

# African Members Position at The World Trade Organisation's 13th Ministerial Conference



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## Chapter 1: Introduction

This briefing will review the African positions put forward for The World Trade Organisation (WTO)'s 13th Ministerial Conference (MC13) and the potential impact of the meetings on internal and external African trade. It will also examine Africa's broader relationship with the WTO and to what degree African members are able to participate in and effectively leverage the WTO system to enhance internal and external African trade.

Lastly, this brief will examine the MC13 outcomes that responded to the African positions. The findings showed that while there were positive outcomes for Africa, there are still key issues that have not been finalized or adequately addressed. The brief will conclude with constructive recommendations for both African and Chinese leaders, and the WTO to enhance Africa's inclusion in the WTO and ability to achieve economic and trade goals.

## Chapter 2: Africa's relationship with the WTO and its impact

### OVERVIEW

The WTO is a 30-year-old international organization that deals with the global rules of trade between nations. It provides a platform for its member countries to negotiate, settle trade disputes, and reach WTO agreements that aim to promote and facilitate international trade. One of the WTO's primary mandates is to ensure there is open trade for all supporting and to support the needs of developing countries.<sup>1</sup>

Currently, 44 African countries are members of the WTO, with nine further countries holding "observer status"; only two are not affiliated with the WTO at all. African countries currently account for 27% of full members – making up over one quarter of the WTO's membership. Thus, it is important that the WTO also works for Africa.<sup>2</sup>

But despite the WTO providing a variety of technical and resource support for African countries to enter the WTO system in order to enhance Africa's global trade ties, research shows that African members struggle to effectively leverage the WTO system in areas, such as ongoing negotiations and dispute settlement.<sup>3</sup> Furthermore, not much has changed for Africa within the world trading system over the past 30 years. If anything, it has worsened. In 2023, the African continent accounted for 2.7% of world exports. Back in 1973, that

<sup>1</sup> [https://www.wto.org/english/thewto\\_e/thewto\\_e.htm](https://www.wto.org/english/thewto_e/thewto_e.htm), World Trade Organisation, 2024.

<sup>2</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>

<sup>3</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>

share was 4.8%. Meanwhile, the continent's share of world imports is higher than exports today at 2.9%, but in 1973 it was lower at 3.9%.<sup>4</sup>

Over the decades since world trade rules were introduced, the continent has fallen into a persistent trade deficit with the rest of the world. A significant reason for this is the character of the rules. The WTO is much like its predecessor, the General Agreement on Trade and Tariffs (GATT). That GATT was designed and agreed by 23 countries in 1947, none of which were African – at the time most African countries were still colonies. In practice, this means that the rules are designed in a way that constrains the ability of Africans to improve the world trade system. Furthermore, influence generally requires countries to maintain diplomatic missions in Geneva where the WTO is based, which is not within the budget of many African countries.<sup>5</sup> This is why a strong African position and enhanced involvement in the WTO system and its ministerial meetings are so important.

While African members have achieved specific negotiating objectives in areas such as public health and participate in key bodies that are of obvious strategic interest, such as the General Council, the Committee on Trade and Development (CTD), and the Trade-Related Intellectual Property Rights (TRIPS) Council, participation in most other WTO deliberative bodies is limited. This prevents African governments from engaging in the strategic use of trade policy instruments that directly impact Africa's ability to trade more with the world, such as sanitary and phytosanitary (SPS) measures and other technical standards. This suggests that much more needs to be done to ensure African members are fully included in the WTO system so that Africa is advancing its own development objectives.

## HOW HAS THE WTO WORKED TO ENHANCE AFRICAN TRADE?

Despite structural challenges and limitations on inclusion, the WTO has still made diverse efforts to promote global market access for African countries through agreements and decisions, technical assistance programmes, finance or aid programs and advocated for the reduction of trade barriers, for example tariff quotas imposed by other importing countries.

**The Trade Facilitation Agreement (TFA):** expedites the movement, release and clearance of goods and establishes measures for effective cooperation between economies to establish customs compliance. Two-thirds of members have ratified the TFA, but studies show that full implementation of the TFA could reduce trade costs by an average of 14.3% and boost global trade by up to US\$ 1 trillion per year, with the largest gains in the poorest countries. For the African region, the reduction in trade costs would average 16.5% whilst coastal and landlocked African countries could see reductions averaging 16.8% and 15.7%, respectively. This is significant, since the central African region has some of the highest trade costs in the world.

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<sup>4</sup> Hannah Ryder, *It's time for African countries to shape the WTO not just sit in it*, African Business, 2024. <https://african.business/2024/01/trade-investment/its-timefor-african-countries-to-shape-the-wto-not-just-sit-in-it#:~:text=It%20is%20clear%20that%20the,it%20can%20work%20for%20Africa>.

<sup>5</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>



As the cost of implementing trade agreements is significant for many economies, the WTO created the Trade Facilitation Agreement Facility (TFAF) to support implementation of the TFA. The TFAF has, for instance, funded the participation of African representatives at meetings and workshops focusing on capacity- building and utilization of the TFA.

**The Standards and Trade Development Facility (STDF):** helps developing economies and least-developed countries (LDCs) to meet SPS requirements and other international standards. The STDF has provided support for the implementation of Africa's SPS policy framework and has helped to strengthen sanitary capacity in many industries.

