

Trade negotiations

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- Members stressed that any early package would not be the end of the line, but rather a milestone to gather momentum for the full conclusion of the Doha Round.



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Background on trade negotiations

Changes to the rules of trade require the agreement of all WTO members, who must reach consensus through rounds of negotiations. The most recent round began in 2001.

Doha Development Agenda

At the Fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO member governments agreed to launch a new round of trade negotiations. They also agreed to work on other issues, in particular the implementation of the current WTO agreements. The entire package is called the Doha Development Agenda (DDA) or the Doha Round. The negotiations take place in the Trade Negotiations Committee (TNC) and its subsidiaries, which are usually regular councils and committees meeting in special session or specially created negotiating groups. The chairs of the nine negotiating bodies report to the TNC, chaired by the WTO Director-General, which coordinates their work.

Doha Round negotiations in 2012

In 2012, negotiators responded to a call by the Eighth Ministerial Conference in December 2011 to seek to break the deadlock in the Doha Development Agenda (DDA), with some progress made in a number of areas, notably trade facilitation, agriculture and dispute settlement. Work is expected to intensify in 2013 in an attempt to deliver a package of agreements to take to the Ninth Ministerial Conference in Bali in December 2013.

The 2011 Ministerial Conference acknowledged that, despite full engagement and intensified efforts, the Doha negotiations were at an impasse and that it was unlikely that all elements of the Doha Round could be concluded simultaneously in the near future. However, ministers were not ready to give up on the Doha mandate and decided to give new impetus to the trade talks by instructing negotiators in Geneva to explore different approaches. In particular, they told them to seek to advance the negotiations in areas where progress could be achieved while at the same time intensifying efforts to overcome the stalemates in those areas where substantial differences remained, all of this while respecting the principles of transparency and inclusiveness, and in accordance with the DDA mandate, especially its development component.

In line with these instructions, work in the negotiating groups focused on the identification of those areas that could be delivered earlier than the conclusion of the “single undertaking” (nothing is agreed until everything is agreed), which is the full DDA. Work got off to a slow start, but the pace picked up in the second half of the year. The TNC meeting in December 2012 provided an opportunity to weigh up the work undertaken in each area of the negotiations and map the way forward for 2013. The chairs of the TNC subsidiary bodies provided reports on the activities in their respective committees. The Director-General, as Chair of the TNC, gave his own assessment of the state of play and his view of the path to follow, and WTO members had an opportunity to voice their needs and expectations for the year ahead.

Some encouraging developments

The meeting showed that although progress had not been even across the board, some encouraging developments had been recorded in the areas of trade facilitation, agriculture and development as well as in dispute settlement. The message that emerged was one of commitment and determination.

Members were unanimous in their desire to deliver a positive outcome at the Ninth Ministerial Conference (MC9) and agreed to continue working in a timely, pragmatic and constructive manner towards identifying some accords to deliver to the ministerial meeting. Delegations expressed overall support for the guidelines suggested by the Director-General for the handling of the negotiations in the run-up to MC9.

The Director-General encouraged members to work towards what is reasonably doable, strive to build consensus around such proposals and avoid being confrontational. Besides resolving to ensure a successful and meaningful outcome of the 2013 ministerial gathering, WTO members also stressed that any early package would not be the end of the line, but rather a milestone to gather momentum for the full conclusion of the Doha Round.



As Chair of the Trade Negotiations Committee, Pascal Lamy reported regularly on the state of play in the Doha Round negotiations.

Agriculture

In 2012, agriculture negotiators responded to the political guidance provided by the WTO's Eighth Ministerial Conference in December 2011 to explore different negotiating approaches, with a view to a successful conclusion of the Doha Development Agenda. While work during the first part of the year proceeded relatively slowly, in the second half discussions accelerated. By the end of 2012, negotiators had identified several issues on which to intensify work in preparation for the Ninth Ministerial Conference in December 2013.

Recognizing that a comprehensive conclusion of the Doha Round was unlikely in the near future, the Eighth Ministerial Conference (MC8) in December 2011 urged WTO members to explore different negotiating approaches. In response,



Background on agriculture

The agriculture negotiations began in 2000 under a commitment that WTO members made in the 1986-94 Uruguay Round to continue farm trade reforms. They were brought into the Doha Round when it was launched in 2001. Broadly, the objective is to reduce distortions in agricultural trade caused by high tariffs and other barriers, export subsidies and domestic support. The negotiations, conducted by the WTO Committee on Agriculture meeting in special session, also take into account social and political sensitivities in the sector and the needs of developing countries.

agriculture negotiators focused on identifying issues for which there might be a reasonable chance of achieving agreement. Regular consultations on cotton were also held, in line with guidance given by MC8.

