;
  - (ii) bananas will not be subject to Tropical Product treatment;
  - (iii) MFN banana suppliers, the EU and the ACP, will jointly agree on the modalities for addressing preference erosion products/tropical products in the agriculture negotiations;
  - (iv) The three parties will jointly communicate their agreement to those modalities, in writing, to the Chair of the Agriculture Committee in Special Session and the Chair of the Trade Negotiations Committee;
  - (v) This package will have to be agreed as a whole before implementation of any of its parts.
  
2. **Also reiterates** that the EC's March 2009 proposal submitted to the MFN countries, contains commitments which are more far-reaching than is required to fulfill the EC's obligations under Article XXVIII of the GATT and for complying with the WTO Appellate Body's ruling, especially in light of the substantial increase in banana imports from MFN countries under the current tariff;
  
3. **Insists**, whatever the solution proposed by the EC, on the need to first and foremost take into account the flexibilities offered by the modalities on long-standing preferences, as stated in the latest text on Agriculture Modalities, including specifically for the Banana case viz:
  - (i) implementation of tariff cuts in instalments spread over at least 10 years;
  - (ii) a three-year moratorium subsequent to the first tariff reduction;
  - (iii) provision of financial assistance in the amount of €250 million, corresponding to the minimum amount necessary to address ACP Banana-supplying States' needs for the period 2010 to 2013;
  - (iv) a commitment by the EC to participate in a joint review mechanism to assess the situation of ACP banana suppliers after 2013 and provide additional resources as required;

4. **Urges** the European Union to comply with the EC's contractual commitments, particularly those contained in the full or interim Economic Partnership Agreements, which provide *inter alia* for tariff reductions to be made only if "unavoidable" and that in any case they "should be phased in over as long a period as possible".
5. **Calls on** the European Union to ensure the concomitance between the banana deal with the MFN countries and the agreement on accompanying measures for bananas in favour of ACP countries;
6. **Urges** the European Union to ensure that new provisions are enshrined in the Cotonou Agreement in order to guarantee the EC's commitment to support the ACP Commodity sector, including Bananas, after 2013;
7. **Requests** the President of the Council of Ministers to forward this resolution to the European Commission, the Council of the European Union, the EU Member States, the European Parliament and the WTO.

Brussels, 19 November 2009

**ACP Ministers of Trade meeting  
ACP House, 12 – 13 November 2009**

**CHAIR'S REPORT**

1. The ACP Ministers of Trade met on 12 - 13 November 2009 to agree on the ACP position at the forthcoming Seventh Session of the World Trade Organization Ministerial Conference to be held in Geneva Switzerland from 29 November – 2 December 2009.

The **Opening Session**, which was chaired by Hon. Clifford Marcia, Minister for Trade and Industry of Suriname, comprised a welcoming statement by Sir John R. Kaputin, the Secretary-General of the ACP Group, followed by an **interactive High-Level Debate** on “*WTO Contribution to recovery, growth and development for developing countries, and the Review of WTO activities including the Doha Work Programme*”. These two topics are the themes of the two working sessions around which the WTO Ministerial Conference is structured.

2. Ministers had an opportunity to exchange views with the three guests present, namely
  - a) Mrs. Valentine Rugwabiza - Deputy Director-General - World Trade Organization (WTO)
  - b) Mr. David O’Sullivan – Director General for Trade – European Commission, and
  - c) Mr. Martin Khor – Executive Director – South Centre

3. In her presentation, Mrs. Valentine Rugwabiza - Deputy Director-General (DDG)- World Trade Organization (WTO), representing the Director- General, Mr. Pascal Lamy, addressed four issues, including

- a) The economic crisis, its effects on the poor countries and the fall out that the crisis has had on their development and growth;
- b) The WTO and what it can do to help contribute to the recovery and growth of these same poor countries;
- c) The Doha Round and its potential to provide one of the biggest stimulus packages to developing countries, and
- d) The preparations for the 7<sup>th</sup> Ministerial Conference

4. The DDG said the main contribution to recovery growth and development must be “keep opening trade and keep trade opened”. She further reiterated that the major benefit that the Doha Round can provide is the improved security of international trade flows and market access. Issues such trade facilitation and aid for trade are an indispensable complement for the development oriented outcome of a development oriented outcome of the Doha process of negotiations.

5. On his part, Mr. David O' Sullivan the EC Director-General for Trade analyzed the state of play of the Doha Round, expressing European Union's frustration by the failure of the United States to fully engage in the process. He submitted that without the participation of the United States, it is unlikely that the Round will be concluded. He outlined the European Commission's expectation from the 7<sup>th</sup> WTO Ministerial Conference as an opportunity to restate the importance of the multilateral trading system and create momentum for the Doha round negotiations.

6. Mr. Martin Khor considered developments in the Doha Round since it was launched 2001 and explained that the development component had been seriously diluted over time. He observed that in order to conclude the Round, a development audit should be carried out in order to identify if the finalization of the negotiations will be to the benefit of developing countries such as those in the ACP Group.

7. The ensuing debate was lively as it covered other issues such as the EPA process and other related questions.

8. The formal part of the meeting was chaired by Hon Humphrey Enemwakwu Abah, Minister for State in the Federal Ministry of Commerce and Industry of Nigeria.

9. To commence their work, Ministers received a **report of the ACP Senior Trade Officials** who had met on 11 and 12 November 2009 to prepare for the Ministerial segment. The report was presented by Ambassador Alexis ROSADO, Permanent Secretary in the Ministry of Foreign Affairs of Belize who chaired the ACP Senior Trade Officials meeting.

10. The Ministers considered the report contained in Document ACP/61/046/09 Rev 1 which, *inter alia*,

- a) analyzed issues on the agenda of the Seventh Session of the WTO Ministerial Conference - namely a Review of WTO activities, including the Doha Work Programme; The WTO's contribution to recovery, growth and development; TRIPS non-violation complaints; E-Commerce and Strengthening the WTO.

- b) views on the EPA process based on the Conclusions of the October 2009 Meeting of the ACP Technical Follow-up Group on the negotiations and implementation EPAs;
- c) Process of notification of the EPAs to the WTO and
- d) An update on the trade related aspects of the Second five-year revision of the Cotonou Agreement

11. Annexed to the report were a draft ACP Declaration on and a draft Communiqué to the Seventh Session of the WTO Ministerial Conference.

12. Ministers noted that regarding the forthcoming 7<sup>th</sup> WTO Ministerial Conference, the discussions by Senior officials were also informed by the positions taken by Ministers in the following documents:

- a) Previous ACP Council of Ministers Decisions, Declarations, and Resolutions;
- b) Africa Union Addis Ababa Declaration on WTO negotiations adopted on 20 March 2009;
- c) Dar-es-Salaam Declaration adopted by the Sixth LDC Trade Ministers' Meeting (14-16 October 2009),
- d) Declaration of the Third Meeting of Ministers of Trade of Landlocked Developing Countries (Ezulwini, Swaziland, 21-22 October 2009); and
- e) Communiqué of the Informal African WTO Trade Ministerial Meeting on "Consolidating the Development Dimension" (Cairo, 28 October 2009);

13. Ministers took note of the general theme of the 7<sup>th</sup> WTO Ministerial Conference, which is **“the WTO, the Multilateral Trading System and the Current Global Economic Environment”**.

14. Concerning the **Review of WTO activities, including the Doha Work Programme**, which will be the subject of the first Ministerial Working Session at the WTO Conference, Ministers took note of the general observations and recommendations as contained in paragraphs 8 – 22 and agreed that these could constitute useful elements for the debate.

15. With regard to **“WTO's contribution to recovery, growth and development”**, which will be the subject of the second Ministerial Working Session at the WTO Conference, the Ministers took note of the issues highlighted in paragraphs 23 – 25 and again agreed that these could constitute useful elements for the debate on this item in Geneva.

