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The Road to Nairobi: The Doha Development Round at the Crossroads.

3rd – 4th November, Nairobi

This report summarizes the proceedings of a conference organized by Rosa Luxemburg Foundation, in collaboration with SEATINI Uganda/Kenya AND Kenya Human Rights Commission (KHRC) held under the theme "The road to Nairobi: The Doha Development Round at the Crossroads: Civil Society Forum in Preparation for the World Trade Organisation's 10th Ministerial Conference" in Nairobi, Kenya from 2-4, November 2015.

Introduction

Rosa Luxemburg Foundation, in collaboration with Southern and Eastern African Trade Information and Negotiations Institute (SEATINI) and the Kenya Human Rights Commission (KHRC) held a conference under the theme "The road to Nairobi: The Doha Development Round at the Crossroads: Civil Society Forum in Preparation for the World Trade Organisation's 10th Ministerial Conference" in Nairobi, Kenya from 2nd – 4th, November 2015. The Conference brought together a wide range of stakeholders (i.e. Government negotiators, policy makers, practitioners, academics, representatives from donor agencies, EU, the private sector and civil society) from LDCs, developing and developed countries.

The Conference objectives were to; closely examine the implications of the current Doha Round negotiations state of play on key areas i.e. on food security, industrialization, poverty reduction, and environmental sustainability and policy space, discuss the state of the global trade system and the future of the WTO. Special considerations received new developments ranging from WTO plus arrangements, mega regionals i.e. Trans-Atlantic Trade and Investment Partnership² (TTIP), Trans Pacific Trade Partnership (TPP), swelling bilateral investment agreements among others. The Conference also aimed to deliberate and share civil society strategy for participation in MC10 and parallel events.

Opening session

Siegfried Schroeder, Director, RLF East African Regional Office noted that RLF was proud of their international work that incessantly brings together key stakeholders to analyse contemporary challenges of trade and development policy. Mr. Schroeder noted that the current state of play in Doha Development Round (DDR) reflects a major diversion from the original promises of the Round and the expectations 'developing' countries and LDCs had in the process. He cited that the recent years have seen a pronounced shift by developed members of the WTO to set aside permanently the entire development mandate of the Doha Round and to replace it with an alternative agenda which is at odds with the original development objectives of the Round.

He therefore stressed that as the WTO marks its 20th anniversary, it is imperative to note that further attempts are being made to end the Doha Development Round at all costs. We find it necessary during this Conference to assess the WTO over the last two decades and more specifically Africa's participation in the Multilateral Trading System.

Ms. Elizabeth Kariuki, a programme manager from the Kenya Rights Commission on the other hand, thanked all participants for attending the conference and bringing their expertise from different backgrounds. She noted that KHRC is pleased to be part of the discussions on WTO,

¹ The Doha Development Agenda (DDA) was launched in November 2001 in Doha, Qatar, at the WTO's Fourth Ministerial Conference. The outcome document, the Doha Declaration focused on the concerns of the developing countries promising major reforms to agriculture, particularly reductions in subsidies and tariffs provided by developed countries, Non-Agricultural Market Access (NAMA), special and differential treatment for developing countries, services, and trade facilitation.

² The Transatlantic Trade and Investment Partnership (TTIP) is a comprehensive free trade and investment treaty currently being negotiated – in secret – between the European Union and the United States of America.

DDA and taking stock of WTO progress over the last 20 years. Trade justice is pivotal in KRC, seeking to achieve the goal of protecting workers and small scale producers for inclusive economy-shared prosperity for all, she noted.

Keynote address

In his keynote address, Mr Oduor O'ngwen, a member of the SEATINI-Kenya board noted that African countries have since the creation of the WTO had challenges in understanding and appreciating the implications of the Multilateral Trading Systems (MTS) on their economies. This capacity gap he observed, met by inadequate access to information continues to undermine Africa's position in the global policy making. Furthermore, he underscored the tenacity and contribution of the Trade Justice Movement in shaping fashioning alternative economic paradigms.

He supported the Statement by Kenyan Minister of Foreign Affairs and International Trade Hon. Amina Mohammed that the forthcoming ministerial conference must produce a credible outcome. Oduor emphasised that the Singapore issues (competition policy, investment, Transparency in government procurement), rejected since the launch of Doha should not be carried back in Nairobi. He reiterated that the outcomes of the Nairobi MC10 should be assessed by how they respond to the development needs of African countries, LDCs, poor and marginalized economies of the world.