The first half of 2012 provided a period of reflection on how to move negotiations forward. The Chair, New Zealand Ambassador John Adank, met informally with delegations to discuss their views. Delegations also exchanged views during a meeting of the Special Session on Agriculture in March on how its work could progress. However, these consultations did not lead to significant movement, either in terms of process or substance.

In the second half of the year, the momentum picked up with WTO members putting forward several proposals. One proposal called for the WTO Secretariat to circulate updated information on the administration of tariff rate quotas (TRQs) and export competition (export subsidies and other export measures that could contain subsidies). Under tariff rate quotas (or simply tariff quotas), imports within an agreed quota are charged lower duties than those outside (these can be high).

Two other papers put forward by developing country groups proposed text for an understanding on TRQ administration and on public stockholding for food security purposes. The latter would let governments buy food for stockholding from poor farmers at supported prices that would be excluded from subsidy limits. Both of these suggest an early agreement on the relevant paragraphs of the December 2008 draft outline deal known as the draft "modalities".

Agriculture negotiators began discussions on these issues to determine whether agreement could be reached ahead of the Ministerial Conference in Bali, Indonesia, in December 2013.



While initial consultations revealed a range of sensitivities about the extent to which a selective approach can achieve the overall balance necessary in agriculture, the tone of the discussions was constructive and pragmatic.

At the end of the year, the Secretariat issued a paper on TRQ administration methods and fill rates (the extent to which quotas are filled). The Secretariat also initiated work on export competition using information notified by WTO members as well as information collected through a questionnaire. In addition, the Chair requested that members implementing programmes of public stockholding for food security purposes and domestic food aid provide background information on these programmes. This information will inform the work of the agriculture negotiating group in 2013.

Market access for non-agricultural products

In early 2012, the Negotiating Group on Market Access for Non-Agricultural Products (NAMA), at the suggestion of then Chair Luzius Wasescha of Switzerland, resumed discussions on tariffs, which in the past few years had been side-lined in favour of discussion of non-tariff issues. However, there was little progress either on tariffs or on non-tariff barriers (NTB) during the year. New Chair Remigi Winzap of Switzerland said members must intensify their efforts in 2013, noting a successful NAMA negotiation is especially important for members who want to enhance the participation of their companies in, or become part of, a regional or global value chain.

In his final report before stepping down, Chair Wasescha said in July that in spite of his best efforts to prod members into thinking of new approaches, the tariff negotiations remain at a standstill. It is clear, he said, that for some members the current draft NAMA modalities (blueprint) do not provide a suitable basis for progress. At the same time, it is equally apparent that other members are not willing to discard a text they have spent ten years negotiating.

Nevertheless, there are options that members might pursue. These include the possible introduction of safety valves, which could give members the confidence to be more ambitious on tariff-cutting because they would be assured of some respite in difficult times, Ambassador Wasescha said. Another option is the timeframe for tariff cuts. Rather than having a blanket timeframe, as in the current draft modalities, it could be possible to extend or shorten the timeframe of cuts on individual items. This might help achieve a necessary balance between ambition and flexibility, the ambassador said.

Over the past three years, the Negotiating Group has mainly spent time on the various non-tariff barrier (NTB) proposals and on conducting a text-based negotiation on some of them. However, since the beginning of 2012 some members have declared work cannot continue in isolation from the tariff negotiation. As a result, the deadlock in tariffs has spread to NTBs.



Background on market access for non-agricultural products

Non-agricultural products are products not covered by the Agreement on Agriculture. These range from manufactured goods to fuels and fisheries. Collectively they represent more than 90 per cent of world merchandise trade. The negotiations aim to reduce or, as appropriate, eliminate tariffs, as well as non-tariff barriers (NTB) such as import licensing systems and technical barriers to trade particularly on goods of export interest to developing countries. The negotiations are conducted in the Negotiating Group on Market Access for Non-Agricultural Products (NAMA).

The Negotiating Group, working in three small groups, had drafted three working texts, covering the so-called horizontal mechanism, textile labelling and transparency.

