



Trade negotiations

- WTO members intensified their engagement across several areas of negotiation as they began to look towards the forthcoming ministerial conference in December 2017.
- The chairs of the negotiating groups highlighted constructive engagement across several issues but underlined that further engagement by WTO members is needed.
- Negotiations among 46 WTO members on an Environmental Goods Agreement made further progress. A meeting in December 2016 set the stage for further talks.

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Trade negotiations in 2016

WTO members focused on implementing outcomes from the Nairobi and Bali ministerial conferences and on responding to instructions from ministers in Nairobi on trade negotiations. Following a period of reflection in the first half of the year, there was re-energized and constructive engagement from July onwards across several areas of negotiations as members began to look towards the 11th Ministerial Conference to be held in Buenos Aires in December 2017. In response to the success in Bali and Nairobi, the private sector urged the WTO to deliver further outcomes to boost growth and development.

Nairobi conference and future work

After the Nairobi Ministerial Conference in December 2015, WTO members focused on two main areas of work. First, they sought to implement outcomes from the ministerial conferences in Nairobi (2015) and Bali (2013) on export competition (see page 35), cotton, issues concerning least-developed countries (LDC), the Trade Facilitation Agreement (see page 73), a permanent solution on public stockholding for food security purposes (see page 35) and a special safeguard mechanism (see page 35). Secondly, they sought to respond to ministers' instructions regarding remaining Doha Development Agenda (DDA) issues and non-DDA issues.

The Nairobi Ministerial Declaration acknowledged that there was no consensus on how to proceed with the DDA. However, it also expressed ministers' strong commitment to advance negotiations on the remaining Doha issues. Development has to be at the core and priority given to the concerns and interests of LDCs. Ministers instructed members to "find ways

to advance negotiations" and requested the Director-General to report regularly to the General Council on these efforts. Some decisions taken by ministers in Nairobi call for specific follow-up action, including "negotiating" action – for example on public stockholding for food security.

While ministers agreed that work should be prioritized where results have not yet been achieved, they also acknowledged that some WTO members wished to discuss issues outside the DDA, and others did not. They agreed that the launching of multilateral negotiations on any issue would need agreement of all members.

In the first half of the year, members were mostly in "reflection mode" about the next steps. In their conversations, there was a clear emphasis on putting development at the centre and on prioritizing LDC issues. In May, the Chair of the Trade Negotiations Committee (TNC), Director-General Roberto Azevêdo, reported that he had heard nothing that could promise a breakthrough on the outstanding DDA issues. The difficulties were mostly political and revolved around fundamental conceptual differences about "what" and "how" each member should contribute to any outcome. There was no overlap in positions, he said. However, he was encouraged that nobody was giving up; new ideas and concepts were still being explored.

Beyond the core Doha issues of agriculture, non-agricultural market access (NAMA) and services, other issues that members wished to discuss at that point included fisheries subsidies, competition policy, micro, small and medium-sized businesses (MSMEs), investment facilitation, e-commerce, private standards and non-tariff barriers (NTBs).

Background on trade negotiations

At the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO members 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. The 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.

Moving from reflection to action

From May, the Chair stressed the importance of moving to a proposal-driven process if members are to deliver





As Chair of the Trade Negotiations Committee, Director-General Roberto Azevêdo regularly reported on the activities of the negotiating groups.

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The 11th WTO Ministerial Conference will be held in Buenos Aires, Argentina, in December 2017.

results by the 11th Ministerial Conference (MC11), to be held in Buenos Aires in December 2017. Members need to firmly and quickly establish their priorities for negotiations. This means becoming more specific both about which issues they wish to pursue and how they should be advanced. Creativity, open-mindedness and continued and increased political buy-in from capitals will be important, he added.

Available paths

The Chair emphasized that members need to better understand the negotiating paths available to them. The Nairobi Declaration stated that any multilateral negotiation on non-DDA issues must be approved by consensus. Some members want to start conversations on certain issues before it has been established if multilateral negotiations will be required or desirable, the Chair said.

