

# Trade negotiations

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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 negotiations.

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# Trade negotiations in 2017

- **WTO members worked hard to advance trade negotiations ahead of the 11<sup>th</sup> Ministerial Conference (MC11) held on 10-13 December 2017 in Buenos Aires.**
- **Discussions focused on agriculture, fisheries subsidies, services and special and differential treatment for developing countries.**
- **Despite a high level of engagement, positions remained far apart in key areas. The Chair of the Trade Negotiations Committee said in late November that he did not see agreed negotiated outcomes for members to take to MC11.**
- **MC11 ended with a decision on fisheries subsidies and decisions in a number of other areas.**

## Background on trade negotiations

Trade negotiations take place in the Trade Negotiations Committee (TNC) and its subsidiaries, which are regular councils and committees meeting in special session or specially created negotiating bodies. The negotiating bodies report to the TNC, which supervises the overall conduct of their work.

Entry into force of the amendment to the WTO's intellectual property agreement regarding affordable medicines in January 2017 (see page 100) and the Trade Facilitation Agreement in February (see page 94) as well as steps taken to implement the Nairobi Decision ending farm export subsidies (see page 72) provided a positive backdrop to WTO members' efforts early in the year to make progress in the negotiations and achieve substantive results in Buenos Aires.

In February, Director-General Azevêdo, as Trade Negotiations Committee (TNC) Chair, convened consultations to facilitate exchanges among delegations. In reporting on his consultations, he encouraged members to intensify their engagement and to become more specific in their discussions. Negotiations continued throughout the year under the leadership of the negotiating group chairs and the TNC Chair. Members tried to find ways to narrow their differences. A number of papers and submissions were presented, which helped focus and advance the negotiations.

Members paid special attention to agriculture, notably the issues of public stockholding for food security and domestic support (subsidies), but also to fisheries subsidies, domestic regulation in services trade and special and differential treatment for developing countries.

Aside from these areas, there was growing interest expressed by a group of members in deepening discussions in areas such as e-commerce, investment facilitation and strengthening the participation of micro, small and medium-sized enterprises (MSMEs) in international trade. Several seminars and informal dialogue sessions took place and many submissions were tabled.

## Looking to Buenos Aires

Work intensified in the lead-up to the summer and the TNC Chair welcomed the more detailed text-based submissions and discussions. However, he noted that the approaches and ambition varied widely and that a lot of work remained to be done before Buenos Aires. He called for greater urgency and encouraged delegations, especially those putting forward negotiating proposals, to direct their efforts towards building momentum behind their ideas.





DG Azevêdo is Chair of the Trade Negotiations Committee.

Argentine minister Susana Malcorra, Chair of MC11, addressed members in July. She noted that the WTO was facing challenging times, with globalization and open markets often blamed for job disruption and inequality, breeding protectionist tendencies and insularity. The challenges should push members to act with even more conviction to ensure that the role and function of the WTO are preserved and strengthened. Echoing the Director-General, she encouraged members to use the Buenos Aires Ministerial Conference to recommit to the multilateral trading system.

As the Ministerial Conference drew closer, the TNC Chair urged members to prioritize their work and focus on the most promising areas. This meant categorizing the issues into two broad groups. First would be the issues that were not advancing fast enough. Here, members could focus on developing a post-Buenos-Aires work programme to be adopted at MC11. Second were the issues that had the potential to be finalized in Buenos Aires. On these, members should further intensify their work and aim to go as far as possible in Geneva, leaving only a few final political calls for ministers. He asked members to balance ambition and realism in their quest to deliver at MC11.

With regard to the issues not covered by negotiating groups or WTO subsidiary bodies, such as investment facilitation and MSMEs, he said that the responsibility to advance rested with the proponents. They needed to decide clearly what they wished to achieve.

The TNC Chair's calls for maximizing the time and prioritizing work were reinforced by the MC11 Chair. In October, she asked members to decide very soon which issues could be resolved at the conference and which required further work. "There is life after Buenos Aires," she said. It was equally important to clearly demonstrate that trade could be inclusive and bring benefits to people around the world.

