

Trade negotiations and discussions

Trade negotiations and discussions in 2018	36
Agriculture	38
Market access for non-agricultural products	41
Services	41
Trade-related aspects of intellectual property rights (TRIPS)	42
Trade and development	43
Trade and environment	44
WTO rules: fisheries subsidies, other WTO rules	45
Dispute Settlement Understanding	47
Joint initiatives	48
Electronic commerce	48
Investment facilitation for development	50
Micro, small and medium-sized enterprises	51
Trade and women's empowerment	53
Joint statement on domestic regulation of trade in services	55

Background on trade negotiations

Changes to the rules of trade require the agreement of all WTO members, who must reach consensus through negotiations.



Trade negotiations and discussions in 2018

- In 2018, WTO members sought to move trade negotiations forward. The Chair of the Trade Negotiations Committee, Director-General Roberto Azevêdo, warned that it cannot be business as usual; he called for a sense of urgency.
- Agriculture and fisheries subsidies were two areas that saw significant activity.
- Exploratory discussions under the various joint initiatives launched at the 11th Ministerial Conference were positive, interactive and productive, co-convenors and coordinators of the initiatives said.
- Possible ways to reform or modernize the WTO became common themes for discussion in the second half of the year.

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.

Negotiations

In 2018, WTO members sought practical and constructive ways to move trade negotiations forward. The Trade Negotiations Committee (TNC) Chair, Director-General Roberto Azevêdo, said that if members are to deliver substantive outcomes, it cannot be business as usual. Members need to reflect in an active way. There will be different needs and results in different negotiating groups, and it is up to members to determine with the respective chairs the appropriate path. It is important that pledges of support for the system are matched with deeds.

Development, in particular the prospects for least-developed countries (LDCs), have to remain at the heart of WTO members' work, said the TNC Chair. He stressed that in all areas of work, flexibility is key. This can be facilitated in different approaches allowed by the system. There is flexibility in substance – for example, with the multilateral Trade Facilitation Agreement (see page 86), flexibility in geometry, with plurilateral initiatives such as the Government Procurement Agreement (see page 110) or the Information Technology Agreement (see page 84), and new flexibilities with the exploratory discussions in the joint initiatives open to all members (see page 48).

At the informal TNC and Heads of Delegation meetings in May, July, October and December, chairs of active negotiating groups – agriculture, fisheries subsidies, services, development, and Dispute Settlement Understanding negotiations – reported on work in their respective areas. In December, the chairs of the agriculture and fisheries subsidies negotiations highlighted their workplans/programmes for the first half of 2019.

While it was positive that members were meeting and engaging, the TNC Chair called for a sense of urgency – particularly in areas where there are

specific deadlines, such as in fisheries subsidies (see page 45) and in areas behind schedule, such as public stockholding for food security (see page 38). While important progress had been made in Buenos Aires, the 11th Ministerial Conference in December 2017 had also exposed some fundamental divisions among WTO members – both on the substance and process. The Chair pointed out that if members are to address these challenges and move forward, they have to put forward new ideas that could lead to convergence. There were some early signs of modest movement in some areas, he said.

One of the many risks with the escalating global trade tensions, said the TNC Chair, is that WTO members neglect their negotiating work. He called on them to resist this temptation. Many members pointed to the intensive work undertaken on fisheries subsidies and noted the decision at the July General Council to keep the deadline of December 2019 for an agreement. But an outcome will not come easily and all members have to be prepared to work hard, he said. They also have to strive to advance other important longstanding issues, such as agriculture, public stockholding, services and development as well as all other areas of the negotiations.

Work on joint initiatives

Many proponents stressed that the joint initiatives launched by groups of members in Buenos Aires in December 2017 (see page 48) are important in ensuring that trade policies are relevant to today's global economy and deliver inclusive opportunities. The Director-General stressed that they should not be a departure from multilateralism but a way to help and support it. It was encouraging that the proponents had been clear that the initiatives would be open to all, inclusive and transparent, he said. He also stressed that no member would be forced to join any such initiatives.





DG Azevêdo is the Chair of the Trade Negotiations Committee.