**Aid for trade:** supports trade development in Africa and focuses on economic diversification as being key to development and the importance of investments in digital connectivity. Since the launch of the initiative in 2006, donors have disbursed US\$ 451 billion in official development assistance to help developing countries build trade capacity and infrastructure. US\$ 163 billion of this amount has gone to African countries, with US\$ 16.9 billion being disbursed in 2018, representing a 180% from the 2006 baseline. Development financiers have also introduced new aid programmes, including a US\$ 160 billion World Bank fund to address the economic impacts of the COVID-19 pandemic and a US\$ 10 billion COVID-19 Response Facility from the African Development Bank (AfDB).<sup>6</sup>

## AFRICAN INCLUSION IN THE WTO AND CAPACITY BUILDING

Although the WTO's diverse efforts to promote global market access for African countries has had positive impacts, African countries must also be shaping and only receiving agreements and programmes to ensure the WTO system is helping Africa to achieve its own trade and commercial objectives. For this reason, capacity building programs and efforts to include African countries in WTO decision making bodies are far more important than many WTO agreements or aid programs. Some capacity building and African inclusion exists although as shown below, are limited.

**The African Group:** is the coordinating, informal body comprised of 43 African members and observers. The African Group helps African countries to put forward their positions as a group on topics ranging from complex but urgent structural issues such as the reform of the dispute settlement system to new dynamics in trade such as e-commerce. It has also taken an active role in the implementation of and shaping of the TRIPS Agreement. For example, at the Twelfth WTO Ministerial Conference in June 2022, South Africa led the African Group to a waiver of the TRIPS Agreement to override patents and in order to allow African countries to produce COVID-19 vaccines.<sup>7</sup>

**Technical assistance for capacity building:** 16% of all technical assistance activities for capacity building in 2019 were focused on African countries. This includes the Netherlands Trainee Programme, which sponsors junior public officials and provides them with the

<sup>6</sup> WTO, Strengthening Africa's capacity to trade, World Trade Organization, 2021.

[https://www.wto.org/english/res\\_e/booksp\\_e/strengthening\\_africas\\_capacity\\_to\\_trade\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/strengthening_africas_capacity_to_trade_e.pdf)

<sup>7</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>

opportunity to learn about matters dealt with within the WTO, under the direction of staff members of the WTO, with particular attention given to African countries.

The WTO Secretariat also works in cooperation with other regional bodies, including the Economic Community of West African States (ECOWAS). The WTO has organized virtual training activities on trade in services, trade facilitation and market access for officials of ECOWAS institutions in both English and in French since mid-2020. Likewise, the WTO collaborated with the Union économique et monétaire ouest-africaine (UEMOA) on a sub-regional training activity on intellectual property in 2019, and it cooperates directly with many African WTO members to collect information on their services policy regimes in the context of the Integrated Trade Intelligence Portal (I-TIP) database.

**Negotiation and dispute settlement mechanisms:** can provide African countries with a platform to acquire more beneficial agreements and resolve trade disputes with other countries. For instance, a conference by WTO and AfCFTA in September 2022, which gathered 13 African members of the WTO Chairs Programme and provided a forum for policymakers from the governments in the region who can discuss and deliberate on the implications, benefits, challenges, and opportunities of the AfCFTA and how the AfCFTA could be a game changer for trade in Africa. Such mechanisms could help to protect African countries' trade interests and promote fairer treatment in international trade.

**The Enhanced Integrated Framework (EIF):** is an Aid for Trade facility purely dedicated to supporting trade development in LDCs, which has successfully supported African LDCs in building trade-related institutional and productive capacity. One example is an EIF project in Burkina Faso that has helped to increase the production and export of cashew nuts and dried mangoes to create jobs and increase profits for producers.

## THE LIMITS TO AFRICA'S INCLUSION IN THE WTO AND CAPACITY BUILDING

Despite the fact that the WTO claims to pursue fair and open trade between countries at different economic levels, imbalanced negotiation powers still exist and impede African countries from shaping WTO trade agreements. Therefore, the WTO's decision-making processes can sometimes disadvantage African countries, as they may have limited bargaining power compared to larger economies.<sup>8</sup>

**Limited inclusion in meetings:** African countries often face challenges in negotiating trade agreements with more powerful economies. This is largely because the WTO does not vote and instead it pursues negotiation through a one country, one voice basis despite the fact that many African countries have limited bargaining power compared to larger economies. For example, African countries – responsibly – limit their delegations to or permanent missions in Geneva, due to low budgets. Furthermore, the WTO often holds “informal” and “green room” meetings that leave out smaller economies. This prevents African countries from shaping agreements on issues important to African development, and consequently, these agreements often go against African interests, or at best de-prioritise them.

<sup>8</sup> World Trade Organisation, 2024. [https://www.wto.org/english/tratop\\_e/dispu\\_e/find\\_dispu\\_cases\\_e.htm](https://www.wto.org/english/tratop_e/dispu_e/find_dispu_cases_e.htm)

**Low levels of African participation in the WTO's dispute settlement system:** due to high costs of litigation, technical and capacity constraints at the African diplomatic missions in Geneva and at home, fear of retaliation by donor countries in some situations, insufficient economic heft to incentivise compliance of trading partner, and the reality that most African countries mainly trade under preferential schemes. The appointment of African panellists as adjudicators of dispute is also extremely low and concentrated in a handful of countries and African countries account for less than 5% of participation as third parties. Thus, the Africa Group has emphasised that any dispute settlement reform must seek to enhance the participation of African countries in the dispute settlement system to encourage African countries to file and win disputes.

In the 27 years of the WTO dispute settlement system's history, African countries have acted as respondents or complainants in only 13 cases – just over 2% of all cases and fewer still have been resolved. Until 2022, Tunisia was the only African country ever to have filed a dispute as a complainant. This concerned a case against Morocco on anti-dumping measures on school exercise books. In July 2022, South Africa then filed a complaint against EU phytosanitary requirements on its fruit exports.<sup>9</sup>

**Limited participation in the creation of joint statement initiatives (JSIs)** on e-commerce, investment facilitation, services domestic regulation, and micro, small and medium-sized enterprises (MSMEs) in trade, which have been enthusiastically promoted by developed country members. Africa's participation between the different JSIs is not equally spread, is generally low and often focused on re-emphasising the issues in the unfinished Doha Round rather than the JSIs themselves.