DG Azêvedo stressed that whatever approach is taken should be inclusive and open to all members – at least as a starting point – letting all members participate actively and constructively. A multilateral approach should be preferred and future negotiations should be flexible and recognize fully the diversity of the membership, following the example of the Trade Facilitation Agreement (TFA). Technical assistance should be included as a fundamental ingredient for success, he said.

Looking to Buenos Aires

From July, there was more engagement in the negotiations in Geneva. Several papers were submitted by WTO members, including on agriculture, services and fisheries subsidies. The Chair stressed the need to deepen discussions significantly in the months ahead, maintaining and enhancing the focus on development and LDC issues.

Several other issues were raised during a range of exchanges in different formats between members. The exchanges included informal workshops on issues such as MSMEs, e-commerce and digital trade. A number of submissions were circulated on e-commerce, in particular.

In September, given the challenges facing the global trading system, the Chair urged members to redouble their efforts to continue delivering trade reforms to generate more inclusive growth and development gains. These challenges included a revised downward forecast of global trade growth (see page 96) to 1.7 per cent in 2016 – the lowest since the 2008 financial crisis – and widespread concerns about the growth of anti-trade rhetoric. It is important that members deepen their discussion about what they wish to achieve at MC11 and focus on how to get there, the Chair said.

Some issues started to attract particular attention. These included public stockholding for food security and other agriculture topics, such as domestic support (subsidies) and services, along with SMEs, e-commerce, services facilitation and fisheries subsidies. If members are to make progress, the Chair emphasized the need for clarity from the proponents on what they wish to see as a final outcome and for flexibility to accommodate the circumstances of different members.

The immediate priority was to deepen conversations between members to scope out the issues for MC11. The Chair stressed that members should take whatever steps are possible – stressing that on any issue this would not be the

end of the road but a first step. Pragmatism remained a vital ingredient. Balancing elements was important so that they took into account members' different interests and positions and responded to the needs of developed, developing and least-developed members.

In December, members and negotiating group chairs provided updates on their activities and considered the way forward in 2017, including for MC11. The chairs highlighted re-energized and constructive engagement across several issues as a positive development that had not been witnessed for some time but in some areas the situation had not evolved much.

The Chair also reported on his consultations in Geneva and his visits to capitals. Common points in these discussions have included a shared desire to deliver concrete results at MC11 and belief in the importance of sustaining ministerial engagement throughout the preparatory process. He also highlighted awareness that outcomes are more likely through incremental progress rather than major leaps and agreement on the importance of advancing the development and LDC component of any issues.

The Chair stressed that while members can look back at a constructive year of discussion and debate, work needs to intensify in 2017. Divergent views remain in many areas. Convergent views, but with different approaches, have also been expressed. In 2017, he proposed to facilitate exchanges among proponents and delegations that have shown interest in specific issues so that they can share views and see how to advance these issues.

Agriculture

In 2016, WTO members focused on identifying the next potential outcomes for agriculture negotiations, particularly at the 11th Ministerial Conference (MC11) in December 2017. An outcome on domestic support (farm subsidies) and cotton is seen by the majority of WTO members as a priority for MC11. The Chair of the special session of the Committee on Agriculture, Vangelis Vitalis (New Zealand), said he was “encouraged” by the state of the discussions. He held numerous consultations with members, including dedicated sessions on public stockholding for food security purposes and on a special safeguard mechanism.

WTO members worked intensively to identify what can realistically constitute the next outcomes of the agriculture negotiations. The general view was that agriculture should form part of any results at the 11th Ministerial Conference (MC11) to be held in Argentina in December 2017. Many members said, however, that an outcome on agriculture is difficult to envisage without progress in other areas of the Doha Development Agenda (DDA).