The horizontal mechanism aims at achieving flexible and expeditious procedures, involving a facilitator, to assist members to address concerns regarding NTBs. It establishes step-by-step procedures and timetables and provides suggestions for the role of the facilitator. On labelling of textiles, clothing, footwear and travel goods, the proposal seeks to provide clarity and definitions to labelling requirements under the present Technical Barriers to Trade (TBT) Agreement. Finally, on transparency in the adoption of new technical regulations, the text proposes more clarity and transparency in the elaboration and implementation of technical regulations.

Textile labelling has seen the most progress, notably on its scope, with members of the small negotiating group agreeing that intermediate products would be covered. Subsequently, discussion revolved around the differentiated treatment for these products, Ambassador Wasescha said. There was also significant advance in transparency issues, with delegations beginning work on improving the availability of information on the regulatory lifecycle of measures.

At a meeting on 29 November 2012, the NAMA Group confirmed Ambassador Winzap as the new Chair.



Services

Negotiations to lower barriers to trade in services made little headway in 2012 and the Council for Trade in Services held no special sessions. The Working Party on Domestic Regulation held a good information exchange on existing regulatory practices but the Working Party on the GATS Rules remained at an impasse.

Market access

Chair Fernando de Mateo (Mexico) told the Trade Negotiations Committee in December that he had continued to consult WTO members on market access issues. In line with guidance given at the 2011 Ministerial Conference, members also explored informally different negotiating approaches, striving to advance the services negotiations where progress could be achieved. But there was no progress, and in 2012 Mr de Mateo did not convene any special sessions of the Council, which is where negotiations formally take place. In large part, the paralysis reflects the impasse in the overall Doha Development Agenda negotiations.

Domestic regulation

In 2012, the Working Party on Domestic Regulation pressed ahead with addressing technical questions that have arisen in the negotiations. On the basis of 93 questions submitted by members, discussions focused on how certain domestic regulation concepts and principles are implemented at the national level.

The information exchange helped to shed light on existing regulatory practices. Some WTO members also used this exercise to reflect on possible implications for the horizontal disciplines under consideration. The mandate of the Working Party is to develop disciplines to ensure that licensing and qualification requirements and procedures, and technical standards, do not constitute unnecessary barriers to trade in services.



Background on services

Services are the most important economic activity in many countries when measured as a share of overall production, and they are the single largest source of employment. The General Agreement on Trade in Services (GATS) mandates WTO members to progressively liberalize trade in services through successive rounds of negotiations. At the Doha Ministerial Conference in November 2001, the services negotiations became part of the "single undertaking" under the Doha Development Agenda. The negotiations are overseen by the Council for Trade in Services, meeting in special session, and its subsidiary bodies, in particular the working parties on domestic regulation and on GATS rules.



To support the discussions, members tasked the WTO Secretariat with two major background notes. The note on “Regulatory Issues in Sectors and Modes of Supply” provides an overview of how regulation can affect trade in services in individual sectors and modes. A second note – “Technical Standards in Services” – seeks to clarify how standards are formulated and implemented in service sectors.

GATS rules

The Working Party on GATS Rules carries out the negotiating mandates contained in Articles X (emergency safeguard measures), XIII (government procurement) and XV (subsidies) of the GATS. As in previous years, however, WTO members did not engage in any text-based negotiations as there was no common vision of what could constitute an acceptable outcome in any of the three areas.

On emergency safeguard measures, members saw the need to pause and take stock of the concepts and options discussed in the negotiations since the inception of the Working Party in 1995. Emergency safeguards, based on the principle of non-discrimination, would permit a member temporarily to suspend commitments in the event of an unforeseen surge in imports of services that caused, or threatened to cause, injury to a domestic service industry.

Based on a series of dedicated discussions on the broader economic and developmental importance of government procurement in services, conducted in late 2010 and 2011, several initial suggestions for future work had emerged. However, in 2012, members made no headway on any of the issues raised.

Concerning subsidies in services, members could not agree on whether they would first need to identify concrete evidence of trade-distortive effects before entering into negotiations on multilateral disciplines to avoid such effects.

Trade-related aspects of intellectual property rights (TRIPS)

Negotiations remained deadlocked on notifying and registering geographical indications (GI) for wines and spirits. In December, Yonov Frederick Agah of Nigeria, the new chair of the TRIPS Council special sessions, which handle the negotiations, said the biggest stumbling block is differences of opinion over the mandate – including whether talks should only be about wines and spirits, as originally mandated, or whether other products could be added. Delegations are also divided on, among other things, the consequences of registration and whether the register applies to all members or only those agreeing to it.