16. Ministers took note of the **exchange of views on the EPA Process as well as on the notification to the WTO** as covered in paragraphs 27 – 33 of the report as well as the update.

17. Following deliberations on the report, Ministers agreed to adopt the report with slight modifications. The report adopted by Ministers is contained in Document ACP/61/046/09 Final.

18. Submitted for the endorsement of Council are three documents:

- a. The report of Senior Trade Officials as adopted by the ACP Ministers of Trade - ACP/61/046/09 Final
- b. ACP Declaration on the Seventh session of the WTO Ministerial Conference issued on 13 November 2009 - (ACP/61/045/09 Final) and
- c. Communiqué to the Seventh Session of the WTO Ministerial Conference issued in Brussels on 13 November 2009.

19. Ministers acknowledged the untiring efforts of the Senior Trade Officials, including the ACP Geneva Group and also the Secretary-General and his team for ensuring a successful meeting of the ACP Ministers of Trade.

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**Report of the  
Meeting of ACP Senior Trade Officials  
ACP House, 11-12 November 2009**

**AS ADOPTED BY**  
**THE ACP MINISTERS F TRADE**

1. The ACP Senior Trade Officials met on 11 and 12 November 2009 to prepare for the meeting of the ACP Ministers of Trade. In their meeting, Ministers of Trade would agree on a common position of the ACP Group with respect to the Seventh Session of the WTO Ministerial Conference (MC7), which will take place in Geneva, Switzerland, at the Geneva International Conference Centre over three days from 30 November to 2 December 2009. It will be a regular ministerial conference providing an opportunity for discussion and direction at Ministerial level on all activities of the WTO, including negotiations, under the general theme of “**The WTO, the Multilateral Trading System and the Current Global Economic Environment**”. Ministerial deliberations will be conducted in parallel in a plenary session and two working sessions on respectively (1) “*Review of WTO activities, including the Doha Work Programme*”, and (2) “*The WTO's contribution to recovery, growth and development*”.

2. Sir John R. Kaputin, Secretary-General of the ACP Group of States, delivered the welcoming statement and outlined the issues to be addressed in the meeting. He also recognized and thanked all the organizations and personalities involved in the preparation for the meeting of Senior Officials.

3. The meeting was chaired by Amb. Alexis ROSADO, Permanent Secretary in the Ministry of Foreign Affairs of Belize.

4. The meeting adopted its agenda contained in document ACP/61/036/09 Rev. 1. The main issues were as follows:

- a) Preparation for 7<sup>th</sup> WTO Ministerial Conference - Review of WTO activities, including the Doha Work Programme; The WTO's contribution to recovery, growth and development; TRIPS non-violation complaints; E-Commerce and Strengthening the WTO.
- b) Consideration of the Draft ACP Declaration on and Communiqué to the 7<sup>th</sup> WTO Ministerial Conference;
- c) Exchange of views on the EPA process based on the Conclusions of the October 2009 Meeting of the ACP Technical Follow-up Group on the negotiations and implementation of EPAs; and Notification to the WTO including implication of WTO developments on the EPA process; and

- d) An update on the trade related aspects of the Second Five-Year Revision of the Cotonou Agreement.

#### **A. Preparation for 7<sup>th</sup> WTO Ministerial Conference**

5. The meeting was assisted in its deliberations on WTO issues, by the following background documents:

- a) WTO's role in the Economic recovery, growth and development – an ACP perspective – ODI report commissioned by the Commonwealth Secretariat;
- b) Briefing note on the Doha work programme (WTI Advisors);
- c) Information paper on the 7<sup>th</sup> WTO Ministerial Conference; and
- d) Inclusive trade architecture – 6 key issues (IDEAS Centre).

6. The meeting also benefited from positions taken in the following documents:

- a) Previous ACP Council of Ministers Decisions, Declarations, and Resolutions;
- b) Africa Union Addis Ababa Declaration on WTO negotiations adopted on 20 March 2009;
- c) Dar-es-Salaam Declaration adopted by the Sixth LDC Trade Ministers' Meeting (14-16 October 2009),
- d) Communiqué of the Informal African WTO Trade Ministerial Meeting on "Consolidating the Development Dimension" (Cairo, 28 October 2009); and
- e) Declaration of the Third Meeting of Ministers of Trade of Landlocked Developing Countries (Ezulwini, Swaziland, 21-22 October 2009).

7. H. E. Mr. MARUPING, Ambassador of Lesotho and representing the ACP Coordinator in Geneva introduced the issues on the agenda. The following constitutes aspects of Amb. Maruping's presentation as well as points made in the ensuing discussions.

#### **WTO's role in the Economic recovery, growth and development**

8. It is clear that the WTO has a role to play in helping ACP States transform their economies, allowing for recovery, growth and development. Some of the challenges that the ACP States are facing and which the WTO could assist in meeting relate to diversification of their economies; addressing supply side constraints; ensuring greater policy space in WTO rules, enhancing flexibilities in the rules, facilitating the

sequencing and management of trade liberalization, providing adequate aid for trade and creating greater cooperation and dialogue with the Bretton Woods Institutions, as well as with other international organizations such as the FAO and UNCTAD.

**(I) “Review of WTO activities, including the Doha Work Programme”**

**Negotiations under the Doha Round**

9. The need for an expeditious conclusion to the round with strong and tangible development outcomes in all areas of the negotiations and the overall outcome must be balanced. In this regard, a proposal for an early harvest package could be considered including on the following issues of priority interest to ACP States:
  - a) Duty and quota-free access for all exports of all LDCs with simpler and transparent rules of origin.
  - b) Ambitious, expeditious and specific for cotton trade-related aspects.
  - c) Positive trade related as well as other accompanying measures to improve utilization of long standing preferences and offset preference erosion in agriculture and NAMA, ensuring that it occurs at a pace consistent with capacity of beneficiary countries to adjust to competitive changes.
  - d) Under agriculture, full elimination of all forms of export subsidies by developed countries by 2013.
  - e) ensuring fair and balanced outcome for bananas,
  - f) full and effective implementation of modalities for special treatment for LDCs including granting a waiver from the MFN obligation in Article II of GATS to permit preferential and more favourable treatment to services and service suppliers of all LDCs.
  
10. Other important issues for ACP States include:
  - a) effective and substantial reductions in trade distorting domestic support across all elements of the domestic support pillar,
  - b) Special safeguard measures in agriculture with modalities that are simple, effective and operational.
  - c) addressing the needs of net food importing developing countries,

- d) ensuring that sensitive products in agriculture do not impede the level of ambition resulting from tariff reduction formula, application of “less than full reciprocity” principle in NAMA,
- e) Commercially meaningful market access in all services modes and sectors of interest to developing countries, particular Mode 4
- f) addressing non-tariff barriers,
- g) promoting commodities development,
- h) providing special and differential treatment to fisheries subsidies,
- i) ensuring a trade facilitation agreement with binding financial and technical assistance,
- j) promoting transfer of technology and address trade, debt and finance.

### **Implementation and monitoring of WTO Agreements**

11. Priority attention must be given to addressing supply-side constraints of ACP States to facilitate their full integration into the multilateral trading system and secure a meaningful share of world trade. In this regard, technical, institutional and administrative capacity constraints to comply with implementation issues are a cause for concern, in areas such as

- a) transparency and notification obligations related to SPS, TBT and import licensing and
- b) complying with standards in main export markets (SPS and TBT).

12. The lack of an adequate regulatory framework to address certain issues such as Intellectual Property and competition policy and institutional weaknesses also constitute an obstacle to

- a) ensure technological transfer and
- b) make use of rights and flexibility provided in the WTO agreements.

13. The need to ensure availability and predictability of adequate technical and financial support to address these capacity constraints continues to be important.

14. Implementation of WTO agreements may impact policy space necessary for economic development of ACP States. Thus there is need to ensure that commitments emerging from the Doha Round respond effectively to ACP States' need for policy flexibility in promoting industrial,

agricultural and services development. In this regard, the operationalization and the monitoring of provisions of special and differential treatment are important. The establishment of a Monitoring Mechanism, under the auspices of the General Council, to monitor all special and differential treatment provisions and related capacity building and technical assistance commitments remains relevant.