Members made various submissions on domestic support aimed at advancing negotiations and targeting trade-distorting subsidies. A certain number of the Cairns Group of agricultural produce-exporting countries submitted a statistical paper on domestic support and a set of questions, including on the way to achieve “substantial progressive reductions in support and protection”. Least-developed countries (LDCs) wanted to know what members are ready to contribute to an outcome, notably on products of special interest to them (including cotton).

While none of the ideas or options put forward enjoyed consensus, the debates displayed renewed intensity and creativity. “I have been encouraged by the engagement we have had during this meeting and therefore with the state of our negotiations,” Ambassador Vitalis said in November at the

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 take place in the WTO Committee on Agriculture, meeting in special session. They also take into account social and political sensitivities in the sector and the needs of developing countries.



Ambassador Vangelis Vitalis chaired the agriculture negotiations in 2016.

session's final 2016 meeting. He said the significant number of questions and submissions members had circulated underlined the commitment of all to engage with one another on domestic support and "more particularly on what may be do-able for the meeting in Buenos Aires".

Many WTO members maintained that negotiations on market access (essentially tariffs) are also a priority. However, others considered that progress in this area will be contingent on movement elsewhere in the negotiations. Towards the end of 2016, members intensified work in this area, with several putting forward ideas for advancing negotiations on specific market access issues. These included tropical products, tariff escalation (whereby tariffs increase along processing chains), tariff peaks (i.e. relatively high tariffs on particular goods), converting tariffs into *ad valorem* rates (i.e. tariff rates in proportion to the estimated value of the goods) and special products (i.e. products for which developing countries are to be given extra flexibility in market access).

The Chair told members that he detected "an intensification and expansion of interest" in the negotiations on agricultural market access. "Clearly there has been a shifting of gear in this negotiation," Ambassador Vitalis said, noting that although it is not as high a priority as domestic support, market access is now a livelier part of the agriculture negotiations.

Export competition

A small group of WTO members expressed interest in continuing negotiations on export competition, one of the major successes of the 10th Ministerial Conference in Nairobi in 2015. In Nairobi, ministers took the historic decision to eliminate export subsidies for agricultural products. Developed countries were to eliminate export subsidies immediately, as a general rule, while developing countries were given longer implementation periods.

Some WTO members argued that there is "unfinished business" in export competition. Canada circulated a paper calling for stronger rules on export finance. But most members considered that trying to go beyond what was agreed in

Nairobi on export competition would be a distraction from the other issues.

Public stockholding for food security

Several dedicated sessions were held on public stockholding for food security purposes. Proponents say that stockpiles procured at administered prices are needed to ensure food security but others fear that, without appropriate disciplines, these programmes lead to over-production and high stockpiles that could depress prices and affect farm incomes and food security elsewhere.

The Ninth Ministerial Conference in Bali in 2013 set a deadline of the 11th Ministerial Conference for resolving the issue. Until a permanent solution is found, support to farmers provided under public stockholding programmes is allowed by the WTO, providing certain conditions are met.

Members kept to their well-known positions. WTO members consider food security a legitimate policy objective but they continue to disagree on how to shape the permanent solution. Nevertheless, members agree there is a clear mandate and a 2017 deadline for resolving the issue.

Special Safeguard Mechanism

Several dedicated discussions on the Special Safeguard Mechanism (SSM) were held in 2016. A special safeguard would allow developing countries to raise tariffs temporarily to deal with import surges or price falls. Members differ on whether an outcome in SSM can be sought independently of advances in the overall discussions on agricultural market access and also on the links between SSM and other outstanding issues in the negotiations.

The G33 of developing food-importing countries and the African, Caribbean and Pacific group (ACP) argue that an SSM would respond to the objectives of developing countries on food security and rural development. However, major exporting countries of agriculture products (including developing countries) remain concerned that an SSM could limit their exports. They argue that trade-offs in market access will be necessary to compensate.