Negotiations on a GI register

The register for wines and spirits is intended to facilitate the protection of geographical indications (GI). These are place names (or sometimes other terms or signs associated with a place) used to identify products as originating from a location that gives them particular qualities, their reputation or other characteristics. Bordeaux and Tequila are well-known examples. The TRIPS Agreement mandates negotiations on establishing a register and work has continued since 1996.

The three main proposals under consideration are:

- a 2003 proposal by Hong Kong, China
- the so-called “Joint Proposal” of 2005, revised in 2011, from a group of countries that want the register to be essentially a source of information about national protection of registered GIs
- the “W/52” proposal put forward in 2008 by a group of over 100 countries as part of a package also covering other TRIPS issues. This proposal is considered to create a stronger expectation of protection for GIs entered on the register.



Background on TRIPS

The Doha Development Agenda mandates negotiations on a multilateral system for notifying and registering geographical indications (GIs) for wines and spirits. The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) carries out the negotiations in special session. In its regular sessions, the TRIPS Council implements other relevant ministerial decisions, notably those relating to technology transfer and dispute settlement. The Hong Kong Ministerial Declaration mandates the Director-General to consult on certain TRIPS-related implementation issues identified in the Doha Declaration.

In April 2011, the then Chair, Darlington Mwape of Zambia, circulated a “Draft Composite Text”. It was the first time a single text had been produced in draft treaty language reflecting members’ positions on the three above-mentioned proposals and other issues, such as special and differential treatment. During 2012, Chair Agah held informal consultations on how to meet a call by the Eighth Ministerial Conference to advance negotiations where progress could be achieved and seek some “early harvest”. Positions are entrenched on product coverage and whether, as the initial negotiating mandate says, the register should be confined to GIs for wines and spirits, or whether it should extend to other products (such as food and agricultural products). Other stumbling blocks are the consequences of registration and whether the register would apply to all WTO members or only those electing to take part. Some delegations opposed restarting work unless the mandate was firmly anchored in the Draft Composite Text. For others, it was not acceptable to work on the draft text just to discuss the mandate.

Another difficulty relates to the linkage made by some delegations to two TRIPS-related implementation issues, namely the extension of the protection of GIs for wines and spirits (GI extension) and the relationship between the TRIPS Agreement and the Convention on Biological Diversity (TRIPS-CBD). It was suggested during informal consultations that the three issues – the register, TRIPS-CBD and GI extension – be unbundled and addressed in separate tracks. There was no consensus on this.

Consultations on outstanding implementation issues

The 2005 Hong Kong Ministerial Declaration called for consultations by the Director-General on TRIPS-related “outstanding implementation issues”. The first issue concerns the possible extension to other products of the “higher” or “enhanced” level of protection that is currently only required for GIs for wines and spirits. Members continued to differ on whether such an extension would help their trade in such products, or whether increasing the level of protection would create an unnecessary legal and commercial burden. The other issue concerns the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD): whether – and, if so, how – TRIPS should do more to promote the CBD objective of equitably sharing the benefits that arise when genetic resources are used in research and industry. The main focus has been on proposals to amend the TRIPS Agreement to require patent applicants to disclose the source or the country providing genetic resources and associated traditional knowledge. No further consultations have been held since the Director-General presented a written report covering the period from March 2009 to April 2011.

Incentives for technology transfer

In November 2012, the TRIPS Council, in regular session, undertook its tenth annual review of the incentives given to companies by developed countries to transfer technology to least-developed countries (LDCs). Developed countries provided detailed information on the incentives they make available. The LDC Group presented a paper with further questions in relation to the 2011 reports.

The TRIPS Agreement requires incentives for technology transfer to LDCs, and the mechanism was set up by a Council decision in 2003 detailing the information to be supplied by developed countries on how their domestic technology transfer incentives function.

The WTO Secretariat organized a fifth annual workshop for LDC and developed-country delegations to discuss the operation of the incentives. Based on an LDC proposal, delegations explored the possibility of a harmonized reporting format to assist analysis and understanding of the reported measures.

Disputes over intellectual property protection

In general, disputes can be brought under the WTO Dispute Settlement Mechanism not only if an agreement or commitment has been violated, but also if an expected benefit under an agreement has been nullified without violating the letter of the agreement. For disputes over intellectual property protection, the TRIPS Agreement prescribed a five-year moratorium on initiating such “non-violation and situation complaints” and this moratorium has been extended by a series of Ministerial Conferences.

