



Programme:	<i>Technical Assistance to the Integration to the Multilateral Trading System and Support to the Integrated Framework</i>
Country/Region:	ACP Countries
Project title:	Support the participation of ACP Countries, ACP Regional Integration Organisations, ACP Convenor and ACP Focal Points to the 9th WTO Ministerial Conference
Source of Financing:	Third Programme Estimate - Activity n° 081-13

ANNEX II: TERMS OF REFERENCE

Beneficiary

ACP Non-LDC Countries, ACP Regional Integration Organizations, ACP Convenor and ACP Focal Points.

Contracting Authority

The Contracting Authority for this project is the Programme Management Unit (PMU) of the ACP MTS PROGRAMME on behalf of the Regional Authorising Officer for the European Development Project N°2013/318-040.

ACP Background

ACP countries are heavily immersed in the negotiation and treatment of issues under the rubric of the multilateral trading system. Defined under the WTO nomenclature as a “group of countries with preferential trading relations with the EU under the former Lomé Treaty now called the Cotonou Agreement”, the ACP Group is the second largest WTO Group – behind the G90, of which it is its major constituent. The ACP therefore accounts for more than half of the entire slate of WTO Members.

Courtesy of IMF/World Bank adjustment programmes, most ACP countries introduced radical economic reforms in the 1980s. Measures introduced included privatization of former state-owned firms, liberalization of capital accounts, relaxation of exchange rates controls and the removal of fixed currencies. One major complement was also the autonomous liberalization of trade measures. Resulting in, *inter alia*, the lowering of both tariffs and non-tariff barriers.

These economic reforms resulted in ACP economies becoming far more open to the vagaries of the international trade, finance and investment flows. This paradigm was based on the assumption progressive integration of markets for goods and services would deliver economic growth and development in developing countries including those belonging to the ACP. This shift to more liberal trade regimes trade also inflicted a number of adverse effects in ACP countries. Partially to counterbalance these injurious economic effects, WTO Members agreed to launch a development-centred round of trade negotiations in Doha in 2001. The Doha Development Agenda (DDA) was launched to address, *inter alia*, the specific challenges faced by developing and least developed countries in the Multilateral Trading System. More specifically, the DDA was tasked with recalibrating the multilateral trading system by placing development at its core.

However, after a record 12 years of negotiations, progress in the Doha Round has been stymied. In fact, the DDA is close to collapse after spending many years in a state of near comatose. Serious concerns have been expressed about the impact that failure to conclude the Round might have on the credibility of the WTO. These fears are heightened in light of the current trend to advance trade reforms through regional trade agreements. However, the greatest impact is reserved for developing countries, and more so the poor and small ACP States’. After all, these countries are awaiting the completion of the DDA in



a manner that would deliver the promised development dividend. Cotton is perhaps the most notable case of the need to remedy systemic injustices in the current MTS.

There is no shortage of plausible explanations for the impasse currently engulfing the negotiations. The most popular mooted ones are (a) lack of agreement on the articulation of development in the multilateral trading system (and the attendant innate conflict between development and mercantilism); (b) Teutonic changes in the global economic architecture with the rise of the BRICS and increased political prominence of ACP, LDC and SVE Groups coupled with the failure to balance interests of industrialised and emerging economies; (c) changing economic paradigms with the limits of trade liberalization being exposed or already pocketed, also linked to the length of DDA negotiations and currency of the original Doha mandate; (d) absence of political leadership by traditional powers (most notably in the EU, US and Japan); (e) confidence in the MTS dented by uncertainty on the treatment of new issues such as climate change, energy, food security and value chains; and (f) the near universal rise of plurilateralism and bilateralism has also contributed to the lack of unfettered embrace of multilateralism.