Cotton

The overwhelming majority of WTO members made clear that cotton subsidies (see page 125) should be part of any outcome on domestic support. Such an outcome is the main priority for the Cotton 4 producing countries – Mali, Chad, Benin and Burkina Faso – who received the support of many members including other LDCs. Several contributions circulated by members in 2016 addressed this point.

The cotton transparency and monitoring process resulting from the Bali Ministerial Decision and extended by the Nairobi

Ministerial Decision continued in 2016. Two dedicated discussions of the relevant trade-related developments for cotton were held, in July and November. As in previous years, the WTO Secretariat provided a background paper compiling information and data from members' notifications and other submissions. Members also benefited from presentations by the International Cotton Advisory Committee on the global cotton market and trade trends as well as recent developments relating to government measures in favour of cotton.

Export restrictions

Among other issues in the negotiations, the importance of improved transparency in the application of export restrictions on foodstuffs has been raised by importing WTO members. A paper by Singapore in 2016 on this topic received interest from a large number of members.



Ambassador Didier Chambovey chaired the market access negotiations from October 2016.

Market access for non-agricultural products

In 2016, the Negotiating Group on Market Access met three times, principally to give transparency to consultations conducted by the Chair on how to move forward on the non-agricultural market access (NAMA) negotiations. In October, the Negotiating Group elected Ambassador Didier Chambovey of Switzerland as the new Chair. Both chairs reported little progress in determining the way forward.

In the first half of 2016, the then Chair, Remigi Winzap (Switzerland), held a number of bilateral meetings to seek views on how to re-engage the NAMA negotiations following the Nairobi Ministerial Declaration. In Nairobi, ministers reaffirmed “a strong commitment of all members to advance negotiations” on the remaining issues of the Doha Development Agenda (DDA), including on NAMA. At the Group’s first meeting in 2016, Ambassador Winzap reported that members appeared to “be looking for a foothold in the post-Nairobi discussions”. He identified essentially three views among members on the negotiations.

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 largest group wished to continue working on NAMA issues (both tariffs and non-tariff barriers) in tandem with other Doha issues, he said. A second, much smaller group did not see “the comparative advantage of WTO as a forum for market access negotiations anymore”, and therefore was not particularly enthusiastic about pursuing work on NAMA market access for the time being. A third group of a few members was either indifferent to further work on NAMA issues at this stage or was defensive about engaging in new tariff cuts in light of the “difficult macro-economic environment”.

The assessment had not changed by the time Ambassador Winzap issued his final report as Chair in July 2016. He said there continued to be an “absence of traction” in the broader market access negotiations. However, several members were interested in working on non-tariff barriers, for instance by improving information among WTO members on issues such as transparency, good regulatory practice, food labelling or e-labelling (the posting of user information on the Internet), he added.

The new Chair, Ambassador Didier Chambovey (Switzerland), officially took up his role on 20 October. He undertook consultations which focused on possible NAMA outcomes for the next WTO Ministerial Conference in Buenos Aires in December 2017. At an informal meeting of the Group in November, the Chair reported that his conclusions were not very different from those of his predecessor. “Opinions were wide-ranging and difficult to reconcile,” he said.

The Chair said he detected more movement in issues such as non-tariff barriers than in negotiations on tariff cuts. But there is no unanimity in support of such discussions. Furthermore, some members foresee difficulties in concluding a binding agreement in this area, the Chair added. Overall, there had been “no substantive change nor evolution” in positions, he said, adding that “no papers have been submitted to this negotiating group in a very long time”.

Nevertheless, he encouraged those “who wished to have a discussion on NAMA to initiate the process with fresh ideas and proposals”.



Ambassador Marcelo Cima chaired the services negotiations in 2016.

Services

In 2016, WTO members expressed strong interest in revitalizing services negotiations during meetings of the special session of the Council for Trade in Services.