### Gaps remain wide

Nevertheless, members' positions remained far apart. At the meeting of the TNC and informal heads of delegations on 28 November, the Chair said that, given members' positions, he did not think there would be agreed negotiated outcomes in Geneva. He announced

that he and the MC11 Chair were considering appointing five "minister facilitators" to work with the negotiating group chairs in Buenos Aires. This would allow time to be better managed during the conference. The facilitators would hold open-ended meetings and consultations and report back to the membership. Every effort would be made to ensure those meetings were open, transparent and inclusive.

The TNC Chair said that MC11 was an opportunity to take stock of the significant progress made, to deliver where possible and to set the direction for future work. At the final General Council meeting before MC11, members took note of the fact that work would continue in some negotiating groups in an effort to make as much progress as possible on the matters that ministers might take up in Buenos Aires.

### Buenos Aires

In Buenos Aires, discussions continued with the assistance of five minister facilitators. They were: Kenya's Cabinet Secretary for Foreign Affairs Amina Mohamed for agriculture, Jamaica's Foreign Affairs and Foreign Trade Minister Kamina Johnson Smith for fisheries subsidies, Norway's Foreign Minister Ine Eriksen Søreide for development, Senegal's Trade Minister Alioune Sarr for e-commerce and Paraguay's Foreign Minister Eladio Loizaga Caballero for domestic regulation in services and transparency in regulatory measures in non-agriculture market access (NAMA).

The facilitators reported regularly to the full membership. These meetings followed the principles of transparency and inclusiveness – which many delegations had emphasized in the preparatory process for MC11. Members worked hard to try to narrow their differences in the six areas under the facilitators' process.

In the end, agreement could not be reached in many of the areas under discussion. However, the conference ended with a ministerial decision to continue with negotiations on fisheries subsidies, with the aim of sealing a deal by the Ministerial Conference in 2019. A number of other ministerial decisions were taken regarding e-commerce, the Work Programme on Small Economies, and "non-violation and situation" complaints in intellectual property.



# Agriculture

- **The Committee on Agriculture meeting in special session carried out intense negotiations during the year. The Committee Chair held more than 100 meetings.**
- **WTO members made a number of proposals in key areas, such as public stockholding for food security and domestic support.**
- **Despite sustained efforts at the Ministerial Conference, no agreements were reached in Buenos Aires.**

## Background on agriculture

The broad objective of the agriculture negotiations is to reduce distortions in agricultural trade caused by high tariffs and other barriers, export subsidies and domestic support measures. The negotiations take place in the WTO Committee on Agriculture, meeting in special session. They are also to take into account the needs of developing countries.

Intense negotiations took place throughout 2017 to identify a potential agricultural outcome for the 11<sup>th</sup> WTO Ministerial Conference (MC11) in Buenos Aires. Ambassador Stephen Karau from Kenya, who took over as Chair of the special session of the Committee on Agriculture and the Sub-Committee on Cotton in April, held more than 100 meetings in various formats.

On 4 December, the Chair circulated his final report summarizing the state of play in the negotiations and recommending that members work towards a limited outcome potentially comprising decisions on some key negotiating issues and a work programme to guide the negotiations post-MC11.

Despite sustained efforts in Buenos Aires, where negotiations were conducted with the assistance of the ministerial facilitator for agriculture, Kenya's Foreign Minister Amina Mohamed, members were not able to agree on a substantive outcome or on a work programme. Nevertheless, the MC11 Chair noted at the closing session members' commitment to advancing negotiations on all remaining issues, including the three pillars of the agricultural negotiations.

## Public stockholding for food security purposes

Public stockholding for food security purposes was a priority issue for MC11 and intensive discussions took place throughout the year. Members sought to meet the ministerial mandates from

Bali and Nairobi to find a permanent solution to the stockpile question by the end of 2017.

At issue are public stockpiles of food procured at administered prices to ensure food availability. Some believe that without effective controls, these programmes will lead to over-production and depressed prices that could affect farmers worldwide. Until a permanent solution is found, the ministerial decisions permit support to farmers under stockpiling programmes under a so-called "peace clause", provided certain conditions are met.