The near concurrent negotiation of Economic Partnership Agreements has also heavily influenced the approach by ACP countries to the DDA exercise. Recall that EPAs were launched in 2002, less than one year after the DDA process began. These two parallel processes created a number of severe challenges for ACP, most notably, in terms of (a) technical span with new trade issues emerging and (b) the human and financial capital exacted. A further source of complication remains that most ACP countries also south to advance their respective regional integration processes in a context where multilateral and bilateral trade rules were being re-crafted.

Furthermore, DDA negotiations have been affected by two other major factors. First, the global economic crisis still resonates with major poles of economic activity such as the EU and US still exuding sluggish growth. One critical issue behind this global economic turn down is that a new form of protectionism has emerged that is not rooted solely in hiking tariffs. Instead, the new form of protectionism is expressed by the increased use of regulatory measures to hinder trade, ore specifically imports. Second, South-South trade is advancing spurred by the advanced emerging economies' voracious demand for minerals and agricultural commodities. The fact that this form of trade is booming compels ACP States to collectively reflect if new multilateral rules are warranted at any price.

In spite of the context of collective cogitation and near comatose of the DDA process, the 9th WTO Ministerial Conference holds special significance to ACP countries. Here it should be noted that 60 ACP States are WTO Members (including 29 designated LDCs) with another 8 seeking to accede to the WTO. ACP States belong to three other WTO major groups, namely, LDCs, SVEs and African Group. In that context, the ACP countries are typically poor, vulnerable countries exuding a number of trade characteristics. These countries are open, i.e. trade constitutes a high share relative to GDP. In that context, trade constitutes a major policy mechanism in which development can be spurred. In addition to being trade-dependent, ACP States are preference-dependent, with an acute reliance on preferential access to the EU and US markets. Yet another key attribute of ACP trade profile is that Members of the Group tend are low on the value chain with their exports of minerals and agricultural commodities. This fact assumes even greater policy importance in light of the new phenomenon of global value chains (GVCs) and the imperative of capturing greater value. The emergence of mega-RTAs such as the Trans-Pacific Partnership and Trans-Atlantic Trade and Investment Partnership threaten to condemn ACP countries to further marginalisation in global trade. Allied to this remains the concern that the new mega-RTAs could allow for the establishment of new RTA architecture and standards that would be imported into the WTO.

One final and critical contextual issue faces the convening of the 9th WTO Ministerial. The current state of DDA negotiation is advancing at an intense pace and with an investment of technical ad political goodwill. However, Members are also realistic enough to be detained with the question of a post-Bali Work programme. For example, the African



Group has already proposed that the 28 Agreement-specific proposals on SDT should constitute one major plank of this post-Bali agenda. The strategic contemplation of the elements constituting a possible Bali-Work programme is nevertheless compromised by two additional actors. First, concerns timing – when should Members actively consider the framing of a post-MC9 agenda and would not its timing compromise the pursuit of the MC9 package? Second, to what extent can Members be assured that the completion of the Bali-package would not herald the *de facto* suspension of the Doha Agenda? Here, there is serious (albeit quiet concern) that in case the Trade facilitation package is completed at Bali, the US would be dis-incentivised to retain interest in completing the remainder of the DDA.

Relevant WTO Background

ACP countries' involvement in the Multilateral Trading System applies both to the longstanding negotiation of the Doha Development Round and the treatment of general WTO issues such as trade policy monitoring, trade and development and AfT. DDA negotiations are currently facing a severe impasse but expectations remain that a package of "Bali deliverables" - trade facilitation, agriculture and special and differential treatment - will emerge. Additional issues under contemplation are an LDC package comprised of accession, services waiver and cotton. The WTO Ministerial Conference will offer the opportunity to address a host of non-DDA issues as TRIPS non-violation and the moratorium on customs duties on electronic commerce. The 9th WTO Ministerial Conference will also take place in a context of a host of new global trade developments involving traditional ACP partners such as the US, EU and Australia, and the possible negotiation of a Trade in Services Agreement. The 9th WTO Ministerial Conference therefore offers a platform for the 159 WTO Members to collectively reflect on these and other important trade developments.