The Chair of the special session, Ambassador Marcelo Cima (Argentina), told the November meeting that headway will be possible if negotiating demands are realistic, if leadership is exercised, and if balance, flexibility and development considerations are duly taken into account. He called on negotiators to move towards specific proposals and to focus on both process and content.

WTO members pointed to three broad areas as possible priorities for negotiating work: domestic regulation, market access and e-commerce. Most delegations identified domestic regulation as a key area of interest, as shown by the various proposals put forward by delegations in the Working Party on Domestic Regulation (see below).

Background on services

Services are the most important economic activity in the large majority of countries when measured as a share of overall production, and are the single largest source of employment. The General Agreement on Trade in Services (GATS) mandates WTO members to progressively open up trade in services through successive rounds of negotiations. At the Doha Ministerial Conference in November 2001, the services negotiations became part of the Doha Development Agenda. They 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.

Several WTO members mentioned market access as another priority area. A number of delegations said that progress is long overdue because commitments under the General Agreement on Trade in Services (GATS) have not kept pace with trade opening that has occurred around the world. Several delegations pointed to the large and long-standing gaps between members' commitments and the rules they apply, which are often more open. Some members considered that the focus should be on removing this "water" between formal commitments and current practices.

Several WTO members highlighted e-commerce as a possible third priority area. They drew attention to the extensive role of services, which provide the basic infrastructure for e-commerce (e.g. telecommunication and distribution services), and to the fact that a broad range of services are supplied electronically.

While general statements of interests regarding market access and e-commerce were discussed, no specific negotiating proposal was submitted and discussions will continue in 2017.

Domestic regulation

Negotiating activity in 2016 concentrated largely on regulatory aspects of services trade. This was carried out in the Working Party on Domestic Regulation (WPDR). WTO members agreed to work on the basis of the full WPDR mandate, i.e. to develop any necessary disciplines to ensure that licensing and qualification requirements and procedures do not constitute unnecessary barriers to trade in services.

A group of WTO members (Australia, Chile, Colombia, the European Union, Japan, Mexico, Norway, Peru, Republic of Korea and Chinese Taipei) presented a draft proposal on the administration of regulatory measures, such as timeframes and processing for applications, fees, and examinations that may be required to obtain authorization to supply services.

The elements set out in the proposal build on earlier draft texts and the proponents' latest practices in preferential services agreements. They were presented as a building block for more comprehensive disciplines which would also contain other elements, such as obligations on the development of regulatory measures and transparency as well as provisions on development.

India presented a new proposal to reduce the bottlenecks that services and services suppliers face. These include high fees, opaque and cumbersome procedures and complex requirements for licensing and movement of persons. In addition to addressing the administration of regulatory measures, the proposal seeks to increase transparency, facilitate the supply of all four services "modes" (see page 75) and promote cooperation between regulatory agencies of various WTO members.

For services supplied through "mode 3" (a foreign company setting up subsidiaries or branches to provide services in another country), the proposal suggests streamlining the setting up of businesses through a "single window". For the

cross-border movement of services suppliers (known as "mode 4"), it suggests simplifying work permit and visa procedures and ensuring that measures relating to taxation, fees and social security contributions do not unfairly disadvantage foreign service suppliers.

A large number of WTO members engaged in discussing the proposals. Members agreed that work needs to be focused and intensified if progress is to be made in 2017.

GATS rules

Given the overall negotiating context, the Working Party on GATS Rules made little progress in its technical discussions on emergency safeguard measures, government procurement and subsidies.

Trade-related aspects of intellectual property rights (TRIPS)

The Chair of the TRIPS Council in special session held consultations with WTO members on how to advance negotiations on a geographical indications (GI) register. It continued its deliberations on the application of “non-violation and situation complaints” to the TRIPS Agreement but members’ positions remained wide apart.