Four proposals were submitted during the year. A proposal from Brazil, the European Union, Colombia, Peru and Uruguay and a proposal from the G-33 (a group of developing countries pressing for flexibility for developing countries to undertake limited market opening in agriculture) suggested exempting public stockholding programmes from WTO limits on farm subsidies, known as the aggregate measurement of support (AMS), and placing different conditions on them.

The two other proposals – one from Russia and Paraguay and the other from Norway and Singapore – sought to build on the Bali Ministerial Decision and provide a legal shield against challenges under the Agreement on Agriculture.

The latter two proposals gained broader support during the year, owing to the fact that the Bali decision was accepted by all members in December 2013.





**Numerous proposals were submitted by WTO members on how to limit domestic subsidies.**

Members discussed issues such as country and programme coverage, product coverage, safeguards and anti-circumvention provisions and transparency provisions. However, they could not bridge the gaps in their positions.

### **Domestic support**

Domestic support (subsidies) was considered a priority by many members. The importance attached to this pillar of the negotiations (the other two are market access and export competition) by members was demonstrated by the numerous submissions and proposals submitted by a broad range of members, representing diverse views.

While members broadly agreed on further limiting trade-distorting domestic support, which can lead to overproduction of agricultural products and affect world market prices, their views on how to reach this objective varied significantly.

The introduction of an overall limit on trade-distorting domestic support was suggested in several submissions. While there was broad support for the introduction of such a limit, some

members remained opposed. There were also differences over how the limit should be set: should it be a fixed ceiling, for example, or a percentage of production?

Some developing countries called for developed countries to remove all of their most trade-distorting support but other members saw this as unrealistic. A related issue was the type of support to which the limit should apply and whether it should cover only the most trade-distorting or also include other, less distorting subsidies.

While there was recognition that so-called green box farm support, which includes direct income support to farmers and environmental protection programmes, is non-trade distorting or minimally distorting, several members argued for further disciplines because of doubts about whether certain programmes meet the prescribed criteria.

Despite significant efforts, members' negotiating positions on the key issues in domestic support remained too wide apart for a successful outcome at MC11.



All members recognize the need to address cotton within the agriculture negotiations, including reductions in trade-distorting subsidies and improving market access.

### Cotton

All members recognize the need to address cotton within the agriculture negotiations, including reductions in trade-distorting subsidies and improvements in market access for cotton exports from least-developed countries. However, members have divergent positions regarding cotton subsidies and domestic support generally.

The Cotton Four countries – Mali, Chad, Benin and Burkina Faso – circulated a draft ministerial decision on cotton in October, calling for sharp reductions in domestic support for cotton. However, some members said the proposal was too ambitious. Other proposals, notably one from Brazil, the European Union, Colombia, Peru and Uruguay, one from the Least-Developed Countries (LDCs) Group and one from Argentina also included elements aimed at making progress on cotton domestic support.

The cotton discussions also covered how to further improve cotton development assistance as part of an MC11 outcome. These discussions took place under the Director-General's Consultative Framework Mechanism on Cotton dedicated to the development aspects of cotton. The cotton transparency and monitoring process resulting from the Bali Ministerial Decision and extended by the Nairobi

Ministerial Decision continued in 2017 and two dedicated discussions of the relevant trade-related developments for cotton were held.

A Cotton Portal was jointly launched by the WTO and the International Trade Centre (ITC) in December at MC11. This online platform for market intelligence provides a single entry point for all cotton-specific information available in WTO and ITC databases on market access, trade statistics, country-specific business contacts and development assistance-related information as well as links to relevant documents, webpages and other organizations active in the cotton sector.

### Market access

Members generally acknowledged that a substantive outcome in market access was not feasible for MC11 but many hoped at least for an agreement on a programme for post-MC11 work.

During the year, some members sought to pursue reform of trade barriers in an incremental manner as part of the agriculture negotiations and presented a number of papers. In one paper, Paraguay and Peru addressed high trade barriers in agriculture, including complex tariff structures, relatively high tariffs ("tariff peaks") and higher import duties on finished or semi-processed products than on raw materials ("tariff escalation").



