

# ACP aspirations and expectations and the outcome of the Ninth WTO Bali Ministerial Conference

## Contents

1. Introduction	2
2. Full duty-free, quota-free access for LDCs	2
3. Rules of origin applied to LDC exports	2
4. Cotton sector trade and public sector support issues	3
5. Export competition	3
6. Developing countries' public stockholding of food for food security	4
7. Tariff-rate quota administration	4
8. Operationalising special and differential treatment across WTO rules	5
9. Trade facilitation	5
Sources	7

## 1. Introduction

The Ninth WTO Ministerial Conference in Bali reached agreement in December 2013 on a package of measures that form a small component of the much wider Doha Development Round agenda. This *Agritrade* Special Report seeks to review the outcomes of the Conference in terms of their possible impact on ACP agro-food sectors. The analysis takes as its starting point the aspirations and expectations of the ACP and LDCs in the run-up to the Bali Ministerial meeting (see *Agritrade* Special Report '[ACP–EU agricultural trade relations and the WTO Bali Ministerial Conference](#)', 20 November 2013), and seeks to assess the outcome of the Bali meeting in this light.

## 2. Full duty-free, quota-free access for LDCs

On the issue of duty-free, quota-free access for LDCs, the Ministerial decision agreed in Bali commits “developed-country members that do not yet provide duty-free and quota-free market access for at least 97% of products originating from LDCs” to seek to “improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference”. It requires developing country member states that “declare themselves in a position to do so” to make the same commitments to improve access for LDC exports. Progress in this area is to be reported annually in the Committee on Trade and Development.

The commitments on duty-free, quota-free access made at the Bali Ministerial Conference continue to fall short of LDC aspirations for full duty-free, quota-free access to developed and advanced developing country markets, in line with the type of product coverage already extended by the EU under the ‘Everything But Arms’ initiative. The debate on the 97% threshold for access needs to be seen against the background of the assessment of the potential for the exclusion of 3% of tariff lines to cover as much as “between 90 and 98% of all LDC exports”.

## 3. Rules of origin applied to LDC exports

On the issue of preferential rules of origin for LDCs, the Bali Ministerial decision commits WTO members to “endeavour to develop or build on their individual rules of origin arrangements applicable to imports from LDCs” in accordance with guidelines set out in the decision. These guidelines require simplicity, objectivity and transparency in establishing the rules of origin applicable to LDCs. They allow sufficient transformation requirements to be defined with reference to:

- the *ad valorem* percentage criterion: it is considered “desirable to keep the level of value addition threshold as low as possible”, while ensuring that LDCs receive real benefits from the processing taking place. The guidelines also note the LDCs’ request to allow “foreign inputs to a maximum of 75% in value”;
- change of tariff classification;
- specific manufacturing or processing operation, taking into account the productive capacities of LDCs;
- some combination of these methods.

Consideration should also be given to appropriate cumulation arrangements.

In the run-up to the Bali Ministerial, the LDC Group made a submission in October 2013 which “set out the technical aspects of preferential rules of origin and discussed different methodologies to determine when substantial or sufficient transformation has taken place”. Specifically, it was proposed that LDCs, given their limited productive capacities, should be allowed to use “foreign inputs up to 75%” of the product’s value to still qualify as originating. However, prior to the Bali

Ministerial meeting, this was incorporated into a draft decision in the form of non-binding guidelines. It was in this non-binding form that the proposal was finally adopted at the Bali Ministerial Conference.

In the case of the EU, however, it should be noted that since 2011, “the specific needs of LDCs in Rules of Origin” have been recognised, “by differentiating them from developing countries”. The EU has thus been showing clear leadership on this issue.

## 4. Cotton sector trade and public sector support issues

Regarding cotton issues, while the Bali Ministerial decision recognised earlier WTO declarations and commitments (with specific reference being made to the General Council decision of 1 August 2004, the 2005 Hong Kong WTO Ministerial declaration and the commitments made at the 2011 Geneva WTO Ministerial Conference), the Bali agreement was limited to enhancing transparency and monitoring in relation to the trade-related aspects of cotton and a commitment to convening a dedicated bi-annual session to discuss progress, including with regard to issues of export subsidies, domestic support, tariff measures and non-tariff measures. It also reaffirmed the importance of development assistance in the cotton sector and made a commitment to tracking cotton sector assistance.

In late October 2013, the C4 group of African cotton exporting countries (Benin, Burkina Faso, Chad and Mali) tabled a proposal (a) requesting duty-free, quota-free for LDC cotton exports from January 2015, and (b) calling for the elimination of export subsidies. However, these proposals were not taken on board in the package of proposals prepared for the Bali meeting. Instead, the focus of the Ministerial declaration was on establishing bi-annual dedicated discussion on “trade-related developments regarding export competition, domestic support, and tariff and non-tariff measures involving cotton trade”.