African members are often wary of engaging with JSIs because they can include new binding commitments that further restrict their policy space but do not allow African countries to raise key issues that prevent market access for developing countries. For example, the draft JSI on e-commerce includes market access provisions and other measures on cross-border data flows and data localisation requirements that will have implications on a country's regulatory approaches to e-commerce and data governance. African members remain wary of making commitments in these areas. The JSIs on services domestic regulation and investment facilitation do not cover market access but envisage binding commitments.

**Limited capacity of the WTO to enforce compliance of developed countries:** The WTO has advocated tariff exemptions for wealthier importing member countries but its ability to prevent these countries from having preferential measures for their own products, which can undermine the competitiveness African goods entering their markets, is limited. An example of this is agricultural subsidies in developed countries, which can distort global markets and makes it difficult for African farmers to compete.

**WTO's support of sanitary and phytosanitary measures:** that many African countries may find it difficult to comply with, such as strict testing and certification of both agricultural products and packaging.

**WTO's support of intellectual property (IP) rules:** which are predicated on the theory that innovation requires strong IP protection, for example through long-term patents and

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<sup>9</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>

copyrights. The WTO uniformly promotes these rules to all countries, with a few concessions in terms of the substance and timing of obligations for developing and less-developed countries. But this theory has been questioned. Instead, open innovation – where various groups participate in product development and innovation – has been proposed.

## Chapter 3: The MC13 and Africa’s position

The topmost decision-making body of the WTO is the Ministerial Conference, which usually meets every two years. The MC13 will take place from 26 to 29 February 2024 in Abu Dhabi, United Arab Emirates (UAE). Ministers from across the world attend to review the functioning of the multilateral trading system and to take action on the future work of the WTO. The Conference was chaired by H.E. Dr Thani bin Ahmed Al Zeyoudi, UAE's Minister of State for Foreign Trade.<sup>10</sup>

The MC13’s focus was on:

- Reforming e-commerce policies;
- Second phase of the Fisheries Subsidies Agreement;
- Reform of the WTO dispute settlement system;
- Agriculture and food security;
- Implementing the development agenda.

More broadly, the MC13 stated its intention to discuss how best to maintain the confidence and trust of developing countries in the organization.<sup>11</sup>

### AFRICA’S GENERAL POSITION

Outside of the Africa Group, 27 African countries put forward individual statements containing their positions for the MC13. The majority of the statements contained broad statements, such as the need to and better integrate developing countries into the WTO system. In addition, the 27 countries that published statements called for 19 specific WTO policies to be discussed at the MC13 (see Table 1).

*Table 1: Positions that African countries have raised in statements for MC13.*

Policies	African countries that have put forward positions
Revitalize Appellate Body (Dispute System)	The African Group, Angola, Cote d’Ivoire, Egypt, Gabon, Kenya, Mauritius, Morocco, Mozambique, Rwanda, Togo, Seychelles, Senegal, Tunisia (13 + Africa Group).

<sup>10</sup> World Trade Organisation, 2024. [https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/mc13\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/mc13_e.htm)

<sup>11</sup>World Trade Organisation, 2024. [https://www.wto.org/english/news\\_e/news23\\_e/mc13\\_11dec23\\_e.htm](https://www.wto.org/english/news_e/news23_e/mc13_11dec23_e.htm)



Extension for Moratorium on Imposition of Customs Duties for e-Transfer	Angola, Benin, Gabon, Nigeria, Seychelles, Senegal (6)
Second Phase for Fisheries Subsidies	Angola, Benin, DRC, Egypt, Eswatini, Kenya, Madagascar, Mauritius, Mauritania, Morocco, Mozambique, Rwanda, Seychelles, Togo, Tunisia, Uganda, Namibia, Nigeria, Gambia, Gabon, Côte d'Ivoire, Botswana, and Cabo Verde (23).
Decisions on TRIPS Agreement	Madagascar (1)
Renewal of TRIPS Waiver on COVID-19 Vaccines	Eswatini, Rwanda, Cote d'Ivoire, Angola, Tunisia (5)
Development of Declaration for PSH (Food Security/Insecurity)	Angola, Benin, Cote d'Ivoire, DRC, Egypt, Eswatini, Gabon, Kenya, Madagascar, Mauritius, Mauritania, Morocco, Mozambique, Niger, Nigeria, Rwanda, Seychelles, Senegal, Tunisia, Uganda (20)
Removal of Taxes on International Food Aid	Angola
Complete Doha Development Round	Angola, Benin, Burkina Faso, Eswatini, Rwanda, Tunisia, Namibia (7)
Declaration to Remove Technical Barriers to Trade (Technology Transfer or Capacity Building)	Angola, Benin, Cote d'Ivoire, Egypt, Eswatini, Kenya, Madagascar, Mauritius, Mauritania, Rwanda, Togo, Senegal, Tunisia, Uganda (14)
Draft Ministerial Decision on Cotton	Benin, Burkina Faso, Cote d'Ivoire, Nigeria, Senegal (5)
Digital Trade in Africa	Benin, Cote d'Ivoire, Gabon, Madagascar, Mauritania, Mozambique, Nigeria, Togo, Seychelles (9)
Enhanced Integrated Framework (EIF)	Burkina Faso, Cote d'Ivoire, Madagascar, Mauritania, Mozambique, Niger, Uganda (7)
Flexibility for Net food-Importing Developing Countries (NFIDCs)	Egypt, Eswatini Kenya, Mauritius, Mauritania, Morocco (6)
Work Programme on Electronic Commerce	Cote d'Ivoire, Gabon, Madagascar, Mauritius, Mozambique, Nigeria, Seychelles (7)
Special Category for Small Island	Mauritius

Developing State (SIDS)	
Reform of the Agreement on Agriculture	Egypt, Niger, Senegal, Tunisia (4)
Aid-for-Trade Work Programme in 2024	Togo
Special and Differential Treatment (S&DT)	Angola, Benin, DRC, Egypt, Eswatini, Kenya, Madagascar, Mauritius, Mauritania, Morocco, Seychelles, Togo, Tunisia, Uganda, Nigeria, Gambia, Gabon, Côte d'Ivoire, Botswana, and Cabo Verde (20)
Ministerial Declaration on the contribution of the multilateral trading system to tackle environmental challenges	Cabo Verde, Egypt, South Africa and the Africa Group (3 + Africa Group)

This brief will now look at the positions of African countries towards the key topics of the MC13.