The Eighth Ministerial Conference in December 2011 directed the Council to continue examining the scope and modalities for these disputes and to make recommendations to the next Ministerial Conference in 2013. It also agreed that, in the meantime, members would not initiate such complaints under the TRIPS Agreement. In 2012, the TRIPS Council continued to consider the scope and modalities for such complaints. For the purpose of facilitating the Council’s work, the Secretariat updated, at the Council’s request, a summary of the points made in earlier discussions, and organized a briefing session.

Trade and development

In 2012, the special session of the Committee on Trade and Development, which handles the negotiations, made some progress in the three specific areas, or clusters, in which it is working. These are the 28 Agreement-specific proposals agreed in principle at the 2003 ministerial meeting, another six proposals on enhancing special and differential treatment and the mechanism for monitoring the use and implementation of the special rights.

Over the first half of the year, the Committee met every Friday under a work plan mapped out by Chair Fook Seng Kwok of Singapore in consultation with WTO members. Each meeting was devoted to one of the clusters. Thereafter, meetings were held every two weeks to allow more time for preparation. The schedule generated renewed momentum in the work of the special session.

The informal consultations in the Committee were complemented with regular bilateral and plurilateral informal meetings between the Chair and various stakeholders, including monthly meetings with the African and least-developed country (LDC) groups. The Committee also continued coordinating with other WTO bodies to which other Agreement-specific proposals – so-called “Category II” proposals – were referred.

28 Cancún Agreement-specific proposals

In line with instructions from the WTO’s Eighth Ministerial Conference, the CTD special session began a stocktaking exercise involving the 28 Agreement-specific proposals agreed in principle at Cancún, Mexico, in 2003. The objective is their formal adoption. To help them, WTO members asked the Secretariat to prepare a factual assessment of what has happened over the intervening years that might affect adoption of these proposals in their current form.

The Secretariat identified six proposals as having been affected by developments since 2003. Initial discussion among members focused on the scope of the stocktaking and whether it should be limited to the six affected proposals or whether the remaining 22 should also be included. Members agreed to commence



work on the six, with the understanding that the rest would be considered in informal meetings among members outside the special session process. The option to revisit these 22 proposals after completion of work on the initial six was not excluded.

Six other agreement-specific proposals

Separate from the 28 (Cancún) agreement-specific proposals is another set of six agreement-specific proposals that have been the subject of negotiations in the special session for some time. Three relate to the Agreement on Sanitary and Phytosanitary Measures (SPS) and the other three to the Agreement on Import Licensing. In 2012, members held a series of consultations on the proposals relating to the SPS Agreement (Articles 10.2 and 10.3 regarding “special and differential treatment”), on occasion inviting the Secretariat to make some technical clarifications. The year saw notable progress, particularly on the proposal relating to Article 10.3.

Category II proposals

The Chair held meetings on the Category II proposals with the secretaries of the relevant WTO bodies in October 2012, with a view to getting a sense of the status of work and how best progress could be expedited on these proposals. In his report to the Trade Negotiations Committee (TNC) in December, he described progress as mixed.

Monitoring mechanism

In 2012, the Committee continued its work on advancing and developing the monitoring mechanism. Initially, work commenced on the basis of a non-paper (unofficial document) drawn up by the previous Chair, Thawatchai Sophastienphong. Sensing a lot of divergence among members, the Chair invited all members to provide their textual suggestions, which he incorporated into a consolidated text. Consultations have since focused on bridging remaining gaps.

Background on trade and development

Many WTO agreements contain provisions that give developing countries special rights and that allow developed countries to treat them more favourably than other WTO members. As part of the Doha Round of negotiations, the special session of the Committee on Trade and Development is reviewing these special and differential treatment provisions, with a view to making them more precise, effective and operational.

Trade and transfer of technology

In 2012, the Working Group on Trade and Transfer of Technology held three formal sessions at which it continued to analyse the relationship between trade and technology transfer as well as ways to increase the flow of technology to developing countries. Work was largely based on presentations by the Organisation for Economic Co-operation and Development (OECD), the WTO and the United Nations Conference on Trade and Development (UNCTAD) on topics related to innovation and technology transfer.