Many members said improved transparency was critical to ensuring food security.

### Special safeguard mechanism

Discussions continued regarding the Nairobi Ministerial Decision on a special safeguard mechanism (SSM). This decision stated that talks to create an SSM – mandated in July 2004 – would continue in a dedicated session. The creation of an SSM would allow developing countries to raise tariffs temporarily to address import surges or price declines.

The debates continued to reveal divergent positions on the issue of the linkage between the SSM and the overall market access negotiations. The G-33 suggested that members agree at MC11 on a first operational outcome that would take the form of either a price-based SSM to address price depressions or a volume-based one for import surges. The Philippines subsequently proposed that members adopt a price-based SSM at MC11. However, a number of members argued that such an outcome was unrealistic in the absence of a broader outcome in market access.

### Export prohibitions and restrictions

Building on earlier submissions, Singapore introduced a paper advocating enhanced transparency in export restrictions. A key element of the proposal was that as a general rule, a notification should be submitted at least 30 days prior to the implementation of an export restriction measure. The proposal

also sought to exempt food purchases for non-commercial humanitarian purposes by the World Food Programme from such export-limiting measures.

Many members said improved transparency was critical to ensuring food security while some cautioned against making these requirements too burdensome for developing countries.

Some members expressed an interest in broadening the discussions to cover elements not included in the proposal by Singapore. Israel, Japan, Korea, Switzerland and Chinese Taipei tabled a proposal aimed at clarifying and strengthening the rules when a member applies export prohibitions and restrictions. However, there was broad agreement that an outcome on these issues could not be envisaged at MC11 in the absence of a broader package.

### Export competition

Some members supported continuing negotiations on export finance, agricultural exporting state trading enterprises and international food aid to build on the Nairobi Ministerial Decision on export competition. Under this decision, developed countries were to eliminate export subsidies immediately with some exceptions while developing countries were given a longer time to remove their subsidies (see page 72).



# Market access for non-agricultural products

- **The Negotiating Group discussed a proposal to facilitate participation of small and medium-sized enterprises in global trade.**
- **The proposal called for greater transparency and access to information about government regulations on food and product safety. The proposal attracted support and opposition.**
- **At the Ministerial Conference in Buenos Aires, no agreement was reached on this issue.**

## 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, particularly on goods of export interest to developing countries. The negotiations are conducted in the Negotiating Group on Market Access.

The Negotiating Group held two meetings in 2017, at which a proposal aimed at helping small and medium-sized enterprises (SMEs) was discussed. The proponents of the proposal said it would facilitate the participation of SMEs in global trade by bringing about greater transparency and access to information about government regulations on food and product safety.

The transparency proposal was initially put forward by the European Union, Hong Kong (China), Singapore and Chinese Taipei and subsequently also co-sponsored by Australia, Canada, Japan and Korea.

The proposal called for ministers to agree at the Ministerial Conference in Buenos Aires on a series of actions, including the development of a public internet portal for regulatory measures, consultation with

stakeholders during the development of a regulatory measure, notification of the final text of regulatory measures, and making available regulatory measures via the internet. It also called for the adoption of a work programme in order to develop additional provisions relating to transparency covered in the WTO's Agreement on Sanitary and Phytosanitary Measures and the Technical Barriers to Trade Agreement.

During discussions at two meetings of the Negotiating Group, the proposal received support from a number of quarters but also opposition from several others. Concerns included the possible increase of administrative burdens for developing countries and the curtailing of regulatory policy space.

In his report to the Trade Negotiations Committee, Chair Didier Chambovey of Switzerland noted the advantages suggested by proponents and the concerns raised by others. The proposal was taken up at the Ministerial Conference and after his consultations with ministers, the facilitator, Paraguay's Trade Minister Eladio Loizaga Caballero, concluded that positions were too far apart to take the proposal forward.

In her concluding remarks, the Ministerial Conference Chair noted that WTO members agreed to advance negotiations on all remaining issues, including on non-agricultural market access.