## AFRICA'S POSITION ON REFORMING E-COMMERCE POLICIES AT THE MC13

22 African countries mentioned three different policies related to e-commerce in their statements (see Table 1). Most African statements also more generally called on the WTO to promote e-commerce whilst acknowledging the unequal advancement of e-commerce globally and the unequal distribution of the revenues generated by the digital economy between developing countries, LDCs, and developed countries. For example, calls for more general support, such as knowledge-sharing related to e-commerce activities, technical assistance and capacity building for developing countries to facilitate their participation in global e-commerce and<sup>12</sup>a voluntarily contributed fund to promote investment in digital small and medium-sized enterprises (SMEs), which would in turn benefit the digital industrialization of these countries.<sup>13</sup>

Nevertheless, the African position was also mixed. For example, South Africa's statement called for an end to the moratorium on the imposition of tariffs on electronic transmissions should be terminated to reduce the unfair competitive edge dominated by international tech

<sup>12</sup> WTO General Council, WORK PROGRAMME ON ELECTRONIC COMMERCE - COMMUNICATION FROM SOUTH AFRICA (WT/GC/W/911), 2023.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W916.pdf&Open=True>

<sup>13</sup> WTO General Council, WORK PROGRAMME ON ELECTRONIC COMMERCE - COMMUNICATION FROM SAMOA ON BEHALF OF THE ACP GROUP (WT/GC/W/916), 2023.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W911.pdf&Open=True>

firms from developed countries and to mitigate the impact of the moratorium on the loss of customs duties on developing countries. On the other hand, Angola, Benin, Gabon, Nigeria, Seychelles, Senegal, and the African, Caribbean, and Pacific (ACP) Group, represented by Samoa, countered the South African position and instead proposed to maintain the current practice of not imposing customs duties on electronic transmissions.<sup>14</sup> Thus, although the African Group exists to lead Africa's position, the WTO needs to consider the voices and needs of individual and smaller African countries when implementing reforms, agreements and JSIs.

## AFRICA'S POSITION ON THE AGREEMENT ON FISHERIES SUBSIDIES AT THE MC13

The Agreement on Fisheries Subsidies was put forth to prohibit harmful fisheries subsidies, which are a key factor in the widespread depredation of the world's fish stocks. Many coastal African countries have been hard hit by fishery subsidies. Accordingly, 23 statements included statements to conclude the second round of agreements on the Fisheries Subsidies, which makes it the highest-ranking policy raised<sup>15</sup> and demonstrates the strong interest of African country members in sustainable fisheries development as well as environmentally friendly trade.

It is also noteworthy that of the 23 countries that took a position in their statements, Seychelles, Nigeria, Gambia, Gabon, Côte d'Ivoire, and Cabo Verde accepted the Agreement on Fishery Subsidies before MC13, and Rwanda and Togo presented their instruments of acceptance at the conference. In addition, Botswana and Chad also officially accepted the initial agreement. This means that the refinement of the Agreement on Fishery Subsidies in its second phase involves the interests of more African members, and that the views of African countries are becoming increasingly significant in this discussion.

## AFRICA'S POSITION ON DISPUTE SETTLEMENT SYSTEM REFORM AT THE MC13

The WTO established the dispute settlement system to resolve trade disputes fairly and effectively between its members and it was originally considered the "crown jewel of the WTO" because it played an indispensable role in the success of the organization. The WTO's dispute settlement system is expected to be reformed in response to concerns over the future of the Appellate Body of the World Trade Organization (WTOAB) and the need to

<sup>14</sup> WTO General Council, COMMUNICATION FROM THE AFRICAN GROUP ON DISPUTE SETTLEMENT REFORM (WT/GC/W/892), 2023.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W916.pdf&Open=True>

<sup>15</sup> WTO Ministerial Conference Thirteenth Session, LEAST DEVELOPED COUNTRY GROUP MINISTERIAL DECLARATION - PRIORITIES AT THE WORLD TRADE ORGANIZATION (WT/MIN(24)/2), 2024.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN24/2.pdf&Open=True>

improve the efficiency and effectiveness of the system. Members have raised concerns over the WTOAB's structural deficiencies, which hinder developing countries from utilizing the dispute settlement system to assert their rights under WTO rules (see page 4-5). Representatives from developing countries, including LDC African members, have called for the following reforms:

- Restoring the functions and capacity of the Appellate Body and making it an integral part of the two-stage multilateral dispute settlement system to protect the legitimate rights of member countries and enhance the credibility of the WTO, which should also be at the core of the reform.
- Reforms should consider the difficulties faced by developing countries in the dispute settlement system, such as capacity constraints, resource constraints, and limitations in legal expertise and talent, and assist them in overcoming the administrative, technical, and financial challenges.
- In addition, reform-specific discussions (as well as other discussions under the WTO) should take into account the fact that some delegations have limited capacity to participate in the informal process. Most of the current informal discussions are dominated by or involve well-resourced delegations, which significantly limits the gains that can be obtained by other delegations.
- Finally, the issue of prolonged disputes and legal limbo should be resolved in a timely manner, ensuring that accurate, effective, and transparent differentiation is applied.