Mr. Oduor suggested a number of proposals with regard to MC10 i.e. the need to address the developments concerns, the need to avoid rushing into signing an agreement, putting agriculture and food security at the centre, review of Aid for Trade Initiative. He also called upon the East African Community countries to implement the 2006 EAC negotiations Act so as to have a collective expression during the MC10.



Mr. Oduor O'ngwen delivering his key note address

The Multilateral Trading System and the emergence of plurilateral trading arrangements

The session panellists included Ambassador Nathan Irumba, the Chief Executive Director for SEATINI, Florian Horn from RLF Brussels and Gyekye Tanoh from Third Word Network, Ghana

Ambassador Nathan Irumba gave an overview and analysis of the dynamisms in the multilateral trading system noting that the rise of mega - trading blocs such as TTIP, TTP and others has been motivated by both economic and strategic interests of the West. He observed that the systemic impacts of these mega – regional agreements were undermining the functions of the WTO and in this process consequently re-shaping global policy making to the detriment of especially Africa and developing countries. The Ambassador stressed that in response to these developments, Africa's priority objectives as outlined in their vision, should promote regional integration and intra-African trade as a building blocs for the continents participation in the global system.

Florian Horn in his submission argued that the driving force for Europe's engagement in TTP negotiations was the need to sojourn energy dependence from Russia as well as containing the Russian influence in Eastern Europe. Florian re-emphasised the point that TTIP will most definitely create new templates for trade negotiations around the world particularly in the so called 21st Century issues such as intellectual property, investment, transparency in government procurement among others. Furthermore, the plenary brought into debate how mega – regionals were re-defining the role of the state by jeopardising policy space in critical areas like food sovereignty, public health and safety among others.

Gyekye Tanoh provided an insight into the current geo- political undercurrents that Africa should be cautious of in the MTS emphasising the fact that the continent has taken on policy prescriptions which further lock in IMF and WB Structural Adjustment. He re-echoed a quote by Senator Hillary Clinton that describes multilateral trade governance structure as an “economic NATO”. He added that the explicit goal of US and EU trade policy was to provide economic models for the rest of the world and advised any settlement during the Nairobi Ministerial should maintain the built in agenda to correct systemic imbalances.

In the plenary, discussions ensued on the need for African alternatives given that the continent was mainly a taker of policy prescriptions by the West, IMF and the World Bank. Some suggested for a de -link from the West and for Africa to consider promising options in the East and within the continent itself.

The Doha Development Round negotiations: Agriculture, Cotton, Special and Differential Treatment, Market Access and Food Security

The session panellist included Mr. Manyara, from Trade Mark East Africa Agnes Kirabo from Food Rights Alliance, Uganda, Fred Njehu of Kenya Human Rights Commission, Justus Mwololo from Kenya Small Scale Farmers Forum and Ndongo Samba Sylla from RLF Senegal

Mr Manyara pointed out that since the Uruguay Round, developing countries have waited 20 years for the application of the Built-In Agenda of the WTO Agreement on Agriculture to reform agriculture but in vain. He added that the developed countries have made no attempt to significantly reduce all their trade distorting subsidies and Africa was continuing to witness the negative implications of these imbalances. In conclusion, Manyara stressed that modifications of

in the WTO Agreement on Agriculture with regard to direct payments to developed country farmers should be amended as they do not address the current trade distortions.

Justus Mwololo maintained a larger proportion of the population in developing countries lives in rural areas deriving their livelihoods from agriculture. He added that to his constituents, agriculture was not merely not about commerce but more about sustenance. Ms. Agnes Kirabo further reiterated that food sovereignty should be a key tenant within the Doha Round and that all flexibilities enjoyed by LDCs and developing countries should be maintained. Another key message echoed by Justus was the importance of promoting addressing the trade distorting subsidies as per Doha Mandate to ensure smallholder farmers can first feed themselves and also compete in their own markets.



On the Cotton issue, Dr. Ndongo noted that the crop is a key pan African export product as it is produced by most African countries. He added that Cotton accounts for third for all exports in Mali and Burkina Faso and; supporting over 10 million people in West Africa alone.

