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OACPS MINISTERIAL DECLARATION ON THE TWELFTH WTO MINISTERIAL CONFERENCE

The following communication, dated 2 November 2021, is being circulated at the request of the delegation of Jamaica on behalf of the ACP Group.

Preamble

We, Ministers of the Members of the Organization of the African, Caribbean and Pacific States (OACPS) with portfolio responsibility for World Trade Organization (WTO) affairs, meeting in Brussels, Belgium, on 28 October 2021, within the framework of the preparation for the Twelfth WTO Ministerial Conference (MC12), to be held from 30 November to 3 December 2021 in Geneva, Switzerland,

Recalling the Marrakesh Agreement establishing the WTO and reaffirming our commitment to the developmental mandates and issues adopted at the Ministerial Conference in Doha in 2001, as well as Ministerial Conferences that have followed;

Reaffirming all our Declarations communicated to the WTO during previous Ministerial Conferences;

Expressing grave concern about the long-term public health, economic, financial and trade impact of the COVID-19 pandemic on our member States, including the lack of equitable and fair access to vaccines, diagnostics and medical treatments and supplies to prevent, contain and treat the virus;

Recognizing that no country is safe until all countries are safe and are in a position to effectively contain the spread of the virus and its variants;

Being mindful that the pandemic has cost millions of lives, negatively affected livelihoods and continues to leave the world in peril;

Concerned about the rising food prices and food insecurity as a result of the pandemic;

Also concerned that the pandemic has reversed the gains made towards our national development goals, and threatens the achievement of the United Nations Sustainable Development Goals (SDGs) by 2030, in respect of which trade plays a pivotal role;

Also expressing deep concern about the severe impact of climate change and natural disasters which continue to undermine the effective integration of OACPS Members into the global value chains;

Further concerned that upon reflection of our declaration at MC11 on the challenges of job creation, poverty, inequality and exclusion across the global economy, the conditions in these areas have worsened;

Noting that OACPS Members are developing countries that are diverse in characteristics and include, but are not limited to, Least-Developed Countries (LDCs), Small Island Developing States (SIDS), Small Vulnerable Economies (SVEs), Landlocked Developing Countries (LLDCs), Preference Dependent Economies (PDEs), Net Food Importing Developing Countries (NFIDCs), Low Income

Countries (LICs), Middle Income Countries (MICs), Highly Indebted Poor Countries (HIPC), Heavily Indebted Middle Income Countries (HIMICs), limited commodity exporting countries, and countries in war, post-conflict, and post-natural disaster situations;

Reaffirming that the WTO should be inclusive, transparent and rules based, and should always seek to accommodate the heterogeneity of its membership in the implementation of existing trade agreements and the negotiation of new agreements, and that effective and appropriate special and differential treatment for developing countries and LDCs is an integral part of current and future WTO agreements;

Emphasizing the need for the WTO to ensure that its rules, on a priority basis, enable, and support least-developed countries and developing countries in pursuing policies to achieve industrialization, structural transformation and diversification and resilience of their economies, in order to raise the standard of living of their population, foster full employment, assist in recovery from the impact of climate change, the pandemic as well as facilitate OACPS Members to build back better and stronger; and

Further emphasizing the continued need for targeted and sustainable financial, technical and capacity building assistance programmes to support OACPS Members to implement their agreements, to manage their trade policy reform processes, and to be able to benefit from opportunities presented in international trade, thereby facilitating their strategic integration into the global economy in a manner that advances their growth and development.

We affirm the need for WTO Ministers to use MC12 as an opportunity to further strengthen, with the WTO playing a central role, an inclusive, transparent, fair, consensual, rules-based and development-oriented multilateral trading system that results in equitable growth and development, taking into account the fact that the majority of WTO Members are developing countries seeking to increase their share in world trade

In this regard,

WTO's response to the COVID-19 Pandemic

1. We call for the decision to put the WTO in a position to, *inter alia*:
 - a. aid in the availability of, and contribute to the ramping up and diversification of production for, COVID-19 products including vaccines, diagnostics and therapeutics to prevent, treat and contain the spread of the virus, including addressing intellectual property rights related aspects.
 - b. foster the Organization's collaboration with other international organizations and stakeholders in areas that would mitigate the trade effects of the pandemic, especially on MSMEs;
 - c. facilitate the WTO Secretariat's ability to collaborate with Members to monitor pandemic-related trade measures;
 - d. preserve policy tools and create policy space to address the issue of pandemic-induced challenges to food and livelihood security from a trade policy perspective;
 - e. streamline its response initiative into the work programme of WTO Councils, Committees and Working Groups in a manner that preserves the developmental agenda and promotes economic resilience and recovery;
 - f. collaborate with multilateral financial institutions and private sector stakeholders to ensure inadequate access to finance does not occasion a contraction of global trade;
 - g. explore ways to address the escalating freight costs and irregular maritime transport services and, in this regard, convene a meeting of the key stakeholders, including the IMO and UNCTAD to discuss the current situation and frame responses; and

- h. ensure that the WTO's experience with the COVID-19 pandemic allows for the creation of a blueprint to respond to future global crises, and contribute to the resilience of the economies of its Members.