Negotiations on a GI register

The Chair of the TRIPS Council in special session, Ambassador Dacio Castillo (Honduras), held consultations with WTO members on how to advance negotiations on the geographical indications register. While emphasizing the continued importance of these negotiations, members were divided on whether it is realistic to hope for an outcome in this area at the 11th Ministerial Conference in Buenos Aires in December 2017. Little progress was made either on the substance of the GI register or on new approaches to the negotiations.

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 a GI register should have and whether the effects would apply to all WTO members or only to those who choose 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

Background on TRIPS

The Doha Development Agenda mandates negotiations on a multilateral system for notifying and registering geographical indications (GI) 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 mandated the Director-General to consult on certain TRIPS-related implementation issues identified in the Doha Declaration.



Ambassador Dacio Castillo chaired the TRIPS negotiations in 2016.

goods. Differences also remained over whether linkages should be made between the GI register negotiations and the other TRIPS-related implementation issues (see below).

Outstanding implementation issues

In 2016, the question of whether the TRIPS obligation to give a “higher” level of protection for wine and spirit GIs should be extended to GIs for other products remained inactive. Members differ on whether extending such higher protection would help trade in such products or would create an unnecessary legal and commercial burden. This question of possible “GI extension” is the first of two so-called “outstanding implementation issues” in the TRIPS area on which the 2005 Hong Kong Ministerial Declaration called for consultations by the Director-General.

The second of these issues 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.



Ambassador Tan Yee Woan chaired the trade and development negotiations in 2016.

Trade and development

In 2016, the Chair of the special session of the Committee on Trade and Development, Ambassador Tan Yee Woan (Singapore), met informally with negotiating groups working on presenting revised proposals on special and differential treatment (S&D) for developing countries.

The Chair had several informal meetings with group coordinators and focal points from the LDC (least-developed countries) Group, the African, Caribbean and Pacific Group and the African Group and other members.

In the run-up to the 10th Ministerial Conference in Nairobi in 2015, and at the conference itself, the Chair and members of the special session had worked hard to close gaps on a series of proposals on special and differential treatment (S&D) for developing countries. But differences remained too wide and no agreed text could be presented to the ministers.

S&D refers to the special treatment, or flexibility, granted to developing countries in WTO agreements, such as longer implementation periods. Differences among WTO members include the definition of who exactly should benefit from S&D.

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.

In the informal meetings, proponents reiterated the importance they attach to the industrialization of their economies and that this remains the objective of the flexibilities they are seeking through strengthened S&D provisions. Discussions in the special session will resume once revised proposals are submitted.

Trade and environment

The Chair of the Committee on Trade and Environment in special session held regular informal consultations with WTO members to discuss the way forward in the negotiations under the Doha Development Agenda. A group of WTO members is also undertaking separate negotiations on an Environmental Goods Agreement outside the Committee.

The Chair of the special session, Ambassador Syed Tauqir Shah (Pakistan), held consultations during 2016 on the environment chapter of the Doha Development Agenda (DDA), seeking ways to advance negotiations on the mandate. However, the situation remained unchanged from the run-up to the Nairobi Ministerial Conference in December 2015.



Ambassador Syed Tauqir Shah chaired the trade and environment negotiations in 2016.

Background on trade and environment

The negotiations on trade and environment, part of the Doha Development Agenda, take place in the Committee on Trade and Environment in special session. The negotiations aim to ensure that trade and environment policies are mutually supportive.

Environmental Goods Agreement

Negotiations on an Environmental Goods Agreement (EGA) continued among 18 participants representing 46 WTO members. A meeting of ministers and senior officials in December in Geneva made “good progress” and set the stage for further talks.

An Environmental Goods Agreement (EGA) would potentially slash duties on a broad range of goods that can help countries tackle some of the world's most pressing environmental challenges. Negotiations on the EGA were launched in July 2014.