15. The monitoring of trade policy changes that might result in potentially trade distorting measures becomes urgent in the light of the global economic and financial crisis and trends towards protectionism. At the beginning of the current crisis, a surveillance process was put in place to track new protection measures through the Trade Policy Review Mechanism (TPRM). The TPRM should be reinforced to perform this exercise regularly, and make recommendations on arresting and reversing protectionist measures.

### **Dispute Settlement**

16. ACP States continue to be concerned about the lack of effectiveness of the remedies to be applied in the dispute settlement mechanism. In order to improve access to and benefit from this important pillar of the WTO, and taking into account their experience to date, there is need to ensure that at least one panelist is from a developing country; provide special attention to particular problems and interest of developing country members during the consultation, panel and Appellate Body procedures and take into account the relevant special and differential provisions.

### **Building trade capacity**

17. ACP States stress the need for concerted and enhanced trade capacity, with sufficient funding, to be provided to them by WTO and other international organizations. This would facilitate taking advantage of opportunities arising from WTO rules and negotiations. In the global crisis context, trade-related assistance to help the diversification process and facilitate adjustment to global shocks becomes even more relevant and urgent.

18. ACP calls for strong support for the WTO Aid for Trade initiative. The initiative should be implemented with expeditious funding that is additional, sufficient and predictable, and made operational at national and regional levels and delivered locally and multilaterally.

19. ACP States also underline the importance of the Enhanced Integrated Framework for LDCs (EIF). The EIF has been made operational but its implementation in LDCs must be expedited. The promised funds for the EIF by donors should be expeditiously disbursed.

### **WTO accession**

20. It is recognized that the following ACP States are at various stages of acceding to the WTO: Bahamas, Comoros, Equatorial Guinea, Ethiopia, Liberia, Samoa, Sao Tome and Principe, Seychelles, Sudan and Vanuatu. The process of WTO accession has become increasingly onerous and costly, particularly for LDCs and SVEs. ACP States in the accession process should not be required to make concessions and commitments that are incompatible with their level of development and vulnerability, and which exceed current commitments of members at the same level of development. Further, enhanced technical assistance should be provided by WTO and other international organizations like UNCTAD to acceding ACP States.

### **The imperative of a transparent and inclusive multilateral process**

21. The ACP reiterated the importance of a fair, equitable and transparent rules-based multilateral trading system. Negotiations in the WTO must be inclusive and transparent in order to ensure political ownership of the process, work programme and the outcome of negotiations. The multilateral process should prevail as a means to discuss and agree on solutions on issues of interest and concern to all and especially the weaker members, including the ACP States.

22. The submission by a group of countries on strengthening the WTO (WT/MIN(09)/W/1) and by India (WT/GC/W/605) provides a basis to initiate a deliberate process of discussion of systemic improvements to the functioning, efficiency and transparency of the WTO, to respond better to the new global economic environment.

23. However, the strengthening of the WTO should not entail any additional costs to the ACP bearing in mind that participation in the WTO has been extremely expensive for the ACP States

## **(II) “The WTO's contribution to recovery, growth and development”**

24. The global financial and economic crisis is exerting substantial negative effect on ACP States' trade, growth and development prospects. The recession brought about by the crisis is undermining trade flows, resulting in falling export volumes and values. This in turn is being translated into declining output, job cuts, reduction in Government and family incomes, placing Governments, enterprises and people into difficult financial and social situations and worsening poverty. The impact of the crisis is made more severe by falling commodity prices, and declining financial inflow via FDI, remittances and ODA. The developmental impact is further aggravated by the impact of ongoing food crisis, fluctuation energy prices, and climate change which is acutely experienced by ACP States.

25. The WTO can make a contribution to economic recovery, growth and development of ACP States by helping them to tackle the long term structural weakness impeding an effective and beneficial participation in international trade. This contribution can be made through the WTO's role as an arena for negotiations, a launching pad for capacity building actions such as Aid for Trade, a forum for debate to promote awareness and transparency on trade policy measures, and a body for monitoring trade policy development and settling trade disputes.

26. In making such contribution however, the WTO needs to provide specific solutions to ACP States given their vulnerability (including to natural disasters) and particular needs including in regard to LDCs, small and vulnerable economies, landlocked developing countries, preference dependent countries, net food importing developing countries, highly indebted poor countries, limited commodity exporting countries, countries in the process of WTO accession, and countries in conflict or post-conflict situations. The following are some areas in which WTO's contribution can be important to reviving and sustaining economic growth in ACP States and promoting development:

- a) Achieving tangible development results in Doha negotiations in agriculture, non-agricultural market access, services and rules; in three important areas of bananas, cotton and sugar; and in areas of special and differential treatment for ACP States and other developing countries, providing flexibility in use of trade and trade-related policy instruments to foster trade growth and generate development finance.
- b) Ensuring that new forms of protectionism and market entry barriers including non-tariff ones must be prevented, arrested and/ or rolled-back.
- c) Monitoring and reporting on trade and investment measures by major trading nations like the recent WTO report on G-20 countries is useful. The finding of such reports should be discussed among WTO members to encourage countries to refrain from adopting new trade barriers, including through the Trade Policy Review Mechanism.
- d) Ensuring the stability of long standing preferences provided to ACP States via such instruments as AGOA, EBA and Cotonou Agreement and through duty free quota free treatment of products of LDCs. Technical and financial assistance should be provided to preference-receiving countries to develop production capacities to take advantage of the trade preferences. Transparent and simple rules of origins should be provided.
- e) Creating new, and multilaterally secure, market access and entry opportunities for ACP States and ensuring that such opportunities are stable and predictable by way of:
  - i. Concluding the Doha Round with effective market access for exports of agriculture, manufactures, and services from ACP States.
  - ii. Facilitating the formation of South-South regional trade agreements among ACP States while ensuring the inclusion of developmental provisions in WTO rules affecting regional trade agreements.

- f) Supporting ACP States in increasing and diversifying their productive capacities and export basket, including into new trade sectors or those sectors that are growing dynamically in world markets by way of:
- i. Mobilizing international support and collaborating with international organizations to help ACP States restructure and develop their commodity sectors with strong poverty alleviation impact especially commodity bananas, cotton and sugar.
  - ii. Building sustainable agriculture sector, especially in food production, of particularly net food importing developing countries and LDCs to meet domestic food needs through effective implementation of the relevant WTO decision.
  - iii. Helping ACP States develop capacities to meet products standards and phyto-sanitary standard, and strengthening cooperation with other relevant international organizations to help ACP States and their SMEs develop international standards and participate effectively in international standard setting bodies.
  - iv. Building supply-side capacity and trade-related infrastructure through implementing expeditiously the Aid for Trade initiative, with additional (to ODA) and adequate aid that is also predictable and easily accessible by ACP States, as well as being non-debt-creating.
  - v. Providing an early harvest under the Doha round (as suggested above).

## **B. ACP DECLARATION AND COMMUNIQUE**

27. The Meeting recommended that in order to fully capture the ACP position on the 7<sup>th</sup> WTO Ministerial Conference, the ACP Ministers should consider adopting a Declaration containing details of issues agreed by the ACP as well as a Communiqué that would send a political message of the Group to the WTO membership. The drafts of the two documents presented for consideration and adoption are attached as follows:

- a) ACP Declaration on the Seventh Session of the WTO Ministerial Conference (ACP/61/045/09 Rev.6) and
- b) Communiqué issued by the ACP Group to the Seventh Session of the WTO Ministerial Conference.

## **C. EXCHANGE OF VIEWS ON THE EPA PROCESS**

27. On the basis of a report of the Technical Follow-up Group on EPA negotiations and implementation, which was presented by the Secretariat, the meeting had a brief exchange of views on the EPA process.