As well as the general views put forth above, the African Group and 13 African countries also put forward positions on dispute settlement reform (WT/GC/W/892). All 13 countries highlighted in their statements the function of the Appellate Body as an integral part of the two-tiered multilateral dispute settlement system. They called for a prompt return of the Appellate Body and the dispute settlement system in order to continue the effective administration and adjudication of the multilateral trading system as soon as possible, while also emphasizing the transparency of the enhanced dispute settlement system and that there should be no additional procedural burdens on the LDCs. The African Group and many individual African countries also pushed for tackling long-standing unresolved developmental issues regarding the dispute settlement system that have been neglected over the years including engaged third parties, costs and effective enforcement of dispute settlement<sup>16</sup> and also called to tackle the lack of transparency and inclusiveness in the various multilateral processes at large.

## **AFRICA'S POSITION ON THE AGRICULTURAL, DEVELOPMENT & FOOD SECURITY AT THE MC13**

The WTO's agricultural development agenda is focused on removing distortions to agricultural trade and import restrictions on industrial goods, particularly in developing countries. The main components of the agenda include: the use of trade restrictions, such

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<sup>16</sup> WTO, REFLECTIONS ON THE REFORM OF THE WTO DISPUTE SETTLEMENT SYSTEM - JOINT COMMUNICATION FROM EGYPT, INDIA AND SOUTH AFRICA (JOB/DSB/7), 2023.  
<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W892.pdf&Open=True>

as tariffs on imports to ensure market access in the sector,<sup>17</sup> the use of domestic subsidies and other support programs that directly stimulate production and trade, export subsidies on agricultural products, especially those listed and subject to specific conditions,<sup>18</sup> and the negotiation of agricultural trade reform based on decisions adopted at the 2015 WTO Ministerial Conference.

The main support for the above agenda is the Agreement on Agriculture (AOA), which entered into force in 1995, and from which measures have been taken to reduce subsidies and trade barriers in order to make international markets for agricultural products fairer and more open to increase incomes for developing countries and alleviate poverty. Follow-up negotiations led to an important turnaround in 2015: developed countries committed to eliminating agricultural export subsidies immediately, with developing countries eliminating subsidies by 2018 at the latest, although developing countries could retain some flexibilities until 2023. The WTO's Committee on Agriculture oversees the implementation of the Agreement on Agriculture and ensures that member countries adhere to their commitments.

**Gaps in the Agricultural Development Agenda:** However, the WTO's agricultural development agenda needs to be advanced given the AOA has not given developing countries the protection they deserve but has instead supported the traditional industrialized and trading powers. Progress has been made on a number of agricultural issues in the WTO such as the well-established outcome of reducing all agricultural tariffs and the commitment to abolish export subsidies in 2015, but it is still hard to conclude whether these gains have been beneficial to the participation of developing countries in international agricultural market transactions and their revenues.

In contrast, discussions on limiting the range of domestic support for agricultural products are still very slow across countries. There are serious conflicts over which supportive public policies are considered market distortions and which affect the prerequisites for fair and stable markets, whereas developed countries can take advantage of these gaps in international organizations to support their domestic food and agricultural sectors. In addition to the negotiating dilemmas, the existing WTO agreements on domestic subsidies and support programs struggle to ensure an advantageous position for developing countries.

**Non-tariff barriers (NTBs):** The Agricultural Development Agenda cannot be impactful unless NTBs are also tackled, which it does not, so far. Although the WTO has highlighted NTBs as an impediment to trade,<sup>19</sup> there are limitations to the WTOs to enforce actions against them and in some cases the WTO condones NTBs, for example, stringent packaging standards and SPS processes for agricultural products. For agricultural producers from developing African economies, obtaining certificates required by importing countries and completing biological inspections can be a costly and lengthy process that is unaffordable for many.<sup>20</sup>

**The African position:** Despite the notable gaps in the agricultural development process, African countries are internally seeking to overcome the disadvantageous position that

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<sup>17</sup> World Trade Organisation, 2024. [https://www.wto.org/english/tratop\\_e/agric\\_e/agric\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/agric_e.htm)

<sup>18</sup> World Trade Organisation, 2024. [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm3\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm)

<sup>19</sup> World Trade Organisation, 2024. [https://www.wto.org/ENGLISH/thewto\\_e/whatis\\_e/tif\\_e/agrm9\\_e.htm](https://www.wto.org/ENGLISH/thewto_e/whatis_e/tif_e/agrm9_e.htm)

<sup>20</sup> Alexander Sandkamp, Erdal Yalcin, Luisa Kinzius, Global trade protection and the role of non-tariff barriers, VoxEU – CEPR's policy portal, 2019, <https://cepr.org/voxeu/columns/global-trade-protection-and-role-non-tariff-barriers> <https://cepr.org/voxeu/columns/global-trade-protection-and-role-non-tariff-barriers>



NTBs impose on them in international trade. One important move is to turn their attention to intra-continental trade, as evidenced by the African Continental Free Trade Area (AfCFTA). According to AfCFTA Annex 5 of the Protocol on Trade in Goods, AfCFTA has provided a clear definition of NTBs and proposed concrete mechanisms for the reporting, monitoring and elimination of NTBs, including clear requirements for relevant organizations, action steps and operational requirements.<sup>21</sup> The content of this Annex points out a clearer framework on how to remove trade barriers occurring in intra-African trade, which is beneficial to the flow of goods and trade in AfCFTA. The [tradebarriers.africa](https://www.tradebarriers.africa) online platform has been opened up to African businesses to report on the particular obstacles encountered when trading across borders within Africa<sup>22</sup>. Other country communities in Africa, such as the East African Community (EAC), have also reduced barriers to trade between countries through e-passports and new customs regimes<sup>23</sup>.