As a result, the C4 countries were “not totally satisfied with the provisions contained in the draft text since their previous submission targeted substantial short-term actions in order to reduce poverty in cotton producing countries – provisions which are no longer included”.

## 5. Export competition

On export competition, the agreement reached at the Ninth WTO Ministerial meeting took the form of a Ministerial declaration rather than a decision. This declaration reiterated the recognition of the highly trade-distorting and protectionist nature of various forms of export support and the importance of addressing this issue within the overall agricultural negotiations.

However, regret was expressed that no agreement had been reached on how to eliminate export subsidies and equivalent measures in the run-up to the 2013 Ministerial Conference.

It was acknowledged that progress was being made in reducing the use of such measures, with encouragement being given to continuation of this trend. Yet no specific commitments were made beyond the creation of mechanisms for improved monitoring and for enhancing the transparency of the use of export subsidies and equivalent measures. Annual consultations will now take place on progress being made, with the overall situation being reviewed at the Tenth WTO Ministerial meeting.

In terms of export competition, while the lack of progress on finally abolishing export subsidies and other similar measures remains a matter of concern, it should be noted that in the EU context all export refunds have now been set at zero, with their use only being considered as part of safety measures in cases of market disruption. In the EU context the importance of export refunds has been greatly reduced through the shift away from price support to direct aid

to farmers. This has allowed the gap to be closed between EU and world market prices, reducing the need for EU export subsidies to virtually zero, except under exceptional market conditions. In an EU context the underlying issue faced has therefore shifted beyond the use of export subsidies as such, to the impact of direct aid payments on the global price competitiveness of EU agricultural production.

## 6. Developing countries' public stockholding of food for food security

On the issue of public sector stockholding for food security purposes in developing countries, the emerging agreement prior to the Bali Ministerial meeting was that the "peace clause" should be concluded, and would remain in place until the Eleventh Ministerial Conference in 2017. There were, however, concerns from some countries that the duration and product coverage of the proposed food-security-related measures were too expansive.

A compromise wording was eventually agreed, which stated, "Members agree to put in place an interim mechanism... and to negotiate on an agreement for a permanent solution... for adoption by the 11th Ministerial Conference." WTO members agreed to "refrain from challenging" such measures, provided that the requirements set out in the terms of transparency and notification of support levels were met.

However, developing country members' implementing measures within the scope of the peace clause are required to "ensure that stocks procured under such programmes do not distort trade or adversely affect the food security of other Members", with consultations being initiated if fears arise in this respect.

From an ACP perspective, there may be some unexpected sector-level outcomes that impact on ACP exporters. For example, the concerns expressed by Pakistan over the market effects of the expanded Indian rice sector support (particularly on global market prices) would appear to be relevant to countries such as Guyana, which is seeking favourably priced markets for rice to sustain its recent expansion of rice production. The global effects of Indian policy measures in the rice sector could also complicate efforts in West Africa to promote greater national rice sector self-sufficiency. This suggests a need to monitor the impact of expanded support to public sector stockholding for food security purposes and, where necessary, the activation of the consultation provisions included in the agreement as regards ensuring that such measures do not "adversely affect the food security of other Members".

## 7. Tariff-rate quota administration

At the Bali Ministerial meeting, agreement was reached on a range of simplification measures related to the administration of tariff-rate quotas (TRQs). Agreement was also reached on bringing TRQs under the Uruguay Round Agreement on Import Licensing Procedures, with some specific modifications.

The underlying aim of the agreement is to ensure that TRQ administration procedures are "no more administratively burdensome than absolutely necessary to administer the measure". WTO members are therefore required to ensure that "unfilled tariff quota access is not attributable to administrative procedures." Where cases of unjustified TRQ 'under-fill' are identified, the administrative authorities are required to establish transparent mechanisms for the reallocation of quotas to operators who can effectively utilise the quota, within a framework laid down in the agreement.

The understanding reached on TRQs is to be reviewed “no later than four years following the adoption of the decision”.

With most ACP countries enjoying duty-free, quota-free access to the EU market, the understanding on TRQ administration has little direct impact on ACP trade with the EU. However, it could impact on third-country exports to the EU of products in which ACP producers also have an export interest.

The extent to which this is likely is unclear, for in some areas where tariff-related quota ‘under-fill’ is apparent (e.g. in the beef sector – see *Agritrade* article ‘[Canada–EU trade deal makes use of tariff-rate quotas in sensitive sectors](#)’, 9 December 2013), this largely arises from sanitary and phytosanitary (SPS) measures and food safety requirements, rather than TRQ administration procedures. Nevertheless, it would appear appropriate to monitor the impact of the new agreement on the competitive position of ACP suppliers in what are by definition sensitive products.