# Services

- **Discussions on services focused on domestic regulation in the lead-up to the Ministerial Conference.**
- **Other areas discussed during the year included services trade facilitation, services related to e-commerce and market access.**
- **Discussions on domestic regulation continued at the Ministerial Conference but the minister facilitator concluded it was not possible to achieve consensus on a way forward.**

## Background on services

The General Agreement on Trade in Services (GATS) mandates WTO members to progressively open up trade in services through rounds of negotiations. The negotiations are overseen by the Council for Trade in Services, meeting in special session, and its subsidiary bodies, in particular the Working Party on Domestic Regulation and the Working Party on GATS Rules.

## Various WTO members presented proposals on domestic regulation of services trade.

Negotiations on services focused on domestic regulation, trade facilitation for services, online services transactions and market access.

## Domestic regulation

In the first half of 2017, various WTO members jointly presented text proposals under negotiations on domestic regulatory aspects of services trade being carried out in the Working Party on Domestic Regulation. The working party's mandate is to develop any necessary disciplines to ensure that licensing and qualification requirements and procedures do not constitute unnecessary barriers to trade in services.

The proposals were consolidated into a single text covering general provisions, administration of measures, independence, transparency, technical standards, development of measures on gender equality, necessity and development. The text was updated in November and December 2017. It is supported by 29 co-sponsors (57 if counting EU member states individually).

The proposed disciplines, which cut across services sectors in which members have commitments, revealed differences among members. The co-sponsors consider that the proposed rules on licensing and qualification requirements and procedures and on technical standards would yield greater transparency and predictability and provide important value added to existing market access commitments. They also consider that their proposal is flexible

as it would allow implementation by members at different levels of development and regulatory capacity as well as by means of diverse regulatory approaches.

Some members expressed general support for the proposal while pointing to a limited number of drafting and technical issues that they wished to see addressed. Others had more significant reservations. The latter included: language on the right to regulate; development provisions; the absence of specific provisions on qualification requirements and procedures; proposed disciplines on gender equality and necessity; and the application of the proposed disciplines to varied levels of sector-specific commitments across the membership.

Other members questioned the need for the proposed disciplines and the benefits these might bring to developing countries and least developed countries (LDCs). This group maintained that the proposed text would be incompatible with their development aspirations and limit policy space.

Further discussions on domestic regulation of services took place at the Ministerial Conference in Buenos Aires, with Paraguay's Trade Minister Eladio Loizaga Caballero serving as facilitator (see page 33). However, delegations' positions remained entrenched and the facilitator concluded it was not possible to achieve consensus at the Conference on a way forward.





# 60

A group of 60 WTO members issued a joint ministerial statement in Buenos Aires reaffirming their commitment to advancing the talks on domestic regulation of services.

A group of 60 WTO members issued a joint ministerial statement in Buenos Aires reaffirming their commitment to advancing the talks and calling on all members to intensify work, with the aim of successfully concluding negotiations on domestic regulation disciplines in advance of the next Ministerial Conference in 2019.

## Trade facilitation for services and online services transactions

India circulated a draft text on a proposal for a trade facilitation agreement on services aimed at reducing the bottlenecks that services and services' suppliers face. The proposal focuses on issues such as publication and availability of information, administration of measures, fees and charges, administration of economic needs tests, recognition, cross-border flows of information and the facilitation of the movement of persons and of consumption abroad.

The proposal was discussed at a dedicated meeting of the special session of the Council for Trade in Services in May 2017, where views

expressed by WTO members differed in various areas. In July, India circulated a revised proposal.

In May, the European Union proposed a draft text for rules to facilitate online service transactions. The proposal focuses on electronic contracts, electronic authentication and trust services, consumer protection and unsolicited commercial electronic messages. It was discussed at a dedicated meeting of the special session in June.

In view of the limited time left before the Ministerial Conference, these two proposals were not further discussed in the lead-up to the Conference. However, India and the European Union signalled their interest in resuming discussions of their respective proposals in 2018.

## Outcome of Ministerial Conference

No decisions on services were taken at the Ministerial Conference. However, at the end of the Conference, the Chair noted that WTO members agreed to advance negotiations on all remaining issues, including on services.