Participants have proposed products used in a variety of environment-benefitting functions, including: generating clean and renewable energy; improving energy and resource efficiency; reducing air, water and soil pollution; managing solid and hazardous waste; noise abatement; and monitoring environmental quality. Once the EGA negotiations are concluded, the results will become part of the participants' WTO schedules of commitments. This means all WTO members will benefit from improved access to the markets of EGA participants.

Negotiators held seven negotiating rounds during 2016. Ministers and senior officials from EGA participants met in Geneva in December to work towards concluding the negotiations. Participants held constructive talks but they remain divided over the product coverage and other implementing issues. The intensive discussions set the stage for further talks, however.

Director-General Roberto Azêvedo said the Geneva meeting “made good progress towards an agreement” and called for further work towards a successful conclusion of the EGA. “This is not the usual kind of trade agreement as it is focused on protecting a common global good: the environment. The trading system should be in a position to make a positive and meaningful contribution towards tackling environmental degradation. I believe that all delegations involved in these discussions remain committed to this, and to building on recent achievements, such as the Paris Agreement on Climate Change and the UN's 2030 Sustainable Development Agenda” (see page 83).

The EGA participants are: Australia; Canada; China; Costa Rica; the European Union (representing Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom); Hong Kong, China; Iceland; Israel; Japan; Korea; New Zealand; Norway; Singapore; Switzerland; Liechtenstein; Chinese Taipei; Turkey; and the United States.



Ministers and senior officials representing the 46 WTO members negotiating an Environmental Goods Agreement met at the WTO in December 2016.

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

In Nairobi, ministers recognized the importance of WTO work on trade and the environment, declaring: “We recognize the role the WTO can play in contributing towards the achievement of the 2030 Sustainable Development Goals” (see page 146). In 2016, WTO members reiterated the importance they attach to trade and the environment, noting recent key international developments, such as the Paris Agreement on climate change and Agenda 2030 on the Sustainable Development Goals.

WTO rules

The Negotiating Group on Rules continued its work on WTO rules on anti-dumping, subsidies and countervailing measures, and regional trade agreements (RTAs). Many delegations saw agreement on fisheries subsidies as a potential outcome for the 11th WTO Ministerial Conference in December 2017 and a number of proposals were presented.

Fisheries subsidies dominated work in the Negotiating Group on Rules during 2016, with Chair Wayne McCook of Jamaica declaring that many WTO members saw an outcome on fisheries subsidies as a “critical area for action” for the WTO’s 11th Ministerial Conference (MC11) in Buenos Aires in December 2017.

At the Group’s last meeting of the year in December, members discussed three new proposals aimed at achieving an outcome at MC11. The proposals from the European Union, the African, Caribbean and Pacific (ACP) group of members, and six Latin American members — Argentina, Colombia, Costa Rica, Panama, Peru and Uruguay — all seek to achieve the target on fishing set out in the United Nations’ Sustainable Development Goals (SDGs), agreed in 2015. Subsequently, in the first meeting of 2017 in January, the Least-Developed Countries (LDC) Group presented a new proposal for multilateral disciplines on fisheries subsidies.

SDG 14.6 calls for prohibiting certain forms of fisheries subsidies which contribute to over-capacity and over-fishing, eliminating subsidies that contribute to illegal, unreported and unregulated (IUU) fishing, and refraining from introducing new such subsidies, by 2020. The goal also recognizes that appropriate and effective special and differential (S&D) treatment for developing and least-developed countries should be an integral part of the WTO fisheries subsidies negotiations.

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. There was specific mention of disciplines on fisheries subsidies. At the Hong Kong Ministerial Conference in 2005 there was broad agreement on strengthening those disciplines, including through a prohibition of certain forms of fishery subsidies that contribute to over-capacity and over-fishing. Regarding regional trade agreements, the General Council established a transparency mechanism on a provisional basis in December 2006.



Ambassador Wayne McCook chaired the WTO rules negotiations in 2016.