28. The meeting regretted the lack of participation of one EPA regional negotiating configuration and sought to know the circumstances leading to their absence in the meeting of the Technical Follow-up Group on EPA negotiations and implementation. It was explained that this was probably due to another clashing engagement.

29. On how to resolve the contentious issues in the EPAs, the meeting recalled the decision of the ACP summit to hold an ACP-EC summit level consultations and sought reasons why this had not taken place. It was explained that the EC side had been reluctant to have such an engagement on the claim that some of these issues seem to have been satisfactorily resolved and that the EPA process had borne positive results lately, including signature of the interim agreements by a number of ACP States in the ESA, SADC EPA and Pacific negotiating configurations.

30. Rules of origin were identified as an impediment to trade. The meeting called for a review so that cumulation can take place at the regional and all ACP levels, including with non-EPA ACP States. It was reported that the EC is reviewing its non-preferential rules of origin with third parties, with a view to harmonization.

## **Notification to the WTO**

31. A representative of the WTI Advisors made a presentation on the notification of EPAs to the WTO on the basis of a notification manual that was circulated to the participants.

32. The meeting noted that while it was a requirement to notify interim or full EPAs to the WTO, as they are implemented, signature is not a technical precondition for notification. The EC had insisted on signature ostensibly because this was a legal prerequisite on its part.

33. Compliance with the current provisions of Article XXIV of GATT as interpreted by the EC, in terms of definition of substantially all trade and transition periods, was identified as a major stumbling block for most ACP States and regions to conclude the trade in goods part of the EPAs.

### **D. UPDATE ON THE TRADE RELATED ASPECTS OF THE SECOND FIVE-YEAR REVISION OF THE COTONOU AGREEMENT**

34. An update on the trade related aspects of the second revision of the Cotonou Agreement as contained in document ACP/00/072/09 was provided to the meeting for information.

35. The meeting took note of this information.

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**ACP/61/045/09 /Final**

**Brussels, 13 November 2009**

*Sustainable Economic Development & Trade*

**ACP DECLARATION  
ON THE SEVENTH SESSION OF THE WTO MINISTERIAL CONFERENCE**

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**Preamble:**

We, Ministers responsible for trade matters from the African, Caribbean and Pacific (ACP) Group of States, meeting in Brussels from 12 - 13 November 2009 to review progress on the WTO Doha Work Programme negotiations;

*Recalling* the Doha Ministerial Declaration adopted by the Fourth WTO Ministerial Conference in Doha, Qatar in November 2001, in which WTO Members undertook to place the development needs and interests of developing countries at the heart of the Work Programme adopted by the Conference;

*Acknowledging that* the July 2004 Framework Agreement was an important milestone in the Doha process of negotiations after the setback in the Cancun Ministerial Conference;

*Recalling all* the ACP Declarations, adopted since 2001, on the previous WTO Ministerial Conferences and the respective outcomes of ACP and G90 Trade Ministers meetings as well as the ACP positions on the negotiating issues on the Doha Work Programme, which outlined the specific needs and concerns of ACP countries;

*Reaffirming* in this regard the outcomes of recent ministerial meetings which included ACP States, including the Addis Ababa Declaration on WTO negotiations adopted on 20 March 2009; the Dar-es-Salam Declaration adopted by the Sixth LDC Trade Ministers' Meeting held in Dar-es-Salam on 15 October 2009; the Ezulwini Declaration adopted at the Third Meeting of Trade Ministers of Landlocked Developing Countries (LLDCs) held in Ezulwini, Kingdom of Swaziland on 21-22 October 2009; and the Cairo Communiqué adopted by the African Trade Ministers in Cairo, on 29 October 2009;

*Emphasizing* that more than fifty percent of ACP States are Least Developed Countries (LDCs) and therefore emphasizing the need for this category of countries to receive priority attention in order to facilitate their full integration into the multilateral trading system and global economy;

*Further emphasizing* that within the ACP Group, there are also categories of Small Island Developing States (SIDs), Small Vulnerable Economies (SVEs), Landlocked Developing Countries, Landlocked LDCs, preference dependent economies, Net Food Importing Developing Countries (NFIDCs), Low Income countries, Highly Indebted Poor Countries (HIPC), limited commodity exporting countries, and countries in war, post-conflict, and post-natural disaster situations whose vulnerability and lack of resilience to external economic shocks and to natural disasters expose them to a high degree of fragility and high risk of marginalization in the multilateral trading system;

*Stressing* that any outcome of the Seventh WTO Ministerial Conference should not entail any additional burden on ACP States;

*Noting* that failure to conclude the Doha Round has resulted in a proliferation of bilateral trading arrangements, including Free trade Areas, which may weaken the multilateral trading system and more importantly adversely affect the anticipated benefits for the ACP from the outcome of the Round;

*Convinced* that many of the dominant structures and current rules governing global trading relations among countries are inequitable and continue to impede access to the universally available opportunities provided through the multilateral trading system and achievement of the Millennium Development Goals (MDGs);

*Reaffirming*, therefore, the importance of a multilateral trading system based on equitable rules as a tool for sustained economic growth and sustainable development, as well as alleviating poverty with a view to its eradication and the need for Members of the ACP Group to secure a meaningful share of world trade;

*Recognizing* in this regard that the implementation of the Doha Work Programme presents an opportunity to reform the multilateral trading system through fair and balanced rules, enhanced market access and well targeted and sustainable financial and technical assistance and capacity building programmes that will enhance the legitimacy, credibility and universality of the system, thereby creating a basis for a new equitable global economic order for the benefit of all WTO Members;

*Deeply concerned* with the slow and onerous process of accession to the WTO, affecting ACP countries, particularly LDCs and SVEs;

*Deeply concerned* also by the lack of progress and inadequate attention to the development issues included in the Doha Work Programme;

*Deeply alarmed* by the adverse effects of the global economic and financial crisis as well as food and fuel crises on ACP countries and the protectionist tendencies being adopted in many developed countries and therefore underscoring the need for the WTO to be fully equipped in order to address such challenges;

*Welcoming* the strong renewal of political commitment that emerged from the G20 leaders Summit held in Pittsburgh in September 2009 to re-engage in the Doha negotiations with a view to a speedy conclusion of the Doha Round in 2010;

*Re-emphasizing* in this regard the need for the negotiations to be carried out in a fully transparent, multilateral manner to ensure political ownership of both process and outcome, and to be guided by the chairpersons of negotiating committees based on members' contributions and multilaterally agreed texts to ensure the legitimacy and balance of the outcome;

*Insisting* on the need to preserve progress and convergence achieved during 2008 in all the Doha negotiating tracks under the Single Undertaking and as reflected in the most recent draft modalities texts which must be the basis for a continuation of the negotiations, and in cautioning against backtracking on the progress and convergences reached so far; and

Reaffirming our full solidarity with the African Group and the LDCs within the G90 grouping, as well as with other developing-country groups (G20, G33, NAMA-11, SVEs, C-4) and our determination to continue to work together to secure a fair, equitable and balanced multilateral trading system that takes fully into account the development objectives of the Doha Round.