In terms of external action for the development of agricultural trade in Africa, the Ministers raised a number of points at MC13, with food security at the center of them. Looking at specific policies, the focus of most African members is on Public Food Stockholding (PSH) and other associated initiatives - 20 countries have made statements on this issue, voicing their commitment to national food security in the agricultural development process, especially in LDCs and the Net food-Importing Developing Countries (NFIDCs). In particular, the instruments include improving fairness in agricultural trade negotiations and flexibilities in agreements.

In addition, in terms of Technical Barriers to Trade (TBTs), the widening technology divide between developing and developed countries was a repeated point made by many delegates on MC13, implying that TBTs existed as an influential and pressing factor affecting the international trade of African countries. In response, 14 countries had made clear in their statements the urgency of removing TBTs and had proposed measures such as expanding technology transfer and capacity-building to narrow the gap in trade digitization.

Other agriculture-related subjects were also stated on MC13. For example, six statements contained expectations for the reform of the Agreement on Agriculture; six countries mentioned the importance of drafting the ministerial decision on cotton; and another country suggested that the taxes on International Food Aid should be removed. These presentations are generally centered on removing inequities in agricultural trade and prioritizing food security and resilience.

Overall, African countries are striving to overcome external and internal impediments to their international trade in agriculture, including non-tariff ones, and have also achieved some results at the national or regional level. This all points to the determination of African countries to enhance their agricultural development and trade and to be part of the "fair and open" trade promoted by the WTO. What WTO should consider is how to match these external actions with the strong internal will for agricultural development in Africa and put them into practice.

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<sup>21</sup> African Union, PROTOCOL ON TRADE IN GOODS-ANNEX 5 NON-TARIFF BARRIERS, <https://au-afcfta.org/wp-content/uploads/2022/01/Annex-5-to-the-CFTA-Agreement.pdf>

<sup>22</sup> Non-tariff Barriers Reporting, Monitoring and Eliminating Mechanism, <https://www.tradebarriers.africa>  
<sup>23</sup> EAC Customs, <https://www.eac.int/customs>

## AFRICA'S POSITION ON THE CONTRIBUTION OF THE MULTILATERAL TRADING SYSTEM TO TACKLE ENVIRONMENTAL CHALLENGES

Many WTO members, including the Africa Group, were hoping to see trade and climate measures dealt with comprehensively at MC13 and have been arguing more generally that climate issues should be discussed within the WTO. Calls to include climate issues in the WTO have become stronger as the trend of using trade and fiscal incentives to influence cross-border climate responses has become increasingly common and fraught and because the United Nations Framework Convention on Climate Change Conference of the Parties (UNFCCC COP) failed to discuss the issue. One example is the introduction of the EU's Carbon Border Adjustment Mechanism (CBAM), which has contributed to multiple trade disputes.<sup>24</sup>

For example, Malaysia and Indonesia, two of the world's biggest producers of palm oil have pushed back against the EU's attempt to push through the WTO a decision that biodiesel made from palm oil should cease to count as a renewable biofuel. Although the WTO agreed that it was valid for the EU to establish rules against crop-based fuels like palm oil due to the deforestation and emissions risks of indirect land use change (ILUC), the WTO found the EU to have developed and implemented these rules in a way that constituted "arbitrary or unjustifiable discrimination." Essentially, the EU's decision was not rules-based, open, transparent, fair, and non-discriminatory, which is how the multilateral trading system should be.<sup>25</sup>

In fact, the Africa Group's greatest concern about the tightening link between trade and climate issues is that regions, such as the EU are not basing decisions on rules of the multilateral system and are using climate as a way to drive unfair trade agreements and rules. Consequently, the Africa Group, as well as Egypt, South Africa and Cabo Verde individually, issued a Ministerial Declaration on the contribution of the multilateral trading system to tackle environmental challenges stating that whilst they affirm the need to seek "both to protect and preserve the environment" it should be done so in a way that is "consistent with their (individual countries' respective needs and concerns at different levels of economic development" and "with the WTO at its core and for effective collective action rather than unilateral measures."<sup>26</sup>

Nevertheless, the issue was never raised at MC13 because India put a stop to any discussion on the topic after the Indian Minister of Commerce and Industry, Piyush Goyal, stated ahead of the conference that he intended to ensure that the guiding principles of the WTO were maintained, citing "attempts to include issues in the WTO that are not part of world trade." Given the EU is using climate issues to influence trading decisions over developing regions, in particular, the lack of discussion on the matter is an area of concern for African WTO members and should be pushed to be a key discussion topic at MC14.<sup>27</sup>

<sup>24</sup> <https://africanclimatewire.org/2024/03/no-place-to-discuss-the-cbam-not-even-the-wto/>

<sup>25</sup> <https://www.eco-business.com/news/in-landmark-deforestation-case-wto-finds-eu-discriminated-against-palm-oil-in-setting-biofuel-rules/>

<sup>26</sup> <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN24/28.pdf&Open=True>

<sup>27</sup> <https://africanclimatewire.org/2024/03/no-place-to-discuss-the-cbam-not-even-the-wto/>

## Chapter 4: The MC13 outcomes for Africa

### COMOROS BECAME THE NEWEST AFRICAN MEMBER OF THE WTO

17 years after filing its application, Comoros, along with Timor-Leste, became the first countries to become new members of the WTO since 2016 at MC13. Comoros's membership is an affirmation of the small island nation's ambition to pursue development and contribute to Africa's growing influence in the WTO given the long and complex path to its accession.

### MIXED OUTCOMES FOR AFRICAN COUNTRIES

In a nutshell, the MC13 outcomes did not fully meet Africa's needs as many of the key positions that African countries raised were unresolved or left out. Nevertheless, some of the issues that African countries raised, were managed.

**For example, many of Africa's demands to improve the global e-commerce system to meet African needs were met:**

- Taking into consideration inequalities in the e-commerce system and the needs of developing countries, the Work Programme on Electronic Commerce was revitalized and incorporates training, technical assistance, and exchange of experience.
- The moratorium on customs duties for e-transfers will continue.