## 8. Operationalising special and differential treatment across WTO rules

While special and differential (S&D) treatment has been on the WTO agenda since 2003, in the run-up to the Bali Ministerial meeting the debate on S&D treatment was dropped from the Ministerial agenda. This decision was taken in the light of the “complexities that emerged in revisiting the decade-old proposals”. Agreement was, however, reached on the monitoring mechanism adopted at the Bali Ministerial. The monitoring mechanism on S&D treatment is to serve as “a focal point within the WTO to analyse and review all aspects of implementation of S&D provisions”. In addition, in cases where the review of implementation identifies a problem, “the Mechanism is not precluded from making recommendations to the relevant WTO bodies for initiating negotiations on the S&D provisions that have been reviewed under the mechanism.” However, “such recommendations will inform the work of the relevant WTO body, but not define or limit its final determination.”

It became clear in the run-up to Bali that ACP aspirations to see S&D provisions operationalised throughout the WTO agreement would not be realised, as the non-binding monitoring mechanism falls far short of enshrining the “right to development” within the WTO agreement (see *Agritrade* article ‘[Calls for “a right to development” and “a right to trade” to be enshrined in WTO rules](#)’, 11 October 2013).

## 9. Trade facilitation

Regarding trade facilitation, an extensive Ministerial decision was agreed in Bali committing member states to:

- publication of a range of information relevant to import duties and procedures, including where possible through the internet;
- establishing enquiry points;
- advanced notification of new measures, and where possible, consultations prior to their entry into force, including with regard to food safety and SPS measures, which must be based on risk assessments;
- timely and priority treatment of perishable goods;
- defined appeals and review procedures;
- respecting disciplines on fees and charges imposed;
- defined penalty disciplines that may be imposed for non-implementation;

- import and export formalities, customs clearance and release procedures and post-clearance audits;
- special procedures for authorised operators and requirements that need to be met;
- freedom of transit;
- border agency and customs cooperation;
- institutional arrangements for the application of the trade facilitation agreement;
- special and differential provisions for developing countries and LDCs.

Under the S&D provisions, a commitment was made to providing assistance on a “best endeavour” basis, in line with the needs of developing and least developed country WTO members. “The timing of the implementation of the provisions” of the trade facilitation agreement is “related to the implementation capacities of developing and least developed country members”. Implementation will not take place until the required capacity is in place. Nevertheless, LDCs will be required to make commitments in line with their capacities.

With this in mind, implementation commitments with regard to each provision will be placed in one of three categories:

- **Category A:** requiring “implementation upon entry into force” of the agreement, or “within one year after entry into force” for LDCs;
- **Category B:** requiring “implementation on a date after a transitional period”;
- **Category C:** linking implementation of specific provisions designated by a WTO member to “the acquisition of implementation capacity through the provision of assistance and support for capacity building”.

Each developing country and LDC is to “self-designate... the provisions it is including under each of the Categories A, B and C”. Deadlines are set for this self-designation process, with support potentially available for countries struggling with self-designation. Provision is also made for extension of implementation dates for self-designated Category B and C provisions, and for shifting provisions between Categories B and C. In addition, a grace period for the application of various provisions has been agreed.

In terms of the benefits of an agreement on trade facilitation, analysis by an OECD official published by the European Centre for Development Policy Management (ECDPM) in November 2013 suggested that developing countries would be major beneficiaries of an agreement on trade facilitation. The analysis maintained that getting to grips with trade facilitation issues could potentially “[reduce] the costs of trading by 14% to 16% in the case of developing countries”. It also argued that “participation in global and regional value chains offers developing economies an opportunity to add more value within their local industries, drive employment and raise incomes.” Trade facilitation can thus be described as “critical in allowing developing economies both to improve their productivity and to reap the benefits from international trade”.

However, many developing country representatives had expressed concerns over the likely costs of implementation of trade facilitation measures in the lead-up to the Bali meeting, and expressed a desire to link the implementation of trade facilitation commitments to binding commitments on the provision of capacity-building support to developing countries and LDCs. The International Centre for Trade and Sustainable Development (ICTSD) reported in late November that many developing countries considered that agreeing to “best endeavour” provisions “would nullify many of the agreement’s potential benefits, since ‘best endeavour’ often results in non-implementation”.

The agreement hammered out in Bali can be seen as a compromise between these divergent positions, achieved through the elaboration of specific and differential treatment provisions on trade facilitation for developing countries and LDCs.