Hereby adopt the following common position in the context of the forthcoming *Seventh Session of the WTO Ministerial Conference* and thereafter:

## **I. KEY PRINCIPLES**

1. We underline that the continued constructive engagement of the ACP Group will be guided by the following principles relating to both process and substance:
  - (a) the importance of preserving and achieving tangible development results in each of the negotiating tracks of the Doha Round and in the overall final outcome, which also represents an important multilateral response to the ongoing global economic and financial crisis, particularly to the ACP countries;
  - (b) the importance of preserving and building on progress achieved so far in the DDA negotiations, and cautioning against attempts to reinterpret or change the agreed mandates or deviate from agreed principles in the negotiations through the selective re-sequencing of issues or re-opening of stabilized parts of modalities texts or to backtrack on commitments;
  - (c) the resumption of negotiations should be on the basis of the July 2008 convergence and the December 2008 revised draft modalities texts in Agriculture and NAMA and should be chair-driven;
  - (d) Special and Differential Treatment should remain central to the negotiations as it is an important instrument for integrating the ACP States into the multilateral trading system. These negotiations should be based on balanced and consensually agreed agendas and in this respect, issues pertaining to the ACP Group should be adequately addressed and not sidelined or relegated so that they can join the consensus for the successful conclusion of the DDA;
  - (e) the negotiations should be carried out in a multilateral, inclusive and transparent manner based on member's contributions, under the guidance of the Chairpersons to ensure the full legitimacy and balance of the outcome;
  - (f) a successful conclusion of the Doha Round should have meaningful outcomes in its key development components which for the ACP Group include Cotton, Implementation issues and Concerns, the special situation of LDCs and DFQF market access, Small Economies, Commodity issues, Bananas, Preferences in Agriculture and NAMA, Fisheries Subsidies, TRIPS-CBD, Technical Assistance, Capacity Building, Transfer of Technology and Trade, Debt and Finance.

- (g) In addition to the provision of Aid for Trade, firm commitments by our development partners on providing adequate financial, technical and technological assistance and capacity building programmes, through the existing delivery mechanisms, especially the Enhanced Integrated Framework and other complementary mechanisms, should be core elements of the final outcome including that on Trade Facilitation. Such assistance and programmes should be the key elements of the development dimension of the multilateral trading system and should, *inter alia*, enhance the supply side capacity of ACP states to enable them to fully participate in the system.

## **II. DEVELOPMENT ISSUES**

### **Special and Differential Treatment**

2. We reiterate our concern over the lack of effective progress on development issues under negotiations in the Committee on Trade and Development in Special Session. We note with concern that discussions on the 16 Agreement Specific proposals have made little progress and reiterate our demand that Members should re-engage in these negotiations with an accelerated, result-oriented approach in line with the Doha mandate. We are also concerned about the lack of clarity over the progress of the other Agreement-Specific proposals moved to other WTO bodies. We therefore urge members to intensify efforts and exercise the necessary political will to ensure that all SDT provisions under review are made effective, precise and operational and that the outcome responds to the development needs and concerns of ACP countries. We emphasize that the Monitoring Mechanism is aimed at ensuring adequate and proper implementation of strengthened SDT provisions including those under negotiation. Therefore, it should include appropriate elements to achieve this objective.

### **Implementation-Related Issues and Concerns**

3. We recall that in paragraph 12 of the Doha Ministerial Declaration, members agreed to find appropriate solutions to implementation-related issues and concerns. Positive results have not been achieved either under the mandates from Doha Ministerial Declaration or from the subsequent July 2004 Framework Agreement. Indeed, all the issues and concerns raised in this context remain outstanding. We therefore urge that appropriate solutions be found and implemented without any further delay.

### **Least Developed Countries**

4. We reiterate the need to address the issues of concern to LDCs on a priority basis and to have an "early harvest" on the implementation of the paragraph 36 of the Annex F of the Hong Kong WTO Ministerial Declaration; a waiver decision on preferential and more favourable treatment of services and services suppliers of LDCs; and an ambitious, expeditious and specific outcome for cotton trade-related aspects, in particular the elimination of trade-distorting domestic support measures and export subsidies, and the granting of duty-free and quota-free (DFQF) market access for cotton and cotton by-products originating from LDCs.

### **Small, Vulnerable Economies**

5. Recognizing the work that has gone into addressing SVEs concerns in some negotiating groups, we urge the WTO membership to continue to address, in a substantive and meaningful manner, the particular structural disadvantages and inherent vulnerabilities of small, vulnerable economies.
6. We reaffirm Paragraph 35 of the Doha Declaration and paragraph 41 of the Hong Kong Ministerial Declaration and call for due regard to be given to the priorities of SVEs in all areas of the negotiations given their specific characteristics and problems and the need to ensure their further integration into the multilateral trading system.

#### **1.1. Landlocked LDCs, Landlocked developing countries, Small Island Developing States (SIDS) and Low-lying coastal developing countries**

7. We also reaffirm the need for WTO to address the particular problems, challenges and needs of landlocked developing countries, landlocked LDCs, small island developing states and Low-lying coastal developing countries.

### **Commodity Issues**

8. We call, in light of the current global economic and financial crisis, for an amendment to the Agreement on Agriculture to include a specific article on agricultural commodities that will take as reference the paragraphs 91 to 102 of the draft modalities text of December 2008 and the establishment of an appropriate corresponding Annex. To this end, the case for a multilateral solution to the issue of agricultural commodities and the provision of technical and financial assistance to agricultural commodities exporting developing countries becomes even more compelling.
9. We underline further that commodity exporting dependent LDCs and SVEs are largely vulnerable to changes and shocks in the international commodity markets. In addition, massive commodity subsidies and other protectionist measures including non-tariff barriers (NTBs) applied by some countries continue to negatively affect LDCs commodity trading and development opportunities.

## **Trade, Debt and Finance**

10. We recognize that the establishment of the Working Group on Trade, Debt and Finance (WGTDF) is one of the concrete manifestations of focusing on development in the Doha Work Programme. To this end, the ACP Group has factored into its submission WT/WGTDF/W/30 the need to establish a regular Committee on Trade, Debt and Finance with a view to addressing key issues of concerns for ACP countries. In that regard, we:

- (i-) Call upon the Working Group to review relevant WTO Agreements with a view to examining their causal relationship with the problems of financial instability, exchange rate volatility, financial flows, balance-of-payments, costs of adjustments, and external indebtedness. Such a review may result in a need for changes in such WTO Agreements in order to effectively address the trade-related causes of external account imbalances or balance-of-payments problems experienced by developing and least-developed countries.
- (ii-) Call upon the Working Group to coordinate with the Bretton Woods Institutions in accordance with the coherence mandate.
- (iii-) Reiterate that there is need to address the supply side constraints and adjustment costs that ACP countries face as a result of trade liberalization that affects their terms of trade and creating broader macroeconomic problems, as well as meeting of standards. However, this agenda should operate free of conditionalities and, should be provided strictly in grant form.
- (iv-) Recall the debt situation of several ACP countries and call upon the working group to identify appropriate proposals with a view to resolving the trade-related aspects of debt.
- (v-) Call for deep reflection on the international monetary system, as well as on the root causes of the global financial crisis, with a view to eradicating the adverse effects on the developing countries, particularly by adopting concrete measures.

### **Trade and Transfer of Technology**

11. We reaffirm the continued relevance of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme. We, therefore, call for more focused work in the Working Group on Trade and Transfer of Technology with a view to, inter alia, identifying and addressing the barriers to increased flows of technologies and levels of technological innovations to ACP States.

## **III - AGRICULTURE**

12. Agriculture is of critical importance to the economies of the majority of ACP States. The outcome of agriculture negotiations will determine the level of ambition in other areas. We emphasize that the modalities to be agreed upon, should take into account the need for appropriate policy space that would allow ACP countries to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns, while ensuring the maintenance of long standing preferential access and

fostering improved market access for the agricultural products of ACP countries, both in primary and processed forms.

13. The draft modalities on Agriculture issued on December 6, 2008 reflect the state of play in the agriculture negotiations. Although it fails to adequately address a number of issues that are of key interest to ACP Countries, we consider the December 6, 2008 text as the basis for the continuation of negotiations.
14. The overall balance of the Agriculture text must be assessed in the light of the outcomes on currently unresolved issues. We stress that any further efforts to close gaps and refine the text require political will and must be the product of a genuine multilateral, transparent and bottom-up process.