Relationship between trade and transfer of technology

The OECD presentation entitled “Knowledge Transfer and Global Value Chains” highlighted OECD’s work on global value chains (GVCs), which cover the full range of activity in production networks. The presentation underscored broad conceptual issues in the context of GVCs and technology transfer and identified five types of governance models in GVCs. These range from governance by the market, where individuals or firms buy and sell products between themselves, to a hierarchical model in which transactions take place within a single firm or group.

It found that the extent of knowledge transfer varied and depended on the choice of model. The relational model, the third of the five types, was found to be the most beneficial for technology transfer as it envisaged face to face interactions and high opportunity for mutual learning, as in the case of apparels in East Asia and computers in Chinese Taipei. Knowledge transfer was mainly taking place through market transactions both as intended transfer through, among others, international trade, foreign direct investment (FDI), licensing and movement of staff as well as unintended transfers (including through demonstration effects, increased competition, vertical linkages – upstream and downstream – as well as through patent applications).

The presentation by the WTO focused on the impact of fragmentation of production on international competitiveness. It highlighted the fact that services and manufacturing firms operate increasingly across regions and multiple network production chains, and that participation in GVCs through FDI also results in technology transfer and increased exports. Goods and services are frequently produced in production networks spreading across various countries, according to each firm’s



comparative advantage. This new way of organizing production and trade, resulting in global value chains, is often referred to as “trade in tasks”.

These presentations raised a number of issues, including how GVCs affect the economic development and trade prospects of developing countries. The role of governments in promoting participation of local firms in GVCs and technology transfer, and how lowering trade barriers in intermediate goods can benefit developing countries were other issues, along with what policy steps could be appropriate to enhance trade flows and technology transfer.

UNCTAD made a presentation on the impact of bilateral investment treaties, regional trade agreements and non-equity modes (NEMs) on transfer of technology. Non-equity modes refer to contractual relationships that international corporations have with host country firms that do not involve any equity stake. Based on two UNCTAD publications – *The World Investment Report 2011* and *Local Production of Pharmaceuticals and Related Technology Transfer in Developing Countries*, the presentation showed that NEMs, a middle ground between FDI and trade, are most common in the pharmaceuticals, automotive components, information technology services and electronics sectors. NEMs play a crucial role in helping the diffusion of technology and skills to local partners. However, upgrading of local skills and training primarily depend on domestic capacity to absorb and assimilate as well as on the nature and content of the contractual agreement.

Increasing the flow of technology to developing countries

WTO members considered a communication from Colombia, Costa Rica, Mexico and Peru proposing a workshop in Geneva on trade and transfer of technology under the auspices of the Working Group.

Background on trade and transfer of technology

The Working Group on Trade and Transfer of Technology was established by the Doha Ministerial Conference in 2001 to examine the relationship between trade and transfer of technology and to make recommendations on steps that might be taken, within the mandate of the WTO, to increase flows of technology to developing countries.

During 2012, members also continued their discussion of an earlier submission by India, Pakistan and the Philippines entitled “Facilitating Access to Information on Appropriate Technology Sourcing”. Members reiterated their view that experience sharing by countries that have undergone rapid technological development and sharing of important lessons drawn in the development process could constitute an important aspect of the work in the Working Group. Such experience sharing would allow developing countries to make more informed choices without “re-inventing the wheel”.

Trade and environment

In 2012, the Committee on Trade and Environment in Special Session (CTESS) focused its discussion on ways to take the work of the CTESS forward, in particular on the reduction and elimination of barriers to trade in environmental goods and services.

In 2012, under the chairmanship of Ambassador Hiswani Harun (Malaysia) and then Ambassador Selim Kunalalp (Turkey), who took over the chair of the CTESS in November, discussions with delegations were dedicated to the environmental goods part of the negotiations as good progress had already been made on the two negotiating items relating to the relationship between multilateral environmental agreements (MEAs) and the WTO.

In environmental goods and services, members had worked previously on the identification of environmental goods as well as on the approaches to be used to reduce or eliminate tariff and non-tariff barriers to environmental goods. The goods discussed so far in the negotiations fall within a broad range of environmental categories, such as air pollution control, renewable energy, waste management and water treatment, environmental technologies, and carbon capture and storage. The consultations and meetings organized by both chairs focused on identifying ways to resume work on environmental goods and to move the discussion forward in the CTESS.



Trade facilitation

The trade facilitation negotiations advanced in 2012, under the chairmanship of Eduardo Sperisen-Yurt of Guatemala, with a reduction in the number of outstanding questions in the draft negotiating text. The WTO Secretariat hosted two symposia on the implementation of the trade facilitation measures being negotiated. Donors continued to support a technical assistance project that enables officials from African, Caribbean, Pacific and least-developed countries to attend negotiations in Geneva.