These special and differential provisions, which form part of the understanding on trade, potentially provide a basis on which ACP/LDC countries can build in seeking a generalised application of the special and differential treatment principle across the wider ambit of WTO rules.

## Sources

1. WTO, 'Duty-free and quota-free (DFQF) market access for least-developed countries: Draft Ministerial decision', WT/MIN(13)/W/16, 5 December 2013  
<https://mc9.wto.org/system/files/documents/w16.pdf>
2. ICTSD, 'Decisions on the development pillar expected to be reviewed in Bali', 27 November 2013  
<http://ictsd.org/i/news/bridges-africa/179936/>
3. WTO, Preferential rules of origin for least-developed countries: Draft Ministerial decision, WT/MIN(13)/W/14, 5 December 2013  
<https://mc9.wto.org/system/files/documents/w14.pdf>
4. ICTSD, 'LDC issues: Poor countries look for progress in Bali', *Bridges Weekly Trade News*, vol. 17, No. 40, 28 November 2013  
<http://ictsd.org/i/news/bridgesweekly/180043/>
5. WTO, 'Cotton: Draft Ministerial decision', WT/MIN(13)/W/13, 5 December 2013  
[https://mc9.wto.org/system/files/documents/w13\\_o.pdf](https://mc9.wto.org/system/files/documents/w13_o.pdf)
6. WTO, 'Export competition: Draft Ministerial decision', WT/MIN(13)/W/12, 5 December 2013  
[https://mc9.wto.org/system/files/documents/w12\\_1.pdf](https://mc9.wto.org/system/files/documents/w12_1.pdf)
7. ICTSD, 'WTO [agriculture] talks: Negotiations close to final Bali deal', *Bridges Weekly Trade Digest*, vol. 17, No. 39, 21 November 2013  
<http://ictsd.org/i/news/bridgesweekly/179450/>
8. WTO, 'Public stockholdings for food security purposes', WT/MIN(13)/W/10, 5 December 2013  
[https://mc9.wto.org/system/files/documents/w11\\_1.pdf](https://mc9.wto.org/system/files/documents/w11_1.pdf)
9. WTO, 'Understanding on tariff rate quota administration provisions of agricultural products, as defined in Article 2 of the Agreement on Agriculture: Draft Ministerial decision', WT/MIN(13)/W/11, 5 December 2013  
[https://mc9.wto.org/system/files/documents/w11\\_1.pdf](https://mc9.wto.org/system/files/documents/w11_1.pdf)
10. ICTSD, 'Special and differential treatment: Ensuring flexibilities for developing countries', *Bridges Africa*, vol. 17, Number 40, 28 November 2013  
<http://ictsd.org/i/news/bridges-africa/180119/>
11. WTO, 'Monitoring mechanisms on special and differential treatment: Draft Ministerial decision', WT/MIN(13)/W/17, 5 December 2013  
<https://mc9.wto.org/system/files/documents/w17.pdf>

12. WTO, 'Agreement on trade facilitation: Draft Ministerial decision', WT/MIN(13)/W/8, 6 December 2013  
[https://mc9.wto.org/system/files/documents/w8\\_o.pdf](https://mc9.wto.org/system/files/documents/w8_o.pdf)
13. ECDPM, 'The impact of trade facilitation on developing countries', E. Moisé, *GREAT Insights*, Vol. 2, Issue 8, November 2013  
[http://www.ecdpm.org/Web\\_ECDPM/Web/Content/Content.nsf/o/B8BF6CB2FoFD6B3EC1257C2000392973?OpenDocument#sthash.rhhcw0Hb.dpuf](http://www.ecdpm.org/Web_ECDPM/Web/Content/Content.nsf/o/B8BF6CB2FoFD6B3EC1257C2000392973?OpenDocument#sthash.rhhcw0Hb.dpuf)
14. ICTSD, 'Trade facilitation reducing border inefficiencies', *Bridges Weekly Trade Digest*, Vol. 17, No. 40, 28 November 2013  
<http://ictsd.org/i/news/bridgesweekly/180062/>



The Technical Centre for Agricultural and Rural Cooperation (CTA) is a joint ACP–EU institution active in agricultural and rural development in African, Caribbean and Pacific (ACP) countries. Its mission is to advance food and nutritional security, increase prosperity and encourage sound natural resource management.

It does this by providing access to information and knowledge, facilitating policy dialogue and strengthening the capacity of agricultural and rural development institutions and communities in ACP countries.

Technical Centre for Agricultural and Rural Cooperation (ACP–EU)  
PO Box 380  
6700 AJ Wageningen  
The Netherlands  
Tel: +31 (0) 317 467 100  
E-mail: [cta@cta.int](mailto:cta@cta.int) - [www.cta.int](http://www.cta.int)