# Trade-related aspects of intellectual property rights (TRIPS)

- The special session of the TRIPS Council held its first meeting since 2014.
- Negotiations on geographical indications for wines and spirits were not seen as a priority in the run-up to the Ministerial Conference in Buenos Aires.

## Background on trade-related aspects of intellectual property rights

Negotiations on a multilateral system for notifying and registering geographical indications for wines and spirits are carried out in the TRIPS Council in special session.

**Members remained divided on product coverage of a GI register and whether the register should be confined to wines and spirits.**

## Register for geographical indications

In 2017, the special session of the Council for Trade-related Aspects of Intellectual Property Rights (TRIPS) held its first formal meeting since 2014 to record WTO members' views on negotiations for a multilateral register for geographical indications (GIs) for wines and spirits and to reflect on how to continue the work in this area. WTO members did not consider the negotiations a priority for the Ministerial Conference.

The register is intended to facilitate the protection of GIs for wines and spirits. These are indications (including place names or other terms or signs associated with a place) used to identify products whose place of origin contributes to their special qualities, reputation or other characteristics.

Members have long disagreed on the legal effects the GI register should have and whether it should create obligations for all WTO members or only those choosing to participate in the register. They remained divided on product coverage and on whether, as the negotiating mandate says, the register should be confined to GIs for

wines and spirits or whether it could also apply to other products, such as food and agricultural products. Differences also remained over whether linkages should be made between the GI register negotiations and the other TRIPS-related implementation issues.

Given that the GI register was not a priority for the Ministerial Conference, no specific outcomes were expected in Buenos Aires. However, the Conference Chair noted at the end of the meeting that WTO members agreed to advance negotiations on all remaining issues, including on TRIPS.



# Trade and development

- **Discussions in the special sessions of the Committee on Trade and Development focused on ten Agreement-specific proposals from a group of countries, including the African, Caribbean and Pacific Group, the African Union and the least-developed countries.**
- **The group said the aim of their revised proposals was to foster industrialization, promote diversification and facilitate structural transformation in their economies.**
- **The group presented a draft ministerial decision on special and differential treatment for developing countries for the Ministerial Conference in Buenos Aires.**
- **No agreement was reached but a constructive ministerial dialogue on trade and development was held in Buenos Aires.**

## Background on trade and development

Special and differential treatment (S&D) refers to the special treatment, or flexibility, granted to developing countries in WTO agreements, such as longer implementation periods. 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. Differences among WTO members include the definition of who exactly should benefit from S&D. The special session of the Committee on Trade and Development is mandated to review all S&D provisions, with a view to making them more precise, effective and operational.

Discussions in the Committee on Trade and Development in special session focused on ten agreement-specific special and differential treatment (S&D) proposals presented by a group of countries including the African, Caribbean and Pacific Group, the African Union and the least-developed countries (LDCs).

Following a presentation of the proposals in July, Chair of the special session, Ambassador Tan Yee Woan (Singapore), held a series of formal and informal discussions and met with delegations, with a view to developing elements of an S&D package for the Ministerial Conference in Buenos Aires.

The proponents explained that the flexibilities requested in the proposals are needed to foster industrialization, promote diversification and facilitate structural transformation in their economies. While they maintained all the agreement-specific proposals were equal in importance and in addressing the challenges their constituencies face, the proponents said they attached greatest priority to the industrialization cluster. They argued that these measures

would enable developing countries to alter some of their existing obligations, with the objective of promoting domestic industries.

Other WTO members continued to express concerns with the scope of the proposals, both in terms of coverage as well as the nature of flexibilities, and the lack of differentiation – the idea that members at different levels of development should not be granted the same flexibilities, exemptions and concessions. They reiterated that the revised proposals have hardly evolved from the ones tabled in 2015, when there were 25, and did not take account of concerns expressed by members before the Nairobi Ministerial Conference.

They contended that agreeing to the flexibilities would imply that existing multilateral trade rules are not conducive to development, which they believed was not the right message to send. They said that solutions to the issues raised in the proposals must be realistic, based on facts, and that deviations from existing rules should only be considered in exceptional circumstances on the basis of needs.