### Market Access

15. ***We are concerned at the increasing layers of flexibilities being granted to some Developed members regarding Sensitive Products, and we stress that modalities for sensitive products should not impede the level of ambition realized by the tariff reduction formula.***
16. ***We reaffirm in addition, that NFIDCs with no TRQs commitments shall be allowed to deviate from the tariff reduction formula for all their sensitive products.***
17. We consider that modalities at paragraph 65 and related ones of the revised draft modalities text of 6 December 2008 (TN/AG/W/4/Rev4) relating to the formula for tariff reductions and designation of Special Products in respect of SVEs are stabilized and should not be re-opened.
18. We also recognize the vulnerability of our fragile economies, and therefore underscore the importance of the SSM, and reaffirm that its modalities should be simple, effective and operational in addressing import surges and should be based on both volume and price triggers. Further, it should be a permanent feature of the Agreement on Agriculture and its remedies to apply beyond the Uruguay Round bound level.
19. We further stress that SSM modalities should be accessible and allow for more favourable *treatment for* SVEs and LDCs. In this regard, we support the proposal of the SVEs as reflected in Document TN/AG/GEN/29 dated 9 February 2009 and urge that this be given due attention. We also support calls by the LDCs for the SSM arrangement for LDCs to be more flexible than for other Members and to have no ceiling level for LDCs to increase tariffs above pre-Doha bound rates if needed to address those concerns.

## **Preferences**

20. We reiterate our call that, with a view to mainstreaming development in the Doha Round, the issues of longstanding preferences and preference erosion should be resolved by means of trade based solutions over an implementation period of at least ten years, as well as necessary accompanying measures to enable the preference dependent countries to adapt to a liberalized trading environment during and beyond the transition period. Furthermore, we underline the need to preserve the convergence reached on preferences in July 2008, to capture the interests and concerns of preference receiving countries.
21. We recognize with appreciation that there are a number of existing trade preferences initiatives established to integrate developing countries and LDCs into the global trading system. However, factors such as rules of origin requirements and implementation procedures, excessive application of SPS and NTBs as well as supply-side constraints continue to disrupt effective and predictable market access for LDCs.
22. We, therefore, urge the full implementation of the principle of Special and Differential Treatment for these development oriented preferences and other initiatives including the provision to LDCs of financial and technical assistance, technology transfer for capacity building, flexibility in implementation of commitments and the implementation of the commitment to grant Duty Free Quota Free market access by WTO developed, and developing countries declaring themselves to be in a position to do so, to all products originating from all LDCs. In addition, other policy measures undertaken by WTO members should take into account the development interests of LDCs.

## **Domestic Support**

23. We stress that realizing the mandate of achieving effective and substantial reductions in Trade Distorting Domestic Support is a priority for ACP countries; therefore, we are concerned with the preservation or grant of high levels of flexibilities for developed members that will no doubt reduce the level of ambition sought under domestic support modalities.

## **Export Competition**

24. We underscore the importance of implementing the agreement reached in Hong Kong as reflected in the Ministerial Declaration, namely the full elimination of all forms of Export Subsidies by developed countries by 2013.
25. We stress, in light of the current global economic and financial crisis and its effect on Trade Finance, that, modalities for Export Competition should take into account the impact of this crisis on the ACP countries, especially ACP NFIDCs and LDCs.

## **Export Restrictions and Prohibition**

26. It is essential to exempt NFIDCs and LDCs from any new disciplines to be agreed upon with regard to Export Restrictions and Prohibition; therefore, we urge that the December 6, 2008 modalities should be further clarified to achieve this objective. We underscore the importance of access to food for NFIDCs and LDCs, and we urge members and relevant international organizations to coordinate their actions to guarantee access to food for those countries by increasing their food security.

## **Bananas**

27. We re-affirm that the successful outcome of the Banana dossier in the framework of the Doha Round negotiations rests on securing the following three elements:

- a. Establishment of favourable EC MFN tariff treatment for the maintenance of ACP exports to the European market with full and integral legally-secured status before the WTO. To this end, the MFN tariff must be frozen after the initial reduction in the absence of an agreement in the Doha Round; alternatively, a 3-year freeze following the initial reduction would be necessary;
- b. Acceptance of the ACP proposals on designating specific items to benefit from preference erosion treatment since, ultimately the treatment of bananas of Bananas, Tropical Products, and Preference Erosion in a unified package is critically dependent on it;
- c. Delivery of a flexible, expeditious and efficient adjustment package to adequately meet the real needs of the ACP banana- producing countries as regards:
  - § Strengthening their competitiveness for sustainable development,
  - § restructuring their banana industries,
  - § diversifying their agriculture sectors, and,
  - § re-adjusting their economies which are dependent on banana exports as their mainstay.

28. We reiterate our support and solidarity for the banana-producing countries affected by erosion of the above-mentioned preferences with a view to the swift and successful conclusion of the Doha Development Round.

## **Cotton**

29. We support the declarations made by C4 Ministers of Trade on 8th, October 2009 in Ouagadougou, Burkina Faso and reiterate our call for an outcome on cotton that is compliant with the Hong Kong mandate and that will take the following into consideration:
- The application of the formula for the reduction of the domestic support granted to cotton proposed by the C4 , and reproduced in the draft modalities text of December 2008 ;
  - Fixing of specific caps for blue box domestic support granted to cotton, amounting to 1/3 of what would otherwise have been the resultant from the methodology advocated in the Chairman's text;
  - The application of the additional "two for one" discipline on the increase in domestic support from amber to blue box;
  - The period of reference of 1995-2000 for cotton.
30. We also urge the developed countries concerned to table clear written proposals to reduce subsidies in conformity with the Hong Kong mandate.
31. We suggest that a range of amounts for trade-distorting subsidies be adopted as a basis for further negotiations and call upon WTO Members to achieve, on an "early harvest basis" an ambitious, expeditious and specific outcome for cotton trade aspects to help African cotton producers.
32. We encourage the WTO Director General to continue his consultations on development aid, as part of the Consultative Framework Mechanism, pursuant to the Hong Kong mandate, with a view to finding an expeditious, appropriate solution to the crisis that is threatening ACP cotton producers with extinction if nothing is done for their safeguard. In this regard, we remain committed to seeking support in financing the safety net that is to be introduced at the time of crisis, to address revenue losses as a result of declining prices in the international markets.
33. We reiterate the Group's solidarity with all the ACP cotton producers and recall that without an appropriate and lasting solution to the vital issue of cotton there can be no conclusion to the Doha Round as was underscored in the final conclusion of the High Level Meeting on Cotton held in Geneva in March 2007.

## **Sugar**

34. We need to ensure that for Sugar and products with high sugar content (a) the implementation of tariff cuts in equal installments are spread over ten years following a two-year moratorium period as detailed in the July convergence package; (b) should the EC declare sugar as sensitive, the lowest TRQ expansion be introduced through ten equal annual installments;

(c) the binding of tariffs is made in specific (i.e. non Ad valorem equivalents) rates; (d) the Special Safeguard Clause be maintained ; and (e) there are provisions for necessary accompanying measures to support ACP sugar supplying States.

#### **IV. NON-AGRICULTURAL MARKET ACCESS (NAMA)**

35. We support efforts to advance NAMA negotiations on the basis of the draft revised NAMA modalities text issued on 6 December 2008 (TN/MA/W/103/Rev.3), and caution against any backtracking in the NAMA negotiations. We further emphasize the need to preserve progress achieved during the year 2008. We consider that the modalities at paragraph 13 of TN/MA/W/103/Rev.3 relating to the treatment for the SVEs are stabilized and should not be re-opened.
36. We reiterate that the final outcome of Non-agricultural Market Access (NAMA) negotiations should reflect the developmental concerns and interests of the ACP economies and help to promote development of their industrial capacity.
37. We further urge that any agreed modalities in NAMA, and in particular for developing members subject to formula cuts, take full account of Para 16 of the Doha Declaration on less than full reciprocity in reduction commitments. Furthermore, we urge that the modalities in NAMA fully accommodate the proposal by SACU, as it is based on genuine developmental concerns and the situation of this group.
38. We also urge that the NAMA modalities take account of the needs of ACP countries with low bound tariffs who are members of customs unions among developing countries including LDCs and the need to realign their bound tariffs.
39. We recall on Sectorals that the mandate for participation is on a non-mandatory basis. Furthermore, sectoral initiatives should neither be linked to the tariff cut formula nor have any impact on products that are enjoying tariff preferences. In addition, we are highly concerned that some sectoral initiatives, especially textiles clothing and footwear, fish and fish-products, gems and jewelry, will have adverse effects on our industries and exports and call for such initiatives to exclude products of export interests to ACP countries, particularly those tariff lines identified as being vulnerable to preferences.
40. We reiterate our concern at the impact of preference erosion on our otherwise fragile economies and more so that the majority of our membership is dependent on trade preferences. We urge that any solution arrived at for the 'Disproportionately Affected Countries' should not in any way erode further the preferences particularly for the LDCs.