The co-convenors and coordinators of the joint initiatives on e-commerce, investment facilitation for development, micro, small and medium-sized enterprises (MSMEs) and women's economic empowerment provided transparency reports to WTO members in the Heads of Delegations meetings. All of them stressed the inclusive and transparent nature of their work. The exploratory discussions under the initiatives were positive, interactive and productive and demonstrated a keen interest among participants in taking exploratory work forward, the co-convenors and coordinators said. The second half of the year saw readiness to move in 2019 to their respective next steps, including, for some, negotiations.

WTO members participating in these initiatives said they are encouraged by the progress made, especially on e-commerce, investment facilitation for development and MSMEs. A few delegations also referred to domestic regulation in services (see page 41). They said that they have learned much from the sharing of experiences, best practices and insights on specific issues that could shape the contours of possible frameworks for future rule-making. Many reiterated that these processes should continue to remain inclusive and transparent and aim for multilateral outcomes. Others reaffirmed that development and special and differential treatment for developing countries should remain at the heart of these undertakings.

However, a number of other WTO members continued to express reservations about the joint initiatives, preferring to work through multilateral approaches.

Systemic issues and concerns

WTO members pointed out that 2018 was fraught with major challenges for international trade and the multilateral trading system. The WTO faced unprecedented challenges that are straining the system, including: unilateral trade actions and counter-measures amid escalating trade tensions;

increases in protectionist sentiment, including a new high in import-restrictive measures that increased uncertainty; impasse in the WTO's dispute settlement system, specifically the Appellate Body; the invoking of national security exceptions to trade rules in numerous disputes; and the putting into question of the basic principles of the organization.

Some members said there are many reasons why the WTO finds itself in the current predicament, such as the pace of technological development, the perception that the benefits of economic growth are not being distributed equitably, and political developments in decision-making. Nevertheless, members said that it is important to address these challenges through dialogue and by taking the necessary actions to safeguard the multilateral trading system.

WTO reform

Discussions in the second half of the year began to focus on possible reform or modernization. Such a modernizing effort was viewed as a way to ease the trade problems identified by some members and to deal with the issues that had been put on the table.

Many WTO members said they could agree that the system needs to be more efficient, effective and responsive to prevailing challenges.

Several perspectives have been offered on what the priorities should be. These include: resolving disputes and reaching agreements more rapidly and effectively; addressing a variety of trade-distorting practices that are either not covered or covered partially by existing disciplines; avoiding protectionism and unilateral measures; advancing ongoing work; and improving notifications and transparency.

Several WTO members pointed out that the efforts need to be pragmatic, realistic and inclusive and reflect the views and perspectives of all members.

However, some WTO members are not convinced that reform is needed. The Director-General said that his impression is that no one is talking about shaping a new package or a new round of negotiations. The discussions seem to be focused on trying to address some specific problems, where necessary, to help the system work better.

DG Azevêdo urged WTO members to make their views known because the state of the organization is an issue in which every member has an interest. However, he cautioned that these discussions must not crowd out other work. The system has to respond to new challenges of the 21st century without brushing aside existing issues.

Agriculture

- **Under new Committee Chair Ambassador John Deep Ford (Guyana), WTO members engaged in an intensive cycle of consultations and meetings to identify possible options for the next Ministerial Conference.**
- **The Committee approved a workplan for early 2019, with seven thematic working groups focusing on key topics in a new process aimed at advancing the negotiations.**

Background on agriculture

The broad objective of the agriculture negotiations is to reduce distortions in agricultural trade caused notably by high tariffs and other barriers and domestic support measures as well as export subsidies and equivalent measures and export restrictions. 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.

Ambassador Deep Ford from Guyana, who took over as Chair of the special session of the Committee on Agriculture and the Sub-Committee on Cotton in April 2018, held 11 meetings open to all WTO members and many consultations with members and groups of members. Delegations were invited by the Chair to focus on the critical questions in the negotiations and propose options to break perceived impasses and to identify and provide updated data considered to be useful for the negotiations.

In the second half of the year, members engaged in thematic discussions, topic by topic, based on WTO members' submissions and presentations. Building on these discussions, members endorsed in December a workplan submitted by the Chair for the first quarter of 2019, which envisages seven thematic working groups.

The groups, to be coordinated by delegates, will focus on all areas of the negotiations – domestic support (subsidies), public stockholding for food security purposes, cotton, market access, the special safeguard mechanism, export competition and export restrictions. The aim, the Chair said, is to “intensify and deepen discussions” and move the agriculture talks to a “problem-solving” phase.