He noted however that though a sub - committee on cotton was established to discuss cotton in 2004 in Hong Kong with members agreeing to work quickly to eliminate subsidies, little progress has been made. There was consensus from the plenary that there was need for the Cotton 4 countries work together with the other 37 cotton producing countries in order to have a superior power of speech when addressing this critical livelihood issue.

In his submission, Fred elaborated on the flexibilities within WTO rules Vis a Vis the ongoing practice. He added that Special and Differential provision is meant to exempt developing countries from the similar strict trade rules and disciplines of other WTO members (GATT, 1947, Article XVIII).

Fred stressed that Africa should take advantage of the provisions under WTO instruments, he so as to pursue agricultural policies that are supportive of development, poverty reduction, ensure food security and livelihood concerns as supported by the July 2004 Framework.

Doha Development Round of negotiations: Non-Agricultural Market Access (NAMA), Trade Facilitation and the emergence of Global Value Chains

The panellists in this session included Steven Wabusani from the Ministry of Trade, Industry and Cooperatives (Uganda), Haji Rashid Kibowa from the EAC Secretariat, John Bosco Kanyangoga from Rwanda and Jane Nalunga from SEATINI Uganda

Steven pointed out that in regard to Non-Agricultural Market Access, the approaches brought still kept some form of a relationship to the application of the “Swiss formula” (refused by developing countries) in the latest version of the modalities. He stressed that many developing countries were not considering any alternative approach without movement in the agriculture negotiations.

On Trade Facilitation, Steven gave a background of WTO Trade Facilitation Agreement (TFA) which he said was an outcome of the Bali Ministerial Conference in December 2013. The TFA he noted comprises articles regarding Trade Facilitation and Customs Cooperation in Section, special and differential treatment for developing countries and least-developed countries in and sections on institutional arrangements. At present, he noted that the two thirds threshold for ratifying the agreement had been met and implementation of the same would start.

Hajji Rashid Kibowa, Director of Trade, the EAC Secretariat in his submission highlighted the importance of industrial goods, which consists of manufacturing, services and construction in terms of a strong contribution to GDP, promoting backward and forward linkages, employment creation, prospects for FDI, revenue, integration in global economy and structural transformation, The EAC industrial strategy is the guiding document developed by Partner states to realise these objectives of industrialisation.

With regard to trade facilitation from the EAC context, he noted that ensuring fast and efficient customs procedure-single window system for customs management and clearance of goods, efficiency in port procedure are the major initiatives being undertaken. He added that there has been massive investment in infrastructures and emphasised that at the multilateral level, the implementation of Trade Facilitation was crucial for LDCs. However, these arguments were countered in the plenary with debate surrounding increased indebtedness of poor countries which were borrowing to finance huge infrastructure projects at the detriment of investment in productive sectors and social security.

John Bosco Kanyangoga, a private consultant from Rwanda in his submission called upon African countries to look inward for solutions as a lot can be undertaken domestically to transform the economies. Citing the example of African Growth and Opportunities Act (AGOA), which when offered by the US presented much hope for development but has not been able to deliver because of failure to build domestic capacity. He highlighted a number of recommendations including the need to protect domestic policy space, diversification of export production and markets, and mobilisation of more meaningful DFQF market access while addressing preference erosion.

Jane Nalunga, in her submission noted that the issue of Global Value Chains (GVCs) is not new and only gained prominence over a decade ago. She noted that there is need to carefully examine GVCs It as LDCs are still at the lower ends of the value chains with merely limited financial benefits. Jane added that for GVCs to work, this would require transformation of industries, building value addition efforts and a more balance trade rules at the multilateral level. She

emphasised that currently, GVCs and the attendant Trade Facilitation are just as an opportunity to expand business operations for multinational companies and kill African import substitution efforts.

Overview of Singapore Issues within the Doha Round negotiations on environmental goods, TISA negotiations and contentious issues for Africa

The session panellist included Elias Ernest Christopher, Ag. Head of Multilateral Programmes, Ministry of Industry, Trade and Marketing, Tanzania, Helen Bank from For Velferdsstaten, Norway and Francis Mangeni, Director of Trade at COMESA

Ernest Christopher noted that in regard to services, the eighth WTO Ministerial Conference held in Geneva in 2011, adopted a waiver decision enabling WTO members to provide preferential treatment to services and service suppliers of LDCs for about 15 years. Presently, he pointed out that LDC group was negotiating on the operationalization of the waiver and added that 15 preference granting members have notified the areas offered for LDCs. It is expected that a decision committing members to operationalize the waiver for LDCs will be approved in Nairobi during MC10.