41. In relation to capacity building, we maintain that preference granting members and others in position to do so shall provide targeted technical assistance including additional financial and capacity building assistance to help preference receiving ACP members in building competitiveness in face of MFN tariff reduction.
42. Non Tarrif Barriers (NTBs) remain a serious concern to the growth of ACP exports to third country markets. Information on the application of such NTBs by our trading partners remains limited across the ACP regions. We urge that regional resources be mobilized among ACP constituent members supported by technical assistance/capacity building from regional and international organizations. We further urge that proposals not gaining support, such as the proposal for Elimination of Export Taxes, be excluded from NAMA negotiations.
43. We stress the need for ACP States to be able to take or maintain appropriate policy measures for the purposes of their industrial development through *inter alia*, export prohibition measures that may be deemed necessary;

#### **V. SCHEDULING IN BOTH AGRICULTURE AND NAMA**

44. We take note of the technical discussions on the templates of the schedules, but stress that modalities are a pre-requisite to the scheduling process, and that an agreement on the templates of the schedules should be based on the current draft modalities text both in Agriculture (TN/AG/W/4/Rev.4) and NAMA (TN/MA/W/103.Rev3). We further stress that these technical discussions should be conducted in a transparent and inclusive manner and should not affect the understandings reached in the current draft modalities and the balances achieved so far.
45. We emphasize the need for the ACP Group to develop its position with regard to the different elements of the Template exercise through deeper technical analysis that takes into account the different needs of our countries. We stress in this regard the need for capacity building with respect to the scheduling and verification processes, including through the funding of participation of the capital-based experts in the scheduling discussions taking place in Geneva and appropriate training at the level of the relevant ministries and departments in ACP States.

#### **VI. SERVICES**

46. We take note of the state of play of the Services Negotiations as well as the elements proposed for their completion as reflected in the Chair's text of 28th of July 2008. While we remain cognizant that no consensus has been reached on a new text in Services, we believe that there is a considerable level of agreement that the elements for the completion of the negotiations are in place and should proceed in accordance with the Doha Declaration, as well as the Hong Kong Declaration, including Annex C. We reiterate our rights emanating from the flexibilities provided for developing countries and LDCs in the General Agreement on Trade in Services (GATS), and in all other related negotiating mandates.

47. We emphasize that the global economic and financial crisis has adversely affected the services sectors of ACP countries, and call upon our trading partners, particularly developed countries, to undertake meaningful market access commitments in sectors and Modes of supply that are of export interest to ACP countries, particularly Mode 4, and to maintain the comparability and sequencing of Market Access negotiations which should be linked to the level of ambition attained in Agriculture and NAMA, as well as to the overall balance within the Single Undertaking of the DDA.
48. We stress that ACP States have undertaken extensive efforts in liberalizing their services sectors. Accordingly, any outcome of the services negotiations should take into account the efforts already made by ACP countries in this regard, with due account to their level of development and human, institutional and regulatory capacities.
49. We reaffirm that ACP countries should benefit from Special and Differential Treatment and appropriate Technical Assistance and Capacity Building during the negotiating process and before the beginning of the implementation of commitments. To this end, we urge that satisfactory LDC's modalities as well as S&D proposals be made operational as soon as possible or at the latest before the end of the negotiations.
50. We underscore that any text-based negotiations on Domestic Regulations should be development oriented, and effectively address regulatory and related barriers faced by services suppliers from ACP countries. Moreover, they should include appropriate flexibilities & effective provisions for institutional building and technical assistance for ACP countries.
51. We underline that the global economic and financial crisis will have far reaching implications on how financial services will be traded in the future. Accordingly, we stress the importance of analyzing these implications and reviewing work on this issue in relevant WTO bodies.

## **VII. TRADE FACILITATION**

52. We reiterate the importance attached to the issue of Trade Facilitation, and remain positively engaged to reach a satisfactory outcome for all parties in the current negotiations with the aim to clarify and improve movement, release and clearance of goods including goods in transit.

53. We reaffirm the importance of providing developing countries with the mandatory Special & Differential Treatment (SDT), and Technical Assistance and Capacity Building (TACB), as outlined in Annex D of the July 2004 Framework, and Annex E of the Hong Kong Ministerial Declaration in December 2005 respectively.
54. We also reaffirm that any final outcome should directly link implementation of commitments to the acquisition of capacity through the provision of TACB to Developing Countries. Therefore, such outcome should also contain a clearly defined operational mechanism for the delivery of TACB and in that context, a clear commitment from the donor community to provide TACB to ACP and LDCs countries. Thus, we stress that Developing and Least-developed countries should not be required to implement any commitments unless their requests for TACB have been adequately responded to by donors, and after they have acquired the necessary capacity to implement such commitments.
55. The special situation and needs of ACP Landlocked and transit countries with respect to transit of goods should also be taken into account. In that regard, substantial and predictable financial assistance should be provided to assist the development of necessary infrastructure in ACP countries, particularly in LDCs, as a crucial element in facilitating trade.
56. We emphasize that the ACP Group attaches great importance to footnote 1 of Annex D of the July 2004 Framework Agreement. This provides the flexibility regarding the possible format of the final result of the TF negotiations, thus allowing for consideration of various forms of outcome.
57. We continue to reiterate in this regard that any agreement on Trade Facilitation should contain mandatory provisions on TACB and be in parallel with the completion of negotiations on other issues of particular concern to the ACP Group such as development issues, cotton, DFQF for LDCs and the understanding that the agreement on Trade Facilitation will be completed as part of the Doha Round Single Undertaking.

## **VIII. RULES**

58. We urge developed countries to recognize the concerns and needs of our countries in the rules negotiations and, in particular, the vital importance of special and differential treatment. Adequate attention must be given to the proposals made by our countries so as to ensure that the resulting Agreements have a development dimension.
59. We reiterate the need to avoid the introduction of more complex rules and disciplines under the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures. The complexity of the existing Agreements and the costs associated for ACP States to the use of the anti-dumping and countervailing instruments already limit our ability to exercise the right of our countries to effectively challenge injurious dumping or subsidization. We are, therefore, concerned that the amendments proposed in the consolidated draft texts on Rules in December

2008 will make it even more complicated for our countries to apply the relevant measures where a domestic industry is suffering from injury as a consequence of dumped or subsidized imports. We reaffirm in this respect that the outcome of the Rules Negotiations must be implementable by all countries, regardless of their level of development.

60. We stress that adequate technical assistance should be provided to enable ACP countries to effectively enforce their rights under the Anti-Dumping Agreement in line with recent joint African/ACP/LDCs proposal on Anti-Dumping.
61. Recognizing that ACP member countries are currently engaged in negotiations on a raft of Regional Trade Agreements, in particular, the ACP EC Economic Partnership Agreements (EPAs), we emphasize that the outcomes of these negotiations must be reflective of, and consistent with, the developmental objectives of ACP members. We, therefore, call on WTO Members to reactivate negotiations, as prescribed by the Doha mandate, to “clarify and improve” disciplines of GATT Article XXIV of GATT 1994 in order to allow for enhanced Special and Differential Treatment and flexibilities for Developing and Least Developed Countries that take into account their specific needs and levels of development. We take note that some WTO members want to develop a mechanism to review Preferential Trade Arrangements. We urge that such a mechanism should not adversely affect the flexibilities available to ACP States and should not constrain the ability of developed countries to provide preferential access to their markets or the ability of ACP states to have access to those markets.