Delegations revised various articles of the draft consolidated negotiating text, streamlining the language and reducing the number of outstanding questions, which are indicated by square brackets in the text. Negotiations took place in a variety of formats, led by Chair Eduardo Sperisen-Yurt of Guatemala. Aside from the negotiating group meetings, delegates facilitated a series of other working sessions. All meetings were carried out in a bottom-up, member-driven, inclusive and transparent manner.

Background on trade and environment

The negotiations on trade and environment, part of the Doha Development Agenda (DDA), address two main themes: the relationship between the WTO and multilateral environmental agreements (MEAs); and the elimination of barriers to trade in environmental goods and services. The negotiations take place in special sessions of the Committee on Trade and Environment. The negotiations aim to ensure that trade and environmental policies are mutually supportive.

Background on trade facilitation

Negotiations on a new Trade Facilitation Agreement, formally launched in July 2004 as part of the Doha Development Agenda, are conducted in the Negotiating Group on Trade Facilitation. They aim to expedite the movement, release and clearance of goods, including goods in transit, as well as to ensure effective cooperation between customs and other appropriate authorities. Particular attention is paid to developing and least-developed countries, which stand to benefit from far-reaching flexibilities and considerable technical assistance and capacity-building support.

The WTO Secretariat conducted two symposia on the implementation of the trade facilitation measures being negotiated. The first was conducted for the entire membership and included presentations from members on implementation costs, best practices and lessons learned. The second was held in Kenya for all African countries. The latter was co-hosted by the African Development Bank and included the participation of many regional economic communities, Africa-based technical assistance projects, national aid agencies and international organizations.

Support from donors allowed the continuation of a technical assistance project that provides funding for the participation of capital-based officials from developing countries in meetings of the negotiating group in Geneva. A total of 120 officials from African, Caribbean, Pacific and least-developed countries participated in two meetings of the negotiating group in 2012. Donor governments have indicated their willingness to continue this programme in 2013.

WTO rules

In 2012, the Negotiating Group on Rules continued to seek a way forward on the issues within its mandate – anti-dumping, subsidies and countervailing measures, fisheries subsidies and regional trade agreements. Bilateral and open-ended consultations by the Group's new Chair showed that delegates are reluctant to resume negotiations until the overall situation of the Doha Development Agenda changes. The Group has, however, continued technical activities, most notably in the context of the Technical Group, which exchanges information about the anti-dumping practices of WTO members.



Following his election in February, the new Chair, Wayne McCook of Jamaica, invited interested delegations to bilateral consultations to seek their views regarding the work of the Group, and in October 2012 called open-ended informal consultations to allow an exchange of views among delegations. He concluded that there was little appetite for resuming active negotiations. He did note, however, an interest in continuing some technical work.

One area where such technical work has continued is in the Technical Group, which is a forum in which delegations can exchange information about their anti-dumping practices. The Technical Group met in April and in October and exchanged information about the institutional structures of members' anti-dumping authorities, training and resource issues, investigation time-lines, and a range of issues relating to injury to domestic industry determinations in anti-dumping investigations. Another area in which certain delegations saw some scope for technical activity was fisheries subsidies, although at the initiative of particular delegations rather than in the Negotiating Group. In addition, it appeared that some further technical work on regional trade agreements also might be useful.



Background on WTO rules

WTO members agreed at the Doha Ministerial Conference in 2001 to launch negotiations to clarify and improve WTO rules on anti-dumping, subsidies and countervailing measures, and regional trade agreements. In the context of the subsidies negotiations, there was specific mention of disciplines on fisheries subsidies, and at the Hong Kong Ministerial Conference in 2005 there was broad agreement on strengthening those disciplines, including through a prohibition of certain forms of fisheries subsidy that contribute to overcapacity and over-fishing. With regard to regional trade agreements, the General Council established in December 2006, on a provisional basis, a transparency mechanism for regional trade agreements.

Dispute Settlement Understanding

In 2012, the Dispute Settlement Understanding negotiations focused on issues that had not been fully discussed the previous year. The Chair of the special sessions noted significant progress in a number of areas and said that the next objective will be to issue a revised Chair's text.

WTO members completed the review of the 12 issues that have been in discussion since 2008 on the basis of a Chair's text by focusing in 2012 on those questions that had not been deeply discussed the previous year.