Public stockholding for food security purposes

Discussions on public stockholding for food security continued in dedicated sessions. At issue are public stockpiles of food acquired at administered (officially set) prices. Some consider that without effective controls these programmes can lead to over-production and depressed prices that could affect farmers worldwide.

Indonesia, on behalf of the G-33 (a coalition of developing countries), highlighted the significant numbers of small farmers in developing countries, their vulnerability and the prevalence of poverty in rural areas. Considering the missed deadline at the 11th Ministerial Conference for achieving a permanent solution, members should aim for agreement at the Nur-Sultan Ministerial Conference in June 2020, it said. The group is seeking a solution that would not impose burdensome transparency obligations.

Several members, while acknowledging the challenges faced by many developing countries, expressed their strong opposition to trade-distorting support without limits. It was suggested that so-called green box farm support – support



The Cotton-4 countries stressed the importance of reaching an outcome on cotton subsidies by the next ministerial conference.



that is allowed without limits because it does not distort trade, or at most causes minimal distortion – already offers a range of policy options for addressing food security challenges. Effective safeguards and enhanced transparency provisions remain crucial components of any permanent solution for many members.

Domestic support

WTO members made many submissions and presentations during the year, underscoring the importance attached to the negotiations on domestic support. The Cairns Group of agricultural exporting nations lobbying for agricultural trade liberalization made technical submissions aimed at deepening understanding of the trends and evolution of domestic support by category of support, by member and by key products.

Some members insisted that negotiations should initially focus on the aggregate measurement support (AMS) entitlements, which permit certain members to exceed their *de minimis* levels (minimal amounts of domestic support that are allowed even though they distort trade) under the Agreement on Agriculture. They considered this to be the most trade-distorting support while some others expressed the view that all components of trade-distorting support should be examined in the negotiations. Members continue to stress the need to further limit trade-distorting domestic support but they differ sharply on how.

The need for special and differential treatment was underscored by many developing countries, who pointed to the specific challenges they face, including rural poverty and food security.

The specific needs of least-developed countries (LDCs), small, vulnerable economies (SVEs) and net food-importing developing countries were also mentioned. Some members also suggested a need to address so-called “box shifting”. When members reform their subsidy programmes, the categorization may change if the characteristics/ forms of domestic support are modified.

Cotton

The Cotton 4 countries – Mali, Chad, Benin and Burkina Faso (as well as Côte d'Ivoire, an observer since November 2018) – stressed the importance of reaching an outcome on cotton subsidies by the next Ministerial Conference to meet a commitment by WTO members to address cotton “ambitiously, expeditiously and specifically within the agriculture negotiations”. Many members expressed their support for this objective but there were stark differences in their approaches to advancing work on this issue.

The United States presented its first-ever paper on cotton containing data on market access, domestic support and export subsidies for cotton for 23 WTO members involved in cotton production and trade. The Cotton 4 circulated a questionnaire to a select group of WTO members requesting data on cotton production, prices, value of production and cotton-specific domestic support. It was noted that the WTO Secretariat could assist with the compilation of a common set of data to inform the negotiations.

Members held WTO “Cotton Days” in June and November 2018, consisting of discussion of trade-related developments and the Director-General's Consultative Mechanism on cotton development

A new initiative on cotton by-products was endorsed by WTO members.

assistance. Members, partners and private sector representatives discussed lessons learned from recent cotton assistance projects as well as the key objectives and priorities for new cotton projects. Deputy-Director General Alan Wolff highlighted the increased level of cotton-specific development assistance provided by donors.

A new joint initiative on cotton by-products was endorsed by WTO members at the November meeting. The objective is to boost value addition at the local processing levels for parts of the cotton plant with a commercial use other than cotton fibres to increase the incomes of farmers and small businesses. The Cotton Portal, which gathers together all cotton-specific information available in the databases of the WTO and International Trade Centre, was updated with new features.

Market access

WTO members engaged in substantive technical discussions on market access (essentially tariffs). Two submissions from the United States and a joint submission from Paraguay and Uruguay guided the discussions on a number of themes. These included the large difference between members' applied tariffs – those that are actually levied – and bound tariffs, which are the maximum an individual member is permitted under its schedule of commitments. This “binding overhang” is prevalent in all agricultural product groups, according to the US submission. The average bound rate on farm goods is 54.7 per cent compared to an average applied rate of 14.5 per cent.