**Other African positions that were met included:**

- An agreement to enhance technical assistance, training programmes, transparency, and cooperation to reduce the impact of SPS measures and TBT developing countries.
- A three-year post-graduation transition period for LDC members, which will allow them to still access special treatment, technical assistance, and capacity building benefits during the three-year period.

**However, many key issues that African countries raised remained unresolved:**

- Discussions on the reform of the dispute settlement system are still ongoing due to unresolved issues regarding appeals, reviews and accessibility.
- Decisions regarding S&DT and capacity building to enhance S&DT are incomplete, despite the statement of precise and effective operations in the SPS and TBT.
- The second stage of the Agreement on Fisheries Subsidies is still pending.
- A huge concern is that a deal on agricultural development and food security was not made and the action points for food security, which are still in the commitment phase, remain ambiguous.

- A huge loss is that Covid-19 TRIPS waivers from MC12 are not going to apply to compulsory licenses for the production of Covid-19 diagnostics and therapeutics.

*Table 2: MC13 outcomes in comparison to African positions.*

**Code:**

Discussed, no agreement made.

Discussed and agreement made.

African Policies	MC13 Outcomes	Declaration
Revitalize Appellate Body (Dispute Settlement System)	The reform of the Dispute Settlement has not yet been fully decided, although a clear outcome is promised for 2024.	Dispute Settlement Reform - Ministerial Decision (WT/MIN(24)/37; WT/L/1192)
Extension for Moratorium on Imposition of Customs Duties for e-Transfer	The moratorium will be extended.	Work Programme on Electronic Commerce - Ministerial Decision (WT/MIN(24)/38; WT/L/1193)
TRIPS Waiver on COVID-19 vaccines	Covid-19 TRIPS waivers from MC12 are not going to apply to compulsory licenses for the production of Covid-19 diagnostics and therapeutics.	Abu Dhabi Ministerial Declaration (WT/MIN(24)/DEC)
Development of Declaration for PSH (Food Security/Insecurity)	The work programme identified food supply chains in small economies and the impact of non-tariff measures on trade costs as one of the identified areas for action.	Work Programme On Small Economies - Ministerial Decision (WT/MIN(24)/33; WT/L/1188)
Flexibility for Net food-Importing Developing Countries (NFIDCs)		Work Programme On Small Economies - Ministerial Decision (WT/MIN(24)/33; WT/L/1188)
Declaration to Remove Technical Barriers to Trade (Technology Transfer or Capacity Building)	Digital tools will be adopted, and training will be provided to support the proper functioning of the TBT Agreement.	Strengthening Regulatory Cooperation To Reduce Technical Barriers To Trade - Ministerial Declaration (WT/MIN(24)/35; WT/L/1190)
	The work of the Working Group on Trade and Transfer of Technology (WGTTT) will be supported.	Abu Dhabi Ministerial Declaration (WT/MIN(24)/DEC)
Digital Trade in Africa	The e-commerce opportunities and challenges of small economies and their	Work Programme On Small Economies -

	digital ecosystems are identified as an area of focus but no actions proposed.	Ministerial Decision (WT/MIN(24)/33; WT/L/1188)
Work Programme on Electronic Commerce	Work program will be revitalized and specific development cases of developing countries will be taken into account.	Work Programme on Electronic Commerce - Ministerial Decision (WT/MIN(24)/38; WT/L/1193)
Aid-for-Trade Work Programme in 2024	The importance of the Aid for Trade Initiative was only recognized but no decision was taken on its continuation.	Abu Dhabi Ministerial Declaration (WT/MIN(24)/DEC)
Special and Differential Treatment (S&DT)	Providing training and technical assistance to LDCs in timely engagement on SPS and TBT matters was emphasized, but no more S&DTs were raised.	Declaration On The Precise, Effective And Operational Implementation Of Special And Differential Treatment Provisions Of The Agreement On The Application Of Sanitary And Phytosanitary Measures And The Agreement On Technical Barriers To Trade - Ministerial Declaration (WT/MIN(24)/36; WT/L/1191)
Second Phase for Fisheries Subsidies	No conclusive agreement made. Second phase not passed.	N/A
Draft Ministerial Decision on Cotton	FIFA & WTO MoU for use of Benin cotton, but no formal WTO agreement discussed or made.	N/A
Reform of the Agreement on Agriculture	No conclusive agreement made.	N/A
<b>Other Positive Outcomes</b>		
Accession of the Union of the Comoros - Ministerial Decision (WT/MIN(24)/31; WT/L/1186): Comoros becomes a member of the WTO.		
WTO Smooth Transition Support Measures in Favour of Countries Graduated from the LDC Category - Ministerial Decision (WT/MIN(24)/34; WT/L/1189): Members who have just graduated can receive a three-year, transitional period when special provisions and assistance are available.		
Work Programme On Small Economies - Ministerial Decision (WT/MIN(24)/33; WT/L/1188): The potential for small economies to integrate climate change adaptation and mitigation into trade will be explored.		



### Subjects Not Covered

Special Category for Small Island Developing State (SIDS); Enhanced Integrated Framework (EIF); Removal of Taxes on International Food Aid; Complete Doha Development Round; Ministerial Declaration on the contribution of the multilateral trading system to tackle environmental challenges.

Although there were some positive results, including the accession of Comoros and some outcomes on e-commerce, overall, most major issues were unmet, not just for Africa, but for the global community as a whole. Arguably, successes at MC13 were always going to be difficult given global challenges, such as conflict in Ukraine, Palestine and Sudan, as well as upcoming elections in India, the United States, and Mexico, plus a newly installed administration in Indonesia. Consequently, the relevance of the WTO and the need for reform is being questioned more than ever. However, rather than the MC13 being considered a loss for Africa, the uncertain future of the WTO could be the opportunity Africa needs to exert its influence to reshape the WTO to better match the needs of African nations.