**During trade negotiations at MC11, ministers highlighted that development is central to WTO work.**

Most WTO members are sensitive to the challenges and difficulties faced by LDCs and have expressed their willingness to give favourable consideration to proposals that address the specific needs of LDCs, provided that these needs are real and demonstrable. Some have suggested possible alternative approaches, such as waivers from WTO rules, subject to certain conditions.

The discussions on the proposals remained polarized and it was not possible to bridge the gaps in positions in Geneva. The proponents submitted a draft Ministerial Decision on Special and Differential Treatment to Buenos Aires. Proponents said that the Conference had to reaffirm the commitment to development and S&D treatment and to harvest concrete results in this area to promote a more stable and prosperous global trading system. They urged all members to constructively engage in the discussions in order to find solutions acceptable to all and to resolve this long-standing issue.

In discussions in Geneva, prior to the Ministerial Conference, members agreed to have a broader ministerial dialogue on trade and development at MC11. During this dialogue, which was facilitated by Norway's Foreign Minister, Ine Eriksen Søreide, ministers highlighted that development is central to WTO work. They also shared a number of ideas to help make progress, including exploration of fresh approaches, such as engaging in evidence-based dialogue and the sharing of best practices. However, views differed on how to take forward these ideas, including on their ability to facilitate progress on the S&D proposals.

In her concluding remarks, the Chair of the Ministerial Conference noted that WTO members agreed to advance negotiations on all remaining issues, including on development.

# Trade and environment

- **The Chair of the Committee on Trade and Environment in special session held an informal information session on past work.**
- **No new proposals were submitted.**
- **The Ministerial Conference Chair noted that WTO members are committed to advancing negotiations in all remaining issues, including on trade and the environment.**

## Background on trade and environment

The negotiations cover the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs), procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

The Chair of the special session of the Committee on Trade and Environment, Ambassador Syed Tauqir Shah (Pakistan), hosted an informal, information session in October covering past work. The WTO Secretariat presented a factual overview of the discussions that had taken place so far. The meeting was an opportunity for delegations to seek clarification and share thoughts.

Several delegations reiterated the importance of environmental issues and of discussing trade and environment issues in the WTO. A number of delegations said trade and environment

should feature in any ministerial declaration or text issued at the Ministerial Conference in Buenos Aires but no new proposals were submitted in 2017.

In Buenos Aires, the Conference Chair said in her closing statement that WTO members agreed to advance negotiations on all remaining issues, including on trade and environment.

In 2017, there were no further discussions on a possible Environmental Goods Agreement. Forty-six WTO members had been taking part in the negotiations, which were launched in 2014.



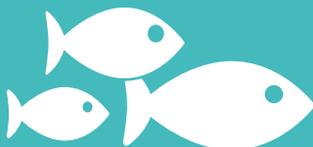
# WTO rules

- **Fisheries subsidies were the focus of work as the Negotiating Group on Rules considered a broad range of proposals for new disciplines to be agreed at the Ministerial Conference in Buenos Aires.**
- **The Group submitted to Buenos Aires a draft ministerial decision containing a range of options for interim commitments on subsidies contributing to illegal, unreported and unregulated fishing.**
- **In Buenos Aires, ministers agreed on a work programme with a view to adopting an agreement on fisheries subsidies disciplines by the next Ministerial Conference in 2019.**
- **The Negotiating Group also debated proposals on transparency and due process in anti-dumping and countervailing proceedings, and on subsidy notifications.**

## Background on WTO rules

In 2001, ministers launched WTO negotiations to clarify and improve WTO rules on anti-dumping, subsidies and countervailing measures, fisheries subsidies and regional trade agreements (RTAs). In 2005, ministers elaborated the negotiating mandates, including for fisheries subsidies.

**WTO members submitted a range of proposals on establishing new disciplines on fisheries subsidies.**



In 2017, fisheries subsidies continued to be the principal focus of work in the Negotiating Group on Rules, chaired by Ambassador Wayne McCook of Jamaica.