Fisheries subsidies

2. We call for the negotiation process to be transparent, equitable inclusive and take into account the proposals and contributions of all WTO Members and Groups of Members, including the ACP Group. We reaffirm our commitment to deliver a balanced agreement on fisheries subsidies at MC12. We, therefore, call for an agreement on fisheries subsidies that:
 - a. adheres to the mandate of SDG14.6, as reaffirmed by WTO Ministers at the Eleventh Ministerial Conference (MC11) in Buenos Aires, Argentina, including as it relates to the provision of effective and appropriate special and differential treatment for developing countries and LDCs;
 - b. recognize that special and differential treatment is not only required for the implementation of the disciplines but also to provide policy space that supports development, and that technical assistance and capacity building should be provided without it being conditional on accepting specific obligations;
 - c. exempts small players whose share of global fish catch is below an appropriate *de minimis* threshold from certain provisions of the Agreement;
 - d. excludes subsidies for disaster relief and artisanal/small-scale fishing, and allocation of licences and quotas for fishing rights;
 - e. ensures that sovereign rights of Members within their maritime jurisdictions are respected, national judicial processes are unfettered, and Members' right to determine national fisheries management systems are preserved; and
 - f. contains notification commitments that are proportionate to responsibility for harmful subsidies and IUU fishing, which do not create unnecessary burdensome obligations such as those which would reveal commercially sensitive information, and which provides longer compliance periods for the developing countries and LDCs.

Agriculture

3. We call for an outcome on agriculture that:
 - a. facilitates substantial reduction in trade-distorting domestic support;
 - b. prioritise the elimination of Final Bound Total Aggregate Measures of support, considering the urgent need to level the playing field for global agricultural trade, as well as to ensure that an agreement prevents circumvention of subsidies commitments;
 - c. preserves the policy space for developing countries and LDCs under Article 6.2 of the Agreement on Agriculture, for them to pursue their rural development, agricultural transformation and livelihood objectives;
 - d. addresses the subsidies, market access, transparency and development related concerns of cotton producers in developing countries and LDCs;
 - e. achieves a permanent solution on public stockholding for food security purposes (PSH) that includes all products, has food security as its objective, covers existing and new programmes, contains requisite safeguards to prevent market distortions and appropriate notification commitments but with simplified formats that are easy to use for developing countries and LDCs, accompanied by necessary technical assistance;

- f. delivers on a Special Safeguard Mechanism (SSM) that assist developing countries and LDCs to temporarily increase tariffs beyond their bound duties to address market imbalance emanating from surges in agricultural imports and price depression, and which does not have onerous requirements for its application when needed;
- g. removes export restrictions in respect of purchases by the World Food Programme with the understanding that the World Food Programme takes procurement decisions on the basis of its principles to "do no harm" to the supplying member and promote local and regional food procurement;
- h. contains a work programme aimed at addressing issues related to tariff simplification, tariff escalation, preference erosion, designation of special products and unjustified non-tariff barriers that impede the market access opportunities of developing countries and LDCs; and
- i. Addresses the impact of soaring food prices on NFIDCs.

Special and differential treatment

- 4. We call for an outcome on special and differential treatment in line with paragraph 44 of the Doha Ministerial Declaration, including the agreement specific proposals put forward by the G90. We recall that special and differential treatment is an integral part of WTO negotiations and should be available to all developing countries and LDCs in existing and future WTO Agreements. We recognize the right of WTO Members to opt out of special and differential treatment provisions if they choose to do so.

Services

- 5. We call on Members to note the ACP Group's submission JOB/SERV/305, which elaborates the impact of the COVID-19 pandemic and services challenges and opportunities, especially in the travel, hospitality, air freight, maritime and land transport sectors. For Members of the OACPS, these services sectors constitute the engine of physical trade and contribute towards enabling services trade in all modes of supply. We call for the implementation of Ministerial Decision on Preferential Treatment to Services and Service Suppliers of Least Developed Countries and to better operationalize related decisions in order to facilitate and advance LDCs' participation in services.
- 6. We call on WTO Ministers to use MC12 to:
 - a. provide certainty that barriers are removed, including arbitrary travel advisories, which are not science-based, that act as barriers to tourism trade;
 - b. harmonize recognition of vaccine and test certifications to avoid obstacles to movement of persons and travel; and
 - c. consider the services sector opportunities that arose from the pandemic, specifically reducing barriers to our education, ICT and creative industries professionals delivering through virtual means.