### **Fisheries subsidies**

62. We re-emphasize that effective disciplines for fisheries management systems, if appropriate in any WTO Agreement, should not impose any undue burdens on the ACP States and should only constitute the basic and minimum elements of a good fisheries management system. They should reflect the realities of the ACP Group, especially their capacity constraints. Finally, the WTO framework should provide for strengthened provisions on technical assistance for the implementation of effective fisheries management systems.
63. We stress the need for effective special and differential treatment for ACP States at the WTO, with appropriate exemptions for the artisanal fisheries sector, which is at the core of our development priorities for poverty reduction, the maintenance of sustainable livelihoods and food security. We further stress that effective special and differential treatment flexibilities and policy space should also be provided for semi-industrial and industrial fisheries, and processing facilities.

## **IX. TRADE AND ENVIRONMENT**

64. Noting that WTO Members have not yet agreed on a common definition to the environmental goods and services (EGS), we stress that negotiations should continue within the Committee on Trade and Environment in Special Session (CTE-SS) with a view to reaching a balanced and fair agreement on the fulfillment of the mandate, in particular on the appropriate approach to liberalize trade in environmental goods and services (EGS).
65. We call for greater attention to be paid in these negotiations to the development related aspects and cross-cutting Special and Differential Treatment issues, such as technical assistance, capacity-building and transfer of technology and the need to avoid creating any additional burden for ACP States in the liberalization of EGS and undermining their competitive advantage.
66. We stress the need for developed countries to make ambitious, concrete and unconditional offers at the Copenhagen Climate Conference to reduce green house gas emissions and provide on an urgent basis appropriate mitigation and adaptation assistance to developing countries, which are already suffering from the effects of climate change. This assistance should be channelled through appropriate mechanisms such as the proposed Global Fund for Adaptation and should be dedicated to addressing the impact of climate change and be additional to existing commitments.

## **X. TRIPS/CONVENTION ON BIOLOGICAL DIVERSITY (CBD) AND GEOGRAPHICAL INDICATIONS(GIs)**

67. We recognize the value of patents in fighting bio-piracy and urge that, in order to establish a mutually supportive relationship between the TRIPS Agreement and the Convention on Biological Diversity in implementing the obligations under the two agreements, the outcome of the negotiations in TRIPS Council should lead, through an amendment to the TRIPS Agreement, to mandatory requirement for patent applicants to disclose the origin of biological material and traditional knowledge used in their inventions, evidence of prior informed consent and benefit sharing arrangements with the country of origin and the relevant communities. Particular emphasis should be put on the enforceability mechanism at the WTO, making the WTO one of the fora for rule-making in this area; with appropriate capacity building being provided to help ACP States with limited resources in this respect.
68. We also recognize that Geographical Indications (GIs) have both offensive (products that we can protect in external markets) and defensive (foreign products that we will need to protect in our own markets) interests for ACP States. We, therefore, call for a deeper analysis of potential GIs in ACP States without prejudice to the ACP position on the matter.

## **Non-violation and situation complaints under TRIPS**

69. We continue to stress that non-violation and situation complaints should not apply to the TRIPS Agreement. Until this is agreed, we request an extension of the moratorium whereby members will not initiate such complaints under the TRIPS Agreement.

## **XI. DISPUTE SETTLEMENT**

70. Considering the difficulties that ACP countries face in using the dispute settlement mechanism in order to promote and safeguard their interests as well as their legitimate expectations in the multilateral trading system, we urge that the outcome of the DSU negotiations should lead to a conclusion that would facilitate the full participation of ACP countries in the dispute settlement system.
71. We support in this respect the proposals made by the African Group on: enhanced third party rights (no need to demonstrate a trade or economic interest in a dispute as a precondition for admission as a third party); restriction of acceptance of unsolicited submissions to panel and Appellate Body (to safeguard the intergovernmental nature of the dispute settlement mechanism by refusing submissions to Panel and Appellate Body from any unsolicited party); collective enforcement of recommendations and rulings of the DSB (to allow a third member to retaliate against a developed country which fails to comply with the DSB rulings) and dispute settlement fund (to facilitate the effective use by developing countries and LDCs of the dispute settlement mechanism).

## **XII. AID FOR TRADE**

72. We emphasize the need to ensure that the recommendations of the Aid for Trade Task Force, and those resulting from the proceedings of the national, regional and the WTO global Reviews meetings are implemented effectively, consistently and coherently.
73. We call on all the bilateral and institutional development partners, especially in light of the economic and financial crisis, to fulfill their pledges under the Aid for Trade initiative, and to engage fully in country-led approaches for assisting ACP countries, LDCs, LLDCs, small vulnerable ACP countries and low-income ACP countries, including acceding countries, in maximizing the benefits of trade. We call on donors to ensure that financial commitments directed to Aid for Trade are maintained and increased.

74. We strongly recommend that the regional dimension of projects and programmes initiated in ACP regions, in line with its developmental priorities, be taken into account, and that an appropriate and effective monitoring and evaluation mechanism be established.
75. We stress that as preference-dependent economies, the ACP attaches great importance to the delivery of Aid for Trade on a wider scope consistent with the provisions of the draft NAMA and Agriculture modalities. We view Aid for Trade as a source for the provision of adequate additional resources on a predictable and sustainable basis to finance adjustment costs arising from trade liberalisation and to enhance the competitiveness of our products. The ACP Group fully supports the role of the WTO in monitoring both Aid for Trade flows and its impact.

### **XIII. ENHANCED INTEGRATED FRAMEWORK**

76. We call for a reinforcement of the Enhanced Integrated Framework (EIF) for the effective fulfillment of its objectives, *inter alia*, adequate additional predictable financial resources to implement EIF Action Matrices, and strengthening in-country capacities to manage, implement and monitor the EIF process.

### **XIV. ACCESSION**

77. We reaffirm our full solidarity with all ACP countries, particularly LDCs that are in the WTO accession process, and urge all WTO members to facilitate and accelerate their accession. Acceding ACP states should not be required to make concessions that would constrain their level of development and go beyond current WTO rules. We therefore call upon the General Council to expedite action to review the current accession process with the aims of clarifying relevant provisions for accession and recommending reforms to the whole process.
78. In addition, accession should focus primarily on the trade policies and practices of acceding countries, rather than other extraneous considerations. We also reaffirm the need for the adoption of a binding mechanism to fast-track the accession of LDCs, to avoid raising non-trade concerns, and to faithfully facilitate and accelerate the negotiations for those LDCs that are in the process of accession to the WTO.
79. We also call on our development partners to intensify the provision of technical assistance and support for capacity building at all stages of the accession process to acceding ACP countries.
80. We fully support the Document WT/GC/W/611 presented by Gabon on behalf of the Informal Group of developing countries during the last meeting of the General Council held

on 20 October 2009 that contained specific recommendations for improving and facilitating a more expeditious and fair accession process of developing countries, especially the LDCs.

#### **XV. THE SEVENTH SESSION OF THE WTO MINISTERIAL CONFERENCE**

81. We underline the importance of the 7th session of the WTO Ministerial Conference which, despite not being a negotiating session, will provide a platform for Members to express their views and concerns relating to the regular work of the WTO, and its contribution to enhancing the multilateral trading system in the current global economic environment. In this regard, we welcome the initiative led by several members seeking to establish a deliberative process to review the activities of the WTO in order to improve its transparency, efficiency and functioning. We look forward, therefore, to effectively and constructively participating in the deliberations of the conference, including in the proposed two working sessions.
82. We urge the Chairperson of the Seventh session of the WTO Ministerial Conference to give due consideration to the present Declaration in his summary of the deliberations.

Done in Brussels, 13 November 2009