The 9th WTO Ministerial Conference and the potential conclusion of the Doha Round are of particular interest for ACP Members as they face strong challenges in their trade development agenda. These countries' physical nature (island-states, landlocked and coastal states), lack of economies of scale and inherent high cost of transport all contribute to a systemic lack of export competitiveness. Further economic constraints stem from reduced diversification of export markets and products, limited internal market and being post-conflict countries with numerous governance challenges. The defence of their interests in the Doha Development Agenda is a crucial requirement in order to deliver the objective of further integration into the world economy as a path towards alleviating poverty for their members. Furthermore, the Ministerial Conference will also facilitate the ACP and its Members to hold intensive consultations with major WTO Members and groupings such as the African Group, C-4, SVEs, LDCs, G90, G33 and Friends of Development.

As a result of this policy imperative, ACP countries' participation in multilateral trade negotiations could be further strengthened. All of this should positively redound to improving the capacity of the ACP WTO Members to frame, articulate their core WTO interests and ultimately benefit from the promotion of their interests in the multilateral trading system.

Atmospherics of MC9 Preparations

The 9th WTO Ministerial Conference takes place at a most challenging time for the WTO. The organization overseeing the multilateral trading system faces a series of challenges. Most notably, a sense of stasis now engulfs negotiations of the Doha Development Agenda (DDA). Although negotiations remain vibrant, the results have been far less satisfactory. This is even more pronounced for developing countries that were promised a development dividend from the DDA's conclusion. At this juncture, the Bali WTO Ministerial will at best, deliver DDA results limited to trade facilitation, export competition, food security and a clutch of development issues.



In preparation for MC9, Geneva-based trade negotiators are also considering a series of other issues of germane importance to ACP Members. This specifically revolves around a series of LDC issues, namely, accession, operationalizing the services waiver and cotton. Given the current state of negotiations, a positive outcome in Bali can already be anticipated for accession and services. For example, the Ministerial decision on LDC accession could bolster both the speed and terms of many ACP Members' accession to the WTO.

However, the prospects of a successful 9th Ministerial hinges on the treatment of two substantive issues. The first concerns the treatment of the G33 proposal on food security. Norway has made a proposal whereby the Agriculture text would not be amended but an understanding reached whereby but country-specific treatment could be tolerated. This Norwegian proposal has resulted in a significantly improved level of engagement in the Special Session on Agriculture.

The second substantive issue relates to Trade Facilitation where technical negotiations have advanced and resulted in the halving of the number of outstanding brackets. The challenging issues are concentrated in the fields of customs cooperation and transit. Nevertheless, all WTO Members are immersed in vigorous negotiations aimed at bridging the remaining gaps. An agreement on TF remains both technically and politically feasible. In part momentum in TF has arisen due to the strength of commitments by industrialized Members on trade capacity building measures. Nevertheless, a clear link has emerged with respect to the treatment of the G3 proposal on food security and TF negotiations. A further complication stems from the recent EU/US statements to withdraw earlier commitments to cease the use of export subsidies. These industrialized Members (major users of export subsidies) argue that their offer was contingent on overall progress in all facets of AGRIL negotiations.

The new WTO DG has pleaded for increased engagement of capitals, and in particular, Ministers. DG Azevedo's argument rests on the claim that the outstanding challenges relate to the height of ambition in the three areas of the Bali package, i.e. development, agriculture and trade facilitation. With respect to the latter, the DG argues that current brackets reflect the pursuit of either binding or best endeavour commitments. In this context, only Ministers directing their Geneva-based diplomats can make the requisite calls.

Finally, it should be recalled that MC9 remains a regular WTO Ministerial Conference. WTO Members all believe that elevating the Bali Ministerial to a negotiating session would pose severe risks to the multilateral trading system, more specifically, that of possible failure at a Cancun. Therefore, WTO Members are determined that the relevance and value of the MTS is not impaired, and resultantly, are determined to work towards a successful MC9.