WTO Reform

- 7. We recognize that all organizations will need to adapt to the evolving characteristics of their respective environment, including the broader global economic landscape. The WTO is no exception. We, therefore, call for a discussions relating to WTO reform. Discussions should be comprehensive, structured, transparent and inclusive.
- 8. We support calls for discussions on reform in the WTO. Such a discussion should be transparent and must address the interest of all Members. We note the call for establishment of a working group on WTO Reform and call for a clear, transparent and inclusive term of reference to guide its work.

9. We are calling for the urgent reconstitution of the Appellate Body, which is a fundamental organ of the WTO.
10. We believe that WTO reform should:
 - a. adhere to the principles of transparency, inclusiveness, fairness and equity in the balance of WTO Members' rights and obligations;
 - b. ensure the interest of developing countries and LDCs are advanced through the application of special and differential treatment in WTO agreements;
 - c. foster greater coherence between trade and development, including an enhanced role by the WTO to raise standards of living and employment, and for promoting sustainable development as enshrined in the Marrakesh Agreement Establishing the WTO;
 - d. facilitate their inclusive growth and development, integration of OACPS countries in global value chains in view of increasing their participation in global trade, and facilitation of their movement up production value chains;
 - e. enable the WTO to work efficiently and effectively through its Councils, Committees and Working Groups to support and accommodate the work of its heterogeneous membership, in a manner that does not apply undue burden nor punitive measures in order to achieve implementation of reforms; and
 - f. reaffirm and strengthen the multilateral character of the WTO.

Accessions

11. We urge WTO Members to take into account the development and capacity constraints of OACPS Members that are pursuing accession to the WTO, and call for concessions to be commensurate with their size, capacity and development needs. The COVID-19 pandemic has had a negative impact on the accession processes of OACPS Members and we urge WTO Members to give special consideration in this regard.
12. We urge WTO Members to adhere to the General Council's Decision of 25 July 2012 on Accession of LDCs operationalising the 2002 LDCs Accession Guidelines.

Aid for Trade

13. We call on donors to continue to support the trade capacity building efforts of all Members of the OACPS and ensure that Aid for Trade assistance is in the form of new funding, without diverting from existing bilateral assistance in other areas.

Decisions in favour of LDCs

14. We underscore the importance of LDC issues in the WTO, including the need for a longer and uniform transition period to assist graduated LDCs in adjusting to their post-LDC status in the multilateral trading system.
15. We call for full implementation of previous WTO Ministerial Decisions in favour of LDCs. We call for an outcome at MC12 on the proposal for graduation of LDCs.

Standing Agenda Items

16. Electronic Commerce Decision
 - a. We recall the Decision of the General Council in December 2019 to reinvigorate the Work Programme on E-commerce, including structured discussion on all trade-related topics brought forward by Members. These include important issues such as data localisation, internal taxes, data flows, source code, digital divide and infrastructure development.

- b. We recognize the need for further analysis on the impact of the moratorium on consumers and businesses as well as the impact on government revenues and digital industrial development in our countries.
 - c. We call on WTO Members to resolve the question of the moratorium by MC12.
17. Trade-Related Intellectual Property Rights (TRIPS) Non-violation Situation Complaints moratorium
- a. We urge WTO Members to make permanent the moratorium on the application of Subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 on non-violation and situation complaints (NVCs) to the TRIPS Agreement.
18. Small Economies Work Programme
- a. We reaffirm Paragraph 35 of the Doha Ministerial Declaration and the Decision of subsequent WTO Ministerial Conferences on the small economies work programme, and that due regard be given to the priorities of these economies in all areas of the negotiations to ensure their further integration into the multilateral trading system.
 - b. We affirm that trade and climate change and natural disasters are critical to the tool box of elements the WTO must tackle given the vulnerabilities of our members to climate change and natural disasters.

Ministerial Declaration outcome document

- 19. We call on WTO Ministers to agree on an outcome document containing a clear work plan for decisions by the Thirteenth Ministerial Conference (MC13) on outstanding work.
- 20. We urge the Twelfth WTO Ministerial Conference to give due consideration to this Declaration.

Done in Brussels, 28 October 2021