Many members welcomed the US paper as a contribution to possible future market access negotiations although some questioned the methodology used. Three members cited specific examples where large gaps between bound and applied tariffs have led to recent sudden and sharp changes in tariffs on certain farm imports, to the detriment of their producers.

The commitments of newly acceded members and the erosion of preferences were also discussed. The latter refers to concerns over the possible impact that reductions in tariff rates have on the advantages granted to developing countries under preferential tariff systems. Members that joined the WTO after 1995 noted that average farm tariffs for parties to the original General Agreement on Tariffs and Trade (GATT) were four times greater than those for newer members. Some members emphasized that progress in the market access negotiations might not be feasible without progress in domestic support and in market access for industrial goods and trade in services.

Special safeguard mechanism

WTO members continued to discuss a special safeguard mechanism, as instructed by the 10th Ministerial Conference. A presentation by the G33 highlighted the socio-economic context of agriculture in developing countries and the price volatility risks associated with international trade. A special safeguard mechanism would allow developing countries to raise tariffs temporarily to address import surges or price declines. Some members envisage such a mechanism only in the context of market access reforms while proponents see no necessary linkage.

Export prohibitions and restrictions

Singapore presented a paper on the impact of export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the UN's World Food Programme, which it said leads to significant inefficiencies in humanitarian food assistance delivery. Japan, Israel, the Republic of Korea, Singapore, Switzerland and Chinese Taipei provided an overview of export restrictions.

Japan said export restrictions impact markets and make them more volatile by reducing supply. Many members made reference to the work undertaken before the Buenos Aires Ministerial Conference in 2017 and reiterated their support for an outcome on this topic while a few developing countries expressed concern that new requirements or restrictions could limit their policy space.

Export competition

Canada made a presentation highlighting possible issues to be explored further in the areas of export financing, exporting state trading enterprises (STEs) and international food aid to follow up on the 2015 ministerial decision to eliminate agricultural export subsidies (see page 67).

Several members expressed interest in continuing to look at ways to improve disciplines on export measures with equivalent effect agreed by ministers in Nairobi. Many members highlighted the existence of persistent data gaps in export finance, exporting STEs and food aid and stressed the need to fill these gaps to enable a better assessment of possible ways the current disciplines may be improved. Some members, however, stated that export competition is not their priority in the agriculture negotiations.

Market access for non-agricultural products

Background

Non-agricultural products are products not covered by the Agreement on Agriculture. These range from manufactured goods to fuels and fisheries. 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 on Market Access did not receive any papers or proposals in 2018 and did not meet during the year.**

The Chair of the Negotiating Group held consultations in April 2018 with the sponsors (Australia; Canada; the European Union; Hong Kong, China; Japan; New Zealand; the Republic of Korea; Singapore; and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu)

of the “Ministerial Decision on Transparency of Regulatory Measures for Trade in Goods” to discuss what further steps could be taken. The view was expressed that it would be preferable to pursue this issue of transparency in regulatory measures in other venues or contexts.

Services

- **WTO members focused on a proposal for exploratory discussions on market access.**
- **India circulated a proposal for disciplines on domestic regulation relating to the movement of individuals to supply services abroad.**

Background on services

The General Agreement on Trade in Services (GATS) mandates WTO members to progressively open up trade in services. 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.

Discussions in the special session of the Council for Trade in Services, which oversees negotiations, focused on a proposal for exploratory discussions on market access put forward by Chile, Mexico, New Zealand and Panama. The proposal suggests that WTO members exchange views on their current market access interests against the background of recent economic and policy developments and without prejudice to negotiations.

After undertaking consultations with WTO members, Ambassador Zhanar Aitzhanova (Kazakhstan), who took over as Chair from Argentina’s Ambassador Marcelo Cima in April 2018, encouraged members to submit papers on sectors or issues of interest to kick-start discussions in 2019. Noting that the services commitments of most members are more than two decades old, the Chair encouraged members to engage in active reflection and constructive discussions.

Domestic regulation

Negotiations on domestic regulation are carried out by the working party, which has a mandate to develop any necessary disciplines to ensure that licensing and qualification requirements and procedures do not constitute unnecessary barriers to trade in services.