ACP MC9 Preparatory Process

ACP positions for MC9 were framed at the October 7-10 Ministerial Trade Committee (MTC). Discussions at that Ministerial meeting resulted in the adoption of an ACP MC9 Declaration. The document enumerating the ACP political guidance for MC9 enumerates a number of key principles such as recognising that an MC9 outcome should be viewed as a minimum package; a balance outcome with the treatment of ACP and LDC interests remains paramount; progress in other areas that would allow for an early harvest consistent with Para. 47 of the Doha Ministerial Declaration; importance to preserve the gains already secured in the negotiations; SDT must remain the cornerstone of the effective participation of ACP States in the multilateral trading system; and effective trade capacity building measures should be provided in a predictable and effective manner. These principles coupled with the Group's firm position on Agriculture, Trade Facilitation and Development were also transmitted to the EU during the October 11 meeting of the Joint MTC.



REQUEST

The ACP Secretariat has submitted a request for the ACP MTS Programme to SUPPORT THE PARTICIPATION OF ACP DELEGATES TO THE 9TH WTO MINISTERIAL CONFERENCE TO BE HELD IN BALI ON 3-6 DECEMBER 2013. The Programme would support one delegate from each of the 35 eligible ACP Countries that are not receiving support from the WTO Secretariat as well as one delegate from each ACP Regional integration Organisation (11), the ACP Coordinator in Geneva and three (3) ACP Focal points.

The **35 eligible countries** to be supported by the Programme are the following¹:

The Bahamas, Barbados, Belize, Botswana, Cameroon, Cape Verde, Congo, Côte d'Ivoire, Dominica, Dominican Rep., Fiji, Gabon, Ghana, Guyana, Jamaica, Kenya, Liberia**, Mauritania*, Mauritius, Namibia, Niger*, Nigeria, Papua New Guinea, Senegal**, St Kitts & Nevis, St Lucia, São Tomé & Príncipe*, Seychelles, Suriname, Swaziland, Timor-Leste**, Tonga, Trinidad & Tobago, Tuvalu**, Zimbabwe.

The **13 Regional Integration Organisations** to be supported by our Programme are the following: Africa Union Commission, CARICOM, CEMAC, COMESA, EAC, ECCAS, ECOWAS, IGAD, IOC, OECS, PIFS, SADC and UEMOA. It should be noted that the participation of ACP RIOs to MC9 is yet to be approved by the WTO Secretariat.

The Programme will also support the participation of **4 Brussels-based Ambassadors**, (Chairman of the Committee of Ambassadors and, inter alia, Sub-Committee on Trade), the **ACP Coordinator** in Geneva and the **3 Geneva-based ACP Focal Points** specialised in the issues that constitute the Bali Package, i.e. Trade Facilitation, Agriculture and Development.

It is anticipated that the ACP MTS Programme will support a total of **56 ACP participants**.

A **Logistics Expert** will be recruited to undertake all the practical arrangements such as identifying and contacting participants, concluding all travel arrangements and booking of air flights, paying per diems, collecting all supporting documents etc.

Due to the limited time available and the type of consultancy work that is requested for this assignment, the PMU intends to organize and supervise the implementation of this assignment by directly recruiting a Logistics Expert to handle all administrative issues as appropriate.

Attached for your kind consideration are the ACP Secretariat formal request and the proposed budget for this activity which will be financed under the B.L. "1.1.2 Negotiations".

Furthermore, we invite you to sanction the PMU to enter into contracts with value less than 20.000 Euros to implement the project. Finally, please note that the PMU has adequate funds to cater for the implementation of this project.

¹ *ACP LDCs but not listed as countries supported by the WTO

**4 Countries eligible for support but failed to answer to WTO invitation; provision is made for these countries in case support for their participation is needed.