Over the course of the year, a broad and diverse set of members and groups (the African, Caribbean and Pacific Group; Argentina, Colombia, Costa Rica, Panama, Peru, and Uruguay; China; the European Union; Indonesia; the Group of Least-developed Countries; New Zealand, Iceland and Pakistan; Norway; and the Philippines) submitted a total of nine textual proposals for decisions to establish new disciplines on fisheries subsidies at the WTO's 11<sup>th</sup> Ministerial Conference (MC11) in Buenos Aires in December 2017.

All of the proposals aimed to meet the United Nations' Sustainable Development Goal target 14.6, which sets a deadline of 2020 for prohibiting certain forms of fisheries subsidies that contribute to overcapacity and overfishing, for eliminating subsidies that contribute to illegal, unreported and unregulated (IUU) fishing, and for refraining from introducing new such subsidies, with appropriate and effective special and differential treatment

for developing and least-developed countries as an integral part of the WTO negotiations.

Through a progressive process of compilation and consolidation of the proposals – undertaken in the Negotiating Group in the lead-up to MC11 – a series of streamlined negotiating texts was produced on some of the issues. In spite of the intensive work to produce them, the Negotiating Group recognized that these texts were not ready for action by ministers.

The Group then turned its attention to preparing a draft Ministerial Decision, which it agreed to forward to MC11 for consideration. This draft text contained, among other things, a range of options for interim commitments on subsidies contributing to IUU fishing (see page 32). In spite of the intensive work to produce this draft, and further intensive work in Buenos Aires led by ministerial facilitator Jamaican Minister of Foreign Affairs and Foreign Trade, Kamina Johnson Smith, members' views remained too divided for any substantive agreement in Buenos Aires. However, there was scope for some important progress to be made.

At MC11, ministers agreed on a work programme with a view to adopting an agreement on fisheries subsidies by the next Ministerial Conference in 2019.



Ministers decided on a work programme, with a view to adopting by the 12<sup>th</sup> Ministerial Conference (2019) an agreement to prohibit fisheries subsidies that contribute to IUU fishing and to overcapacity and overfishing, with appropriate and effective special and differential treatment for developing countries as an integral part of the negotiations. Ministers also re-committed to implementation of existing notification obligations in respect of fisheries subsidies.

During 2017, the Negotiating Group on Rules also considered proposals on due process and transparency, and certain other issues, in respect of anti-dumping and countervailing duty investigations, and a proposal on subsidies disciplines. No specific proposals in these areas were forwarded to MC11 for consideration by ministers.

During the year, work also continued in the Technical Group, a forum in which delegations exchange information about their anti-dumping practices.



# Dispute Settlement Understanding

- **WTO members signalled willingness to continue working through the 12 issues under discussion.**
- **Some members expressed disappointment at the lack of concrete negotiating results so far.**

## Background on the Dispute Settlement Understanding

In November 2001, at the Doha Ministerial Conference, WTO members agreed to negotiate to improve and clarify the Dispute Settlement Understanding – the rules and procedures governing the settlement of WTO disputes. These negotiations take place in special sessions of the Dispute Settlement Body.

Ambassador Coly Seck of Senegal took over as Chair of the special session of the Dispute Settlement Body in May 2017, replacing Ambassador Stephen Karau of Kenya.

Ambassador Seck continued his predecessor's approach of working through the issues in a sequential and focused manner. Earlier in 2017, Ambassador Karau conducted work on mutually agreed solutions and third-party rights, two of the 12 issues under discussion. In July 2017, the Chair reported that work on two additional issues – strictly confidential information and sequencing – had been completed. Sequencing refers to the question of whether, in a dispute, compliance proceedings or the retaliation proceedings take precedence.

Among the 12 issues that have been under discussion for several years are developing country concerns, including special and differential treatment, and remand (referral of cases by the Appellate Body to panels for further action).

After the summer, the Dispute Settlement Body in special session conducted a stock-taking exercise covering the period November 2016 to July 2017. The Chair reported that members generally agreed that no outcomes could be prepared for the Ministerial Conference in Buenos Aires. Some members expressed disappointment at the continued lack of results. Nevertheless, members generally recognized the value of the work. They signalled their willingness to work through the remaining issues.