Despite intensive discussions in 2017 on proposals covering issues from general provisions to transparency and gender equality, WTO members could not achieve agreement at the 11th Ministerial Conference in Buenos Aires at the end of 2017 on a way forward. As a result, a group of 60 WTO members issued a joint ministerial statement at the conference reaffirming their commitment to advancing the talks and calling on all members to intensify work, with the aim of concluding negotiations on domestic regulation disciplines in advance of the next ministerial conference, which will take place in June 2020. This group is organizing its work outside the working party (see page 55). In light of this, no member expressed interest in bringing any issue before the working party until November 2018, when India circulated a proposal for disciplines on domestic regulation relating to the movement of individuals to supply services abroad (Mode 4 of the General Agreement on Trade in Services).

The proposal was discussed at a formal meeting of the Working Party on Domestic Regulation in December 2018. The proposal suggests increased transparency, streamlined procedures for licensing and qualification requirements, and adequate processes to ensure that individuals who are qualified outside a member’s territory are permitted to supply services to another member.



Trade-related aspects of intellectual property rights (TRIPS)

- **The Chair convened two informal consultations with the most active members in the negotiations on a register for geographical indications.**

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 special session of the TRIPS Council.

Register for geographical indications

The Chair of the TRIPS Council special session, Ambassador Dacio Castillo (Honduras), convened two informal consultations in July and November with the most active members in the negotiations for a multilateral register of geographical indications (GIs). WTO members reiterated the importance they attach to the register and confirmed their view that the WTO is the right forum for these negotiations.

The purpose of the register is to facilitate the protection of geographical indications (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.

The consultations, however, have not yet translated into a resumption of substantive engagement in the special session. The Trade Negotiations Committee has been kept informed of developments.

Members have long disagreed on the legal effects the register should have and whether it should create obligations for all WTO members or only those choosing to participate in it. They remain divided on product coverage and on whether, as the negotiating mandate says, the register should be confined to wines and spirits or whether it could also apply to other products, such as food and agricultural products. Differences also remain over whether linkages should be made between the GI register negotiations and other TRIPS-related implementation issues (see page 90).



Trade and development

- **The Chair held consultations with WTO members on new approaches to negotiations on special and differential treatment (S&D) for developing countries.**
- **The Chair detected “a different conversation that is worth pursuing further”.**

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.

The Chair of the Committee on Trade and Development in special session, Ambassador Tan Yee Woan of Singapore, held consultations with WTO members with the aim of finding new approaches to the negotiations on special and differential treatment (S&D) for developing countries.

Although no specific outcome was reached on the proposals of the G90 group of developing countries at the 11th Ministerial Conference in Buenos Aires in December 2017, ministers took the opportunity to engage in frank, open-ended discussions on trade and development issues. A number of ideas and suggestions were made, including calls for fresh approaches that WTO members felt could help make progress. In Buenos Aires, ministers highlighted that development is central to WTO work.

The consultations helped the Chair to discern two broad groups of ideas to explore. These are: considering a methodology based on a case-study approach; and considering suggestions aimed at addressing concerns at a lack of differentiation – the idea that WTO members at different levels of development should not be granted the same flexibilities, exemptions and concessions. The latter included a possible voluntary opt-out by some developing countries from some provisions. Some members questioned whether according S&D on a case-by-case or voluntary opt-out basis

could be applied to current WTO trade rules. No consensus was found on these approaches.

Since the case-study methodology would require facts, data and other kinds of detailed preparation and engagement, some WTO members would need to volunteer to be the subject of such studies.

One idea that emerged from consultations later in the year was that – as a test case – the G90 could identify one or two of their Agreement-specific proposals for exploring more deeply the feasibility of a case-study approach. Work on the identified proposals would also help to guide and determine whether this approach could be replicated for the remaining proposals.

A country specific, issue-based approach could draw on concrete examples available in the Trade Policy Review (TPR) knowledge base and dispute settlement jurisprudence. Lessons could be learned from the work and experience of other intergovernmental organizations, such as the World Bank, the International Monetary Fund and other WTO committees' work on development. Some WTO members reiterated, however, that instead of fresh approaches, what is needed is the will to make progress on the G90's Agreement-specific proposals. Others backed a fresh approach, saying there was a strong sense of fatigue from the repetitive discussion of old approaches in the special session.