The proposals all seek to achieve the UN goal, ensure effective disciplines, provide special and differential treatment for developing and least-developed countries and secure an outcome in Buenos Aires. Proponents called for the negotiations to proceed on a stand-alone basis, i.e. there should be no linkage with other issues being discussed as part of the rules negotiations.

While there was general support for making progress on fisheries subsidies, in line with the SDG requirement, the Chair said that several members also raised the question of balance in the rules negotiations, i.e. the need to ensure that any advance on fisheries subsidies goes hand in hand with progress on other issues within the four pillars of the rules negotiations. Some members consider that rules issues are linked together and that there should be no “cherry-picking”.

The Chair told the Negotiating Group that several delegations had told him in consultations that they also see the possibility of progress in trade remedies, which include anti-dumping and countervailing measures. However, others had indicated that, while their interest in this area remains, they do not consider the time to be ripe for work on trade remedy outcomes in Buenos Aires, he added.

Despite intensive efforts, the last Ministerial Conference in Nairobi in December 2015 was unable to agree outcomes in any area of the rules negotiations other than RTAs. Here, ministers reaffirmed the need to ensure that RTAs do not become a substitute for progress in multilateral talks and instructed the Committee on Regional Trade Agreements to discuss the systemic implications of RTAs for the multilateral trading system and their relationship with WTO rules (see page 88). The Ministerial Conference also agreed that



SDG 14.6 calls for prohibiting certain forms of fisheries subsidies.

WTO members will work towards making the transparency mechanism for RTAs, which is currently provisional, into a permanent mechanism.

During the year, work continued in the Technical Group, a forum in which delegations exchange information about their anti-dumping practices. The Technical Group met in April and October 2016 and exchanged information about WTO members' practices in regard to various aspects of dumping margin calculations, in particular product matching, adjustments, and alternative methods for determining normal value.

Dispute Settlement Understanding

Ambassador Stephen Ndung'u Karau of Kenya took over in July 2016 as Chair of the Dispute Settlement Understanding (DSU) special session. He held a series of informal meetings and consultations on issues identified in a 2015 report by his predecessor, Ambassador Ronald Saborío Soto (Costa Rica).

In July, the Chair reported to the special session that WTO members recognized the value of work done in the DSU negotiations. Despite differences of views about achievable outcomes, all members confirmed their willingness to continue to engage actively in the negotiations on improving and clarifying rules and procedures governing the settlement of WTO disputes.

In December 2015, the then Chair of the DSU negotiations reported that convergence among WTO members had been achieved in certain areas and significant progress made in others. Although it had not been possible to reach specific agreements in time for the December 2015 Ministerial Conference in Nairobi, participants recognized the systemic



Ambassador Stephen Ndung'u Karau chaired the DSU negotiations from July 2016.

importance of the negotiations and their potential to lead to practical and meaningful outcomes for the benefit of all members, the Chair added.

The 12 issues under discussion include third-party rights, panel composition, remand (i.e. referral of cases by the Appellate Body to panels for further action), mutually agreed solutions (including the suspension of appellate proceedings on the joint request of parties), strictly confidential information, sequencing and post-retaliation (i.e. the procedure to be followed when the parties disagree whether compliance with dispute settlement rulings has been achieved, either before retaliation has been granted – sequencing – or afterwards – post-retaliation).

Other issues under discussion include transparency (e.g. opening hearings to the public) and amicus curiae briefs (when someone not party to a case provides an unsolicited brief), timeframes for consultations, specific developing country concerns (including special and differential treatment for least-developed countries), flexibility and member control (involving issues such as whether to allow the parties to jointly seek deletion of parts of a panel or Appellate Body report), and ways to ensure prompt and effective compliance with WTO rulings by WTO members found to have breached them.

Background on the Dispute Settlement Understanding

In November 2001, at the Doha Ministerial Conference, WTO members agreed to negotiate to improve and clarify the 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 formally part of the “single undertaking”.