Reporting to the Trade Negotiations Committee in December, Chair Ambassador Saborío Soto of Costa Rica said that the level of engagement had remained solid throughout the year and that proposed improvements to the proposals had often been the result of intense efforts among participants themselves, including efforts to take on board the comments heard from other participants. As a result, significant progress had been achieved in a number of areas, and where gaps remain, these have been identified and narrowed down as much as was feasible at this stage.

The Chair saw the need to move to a more horizontal negotiation-oriented stage in order to finalize the work and reach agreement on clarifications and improvements to the Dispute Settlement Understanding. With this in mind, the next objective will be to work towards a revised Chair's text to take stock of the progress made, consolidate it and pave the way for a final agreement.

The 12 issues identified in the 2008 text are developing-country interests (including special and differential treatment), effective compliance, member-control and flexibility, mutually agreed solutions, panel composition, post-retaliation, remand, sequencing, strictly confidential information, third-party rights, time-savings, and transparency and amicus curiae briefs.

Half of these issues had been considered in 2011, so work in 2012 focused on the other six, namely developing-country interests, member-control and flexibility, panel composition,



Background on Dispute Settlement Understanding

In November 2001, at the Doha Ministerial Conference, WTO members agreed to negotiate to improve and clarify the Dispute Settlement Understanding (DSU) – the rules and procedures governing the settlement of WTO disputes. These negotiations, which take place in special sessions of the Dispute Settlement Body, are part of the Doha Development Agenda but are not part of the "single undertaking". This means they are not legally tied to the success or failure of the other Doha negotiations.

remand, strictly confidential information and third-party rights. As in 2011, the work was conducted around group meetings in various formats, depending on the subject to be discussed.

On the question of developing-country interests, a number of developing countries have identified certain issues of interest to them relating to timeframes, promoting prompt compliance, participation and access to dispute settlement. Member-control and flexibility involves issues such as whether to allow the parties to a dispute to jointly seek deletion of parts of a panel or Appellate Body report while remand covers the question of whether the Appellate Body can send cases back to panels for further action.

Government Procurement Agreement

On 30 March 2012, the parties to the WTO Government Procurement Agreement (GPA) formally adopted the revised text of the accord after a final review required by the "political conclusion" that was reached in December 2011.

The revised GPA, apart from its new and improved text, will lead to a significant expansion in market access and brings a commitment to new work programmes relating to the administration and further evolution of the pact. The new agreement comes into force as soon as two-thirds of the parties have ratified it and submitted their instruments of acceptance. Parties have collectively pledged themselves to provide the required instruments and to implement the revised GPA promptly.



Background on Government Procurement Agreement

The Government Procurement Agreement (GPA), adopted in 1994, ensures that signatories do not discriminate against the products, services or suppliers of other parties to the Agreement with respect to the government procurement opportunities that are opened to foreign competition. It sets minimum standards for the transparency of procurement, which are based on internationally recognized best practices. The GPA is a "plurilateral" agreement, which means that it applies only to those WTO members that have agreed to be bound by it. The Committee on Government Procurement administers the GPA.





Director-General Pascal Lamy and Nicholas Niggli, then Chair of the Committee on Government Procurement, witnessed the formal adoption of the revised Government Procurement Agreement on 30 March 2012.

The market access gains from the renegotiation are valued at USD 80 billion to USD 100 billion or more annually. The additional market access commitments include:

- the extension of coverage to approximately 600 additional procuring entities, including local governments and sub-central entities
- for the first time, coverage by three major parties of build-operate-transfer arrangements (BOTs), a form of public-private partnership that is increasingly used for infrastructure development (these are contracts under which a firm builds an infrastructure project, for example, and runs it for an agreed time before transferring ownership to the government)
- additional coverage of services procurement by the majority of parties, particularly with respect to telecommunications
- the reduction of applicable thresholds by four of the parties
- the elimination by several parties of miscellaneous restrictions on market access or reciprocity requirements that were previously applied.

The new rules update the GPA text to take into account developments in government procurement practice, notably the widespread use of electronic tools. They better ensure fairness in the award of government contracts. New transitional measures have been adopted to facilitate accession to the GPA by developing countries (see page 70). The revised text also aims at fighting corruption.

The Committee's new work programmes include discussions on facilitating participation by small and medium-sized enterprises in government procurement, improving available statistical data, and promoting sustainable procurement practices.