In the plenary, participants called on negotiators to ensure that agriculture is not used as a bargaining tool to in the NAMA negotiations and furthermore safeguard important provisions such as special and differential treatment and flexibilities for developing countries.

In her submission, Helene Bank observed that the EU and the US is undergoing deep economic crisis thus the policy direction has changed to be more aggressive especially after the 2008 financial crisis. She added that therefore, market access in services was of key importance to the EU and US. Helene identified two areas of focus i.e. environmental goods and environmental services and noted that though Africa is not taking part in the TISA negotiations, higher standards and commitments in the agreement could erode the continents policy space and therefore called on negotiators not to erode flexibilities within the services waiver.

Dr. Mangeni highlighted Africa's right to development emphasizing that States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom. From this context, Dr. Mangeni interrogated the likely implications of current investment policies on the development options African countries. He advised that Africa should demand for flexibilities within the GATT and Trade Related Investment Measures (TRIMS) when negotiating Bilateral Investment Treaties and lay emphasis on local content provisions, technology transfer and more importantly the right of entry.

Summary of key issues for the WTO MC10 and logistical arrangements

The session panellist included Jane Nalunga from SEATINI Uganda and Doris Oduor from SEATINI Kenya

Jane Nalunga presented a CSO Issue paper and emphasised the assurances made at the launch of Doha Round negotiations including reform of agriculture, cotton, NAMA, Special Safeguard Mechanisms among others. She noted that Africa should secure the promised reforms in agriculture before undertakings are done in the other areas. (**Outcome document is annexed to this report**)

Doris Oduor in her submission clarified Civil Society Organisations had agreed to pursue joint follow up actions at the national, regional and global level to raise awareness to the masses, engage governments prior and during the MC 10 in Nairobi. She added that these actions will include mobilising the wider civil society to participate in MC10 mainstream and parallel activities, developing awareness and education materials and further deliberating on the post Nairobi MC10 agenda. Additionally, Doris took participants through the logistical issues regarding CSO participation in MC10, including registration and accreditation, the available hotels and safety matters which delegates need to put into consideration before participation.

Closing session

In his closing remarks Hon. Neto Augustino thanked all participants for their presence and noted as a legislature, his major concern is human rights, which has clear linkages to trade. He called upon stakeholders to engage with members of parliament because trade issues themselves are not well understood and appreciated by many of the legislatures. He underscored the importance of CSOs in collaborating with governments, to back up the negotiators so that we can effectively influence the process at the multilateral level. He concluded by highlighting the key issues in the ACP declaration on MC10 which should be the guiding tool for engagement on the process.



Hon Neto Augustino from the Kenyan Parliament giving his remarks during the conference

Arndt Hopfmann emphasised the need to understand the dynamics of WTO since 2008 and examine the implications of the stalemate on industrialisation and transformation of the

economies in Africa and LDCs. He however pointed out that the WTO will not be able to address all the structural challenges facing Africa and therefore the need to examine these challenges beyond the WTO framework. He reiterated the importance of the WTO as a platform for African opinion yet new developments like the rise of mega regional were undermining such courses.

Arndt highlighted that issues such as food sovereignty, employment, and industrialisation are key tenets to development and thus the need to carefully examine their linkages on the on-going trade policy processes.

Conclusions

In conclusion, agriculture is significant for African countries in the DDR negotiations and therefore any results that do not back abolition or contribute to meaningful reduction of trade-distorting subsidies should not be entertained. Hence, any so called “LDC MINI-PACKAGES” should not undercut the development aspects of the DDR and further, Nairobi MC10 should not introduce the so called 21st Century issues which have already been rejected by LDCs and developing countries.

Also important is the post Nairobi agenda, from the state of play, it is clear to see that the WTO is weakened particularly by Mega Regionals such as TTIP and TPP. As Mega Regionals and plurilateral agreements gain prominence, the creation of a new neo-liberal policy regime in all aspects of trade and trade related policy becomes inevitable. Therefore it is important that as Africa partakes in the MTS, key tenets like food sovereignty and the right to food, the right to industrialization, employment, building African regional integration and self-determination are preserved.