## Chapter 5: Conclusion and recommendations

That 27 African countries put forward statements independently of the Africa Group containing 17 specific policies that covered a wide range of issues, as well as broader statements regarding structural change, shows that Africa is taking a very active role in shaping the WTO to help Africa reach its economic and trade goals. However, given most of the policies that African countries raised at MC13 resulted in no agreements, clear steps forward or were not discussed at all, is a clear indication that the WTO needs major reform if it is to fulfill its mission of supporting open trade for all and the needs of developing countries. African countries must continue honing their collaborative and strategic approach to their WTO membership, not only to secure agreements that support Africa's needs, but also to shape the WTO system itself given it is currently in a state of flux. The WTO will only regain its relevance and have the ability to support the needs of the global community when it is truly inclusive equally representative of all global regions at every level of the WTO.

Aside from major, disruptive WTO reform, this brief will now offer some recommendations for the WTO and African members of the WTO.

### RECOMMENDATIONS FOR THE WTO

**African inclusion in disputes and decision making:** Firstly, the WTO should work towards addressing the imbalances in negotiating power between developed and developing countries. This could involve reforms in decision-making processes and ensuring that the interests of African countries are adequately represented. For example, the WTO could provide subsidies for LDC African countries to have permanent missions in Geneva and for litigation processes if a complaint is filed by African LDC country. The WTO could also

include quotas for the appointment of African panellists as adjudicators of dispute settlements, for the of participation as third parties and inclusion in “green rooms” and discussions on all processes related to disputes and general agreements within the WTO. This will be an important move by the WTO to enhance the participation of African countries in its mechanisms and to play a meaningful role in international trade negotiations and the promotion of an open and inclusive global economy.

Another point is to judicialize and formalize substantive issues in WTO law, particularly concerning trade remedy disputes, which constitute the bulk of disputes brought before the dispute settlement system. Moreover, like the inspiring appointment of the President of the General Council of Ngozi Okonjo-Iweala, more African representatives should be included in the development of jurisprudence to reflect the special needs and difficulties of developing economies. economies' special needs and difficulties.

**Acknowledging needs of individual countries:** The WTO should continue to provide special and differential treatment to African countries, taking into account their specific needs and challenges. This could include flexibility in implementing WTO agreements, support for trade-related infrastructure, and technical assistance specially tailored to the needs of African countries. It is also important to take into account social factors in addition to economic ones. For example, traditional judicial dispute settlement mechanisms may not be compatible with the cultural orientation of African countries, especially when faced with internal African trade disputes.<sup>28</sup>This is where the use of regional trade arrangement dispute settlement mechanisms, which are more tailored to local circumstances, is particularly important.

**Supporting African positions in the Agricultural Development Agenda:** The first is to resolve the current problem of still limited market access for African developing countries, especially LDCs, and the undesirable impact of exports from other countries. Incorporating more flexibilities under the AOA framework, as well as addressing the shrinkage in policy space for African (as well as other developing) country members due to the limited room available under the provisions of the AOA could be key to achieving real progress.

Moreover, it is necessary and sensible for the WTO to turn its attention to food security and the environment and go further by focusing on existing food security situation in African countries, and their potential for green agricultural development and low-carbon economies. It could adopt adjustments in the negotiation and allocation of resources for programs, such as reprioritization, targeted clauses, and so on.

**Removing NTBs:** Crucially, the WTO must not just acknowledge but actively work towards creating mechanisms and sensitizing developing countries on the removal of NTBs that prevent developing countries from exporting more agricultural products to developed nations.

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<sup>28</sup> Oduwale, Olajumoke O., *REVISITING THE NON-PARTICIPATION OF AFRICAN COUNTRIES IN THE WTO DISPUTE SETTLEMENT MECHANISM: DOES IT STILL MATTER?*, African Yearbook of International Law, 2014, 157-189.

**African countries should continue to enhance their active engagement in WTO negotiations:** and discussions to ensure their interests are represented. This could involve strengthening regional cooperation and coordination among African countries to present a unified voice in trade negotiations, dispute settlement mechanisms, and the formulation of trade policies.<sup>29</sup> This collaborative approach may help countries to share the costs and risks of utilizing the WTO system and to increase their influence in future discussions, securing greater transparency in the decision-making process. Also, cooperation and exchanges among African countries may have vital benefits in developing human resources related to trade governance and international trade negotiations.

**Enhance the role of the African Union (AU):** According to the London School Economics, although the AU maintains a representative office that monitors deliberations at Geneva-based international organisations, the role of the AU should be strengthened further by giving it observer status at the WTO. This can help to strengthen the link between the WTO and African countries' development objectives and to improve the technical capacities of African missions in Geneva. It should strengthen its establishment to pool expertise and provide technical services to the African Group, including in drafting proposals and preparing responses to proposals from interlocutors. It should also invest in African think tanks focused on assessing the implications of relevant WTO initiatives and negotiations for African countries' development objectives.<sup>30</sup> This can help African members to more strategically negotiate to secure their interests.

**Strategic negotiations to ban carbon border taxes:** In the negotiation rooms where export bans on food and fertiliser are proposed as the key problems to be solved in agricultural markets, African negotiators could work to take this off the table. They could replace these with proposals to ban "carbon border taxes". It has been estimated that the EU's border tax could cost the African continent \$25bn per year from 2026 – an amount similar to what all OECD countries spent on humanitarian aid in 2022.

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<sup>29</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>

<sup>30</sup> David Luke and Colette Van der Ven, *Why African countries struggle to exercise their agency in the World Trade Organisation*, LSE, 2023. <https://blogs.lse.ac.uk/businessreview/2023/05/18/why-african-countries-struggle-to-exercise-their-agency-in-the-world-trade-organization/>