Some developing countries reaffirmed their view that a case-by-case approach departs from the principle of S&D for all developing country members. Some developed countries felt that until the issue of differentiation is addressed, discussion on S&D will not make any headway.

In her report to the Trade Negotiations Committee in October, the Chair stated: “I believe that we are starting to have a different conversation that is worth pursuing further.” But she said that the discussions are still at the level of generalities and in an exploratory mode and that the new approaches being proposed need more exploration.



Trade and environment

- **The Chair of the Committee on Trade and Environment in special session held bilateral consultations on the state of the negotiations.**
- **No new proposals were submitted.**

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 trade in environmental goods and services.

The Chair of the special session of the Committee on Trade and Environment, Ambassador Syed Tauqir Shah (Pakistan), hosted in May a round of bilateral consultations on the state of play in the environment negotiations since the 11th Ministerial Conference in Buenos Aires in December 2017.

The Chair of the Ministerial Conference, Susana Malcorra, noted in her closing remarks in Buenos Aires that WTO members were committed to advancing negotiations in all areas, including in trade and environment.

As on previous occasions, WTO members reiterated the importance of environmental issues and of discussing trade and environment in the WTO. However, no new ideas for reviving the negotiations in the special session were suggested.



WTO rules: fisheries subsidies, other WTO rules

- Fisheries subsidies remained the focus of work of the Negotiating Group on Rules in 2018.
- The 2018 work programme for fisheries subsidies negotiations comprised bilateral consultations, technical sessions, thematic discussions and a brainstorming process to generate new ideas for overcoming persistent differences.
- WTO members completed text-based discussions and streamlining based on documents prepared for the 11th Ministerial Conference in December 2017 to consolidate all negotiating positions in a single document.
- Members agreed on a work programme for January-July 2019 aimed at reaching agreement on fisheries subsidies to meet an end-2019 ministerial deadline.
- During 2018, there was no activity in the Negotiating Group on any rules issues other than fisheries subsidies.

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. In 2005, ministers elaborated the negotiating mandates, including for fisheries subsidies. In 2017, ministers decided on a work programme for fisheries subsidies negotiations, with a view to reaching an agreement by December 2019.

In 2018, fisheries subsidies continued to be the principal focus of work in the Negotiating Group on Rules, chaired by Ambassador Roberto Zapata (Mexico) who took over from Ambassador Wayne McCook (Jamaica) in March. The Negotiating Group worked on the basis of two agreed work programmes, covering May-July and September-December. In December, members agreed to a work programme for the first seven months of 2019 designed to engage members in a full negotiating mode.

At the 11th Ministerial Conference in Buenos Aires in December 2017, ministers decided to continue the fisheries subsidies negotiations with a view to reaching agreement by the end of 2019. The aim is to set disciplines that would prohibit certain forms of fisheries subsidies that contribute to overcapacity and overfishing, and eliminate subsidies to illegal, unreported and unregulated fishing, 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.

The May-July work programme comprised three week-long clusters of meetings. Each cluster included technical sessions, with workshops in which outside experts were involved, sessions for WTO members to share information and experiences, time for bilateral consultations among delegations and thematic discussions on the issues under negotiation.

WTO members also continued a streamlining process based on the documents prepared in the lead-up to the 11th Ministerial Conference. This process was a complex and intensive examination of the documents to identify areas where the text could be consolidated and simplified.

Prohibiting fisheries subsidies that contribute to overfishing is a key component of Sustainable Development Goal 14.



Members agreed on a work programme aimed at reaching an agreement on fisheries subsidies by end-2019.



The technical sessions and thematic discussions continued during the September-December work programme. In addition, WTO members began to engage in discussions aimed at finding possible new ideas and approaches that could bridge persistent differences in positions, principally by brainstorming in “incubator groups”. This process involved informal discussions among small groups of delegates. To ensure transparency, each incubator group reported comprehensively on its work to the full negotiating group.

During the same period, WTO members completed a second streamlining process, creating a single, unified text, and also engaged in text-based discussions. The result included a number of revisions to the documents referred to in the Ministerial Decision on Fisheries Subsidies at the 11th Ministerial Conference. The latest streamlined document continues to contain numerous alternatives on the issues addressed, and the text-based discussions generated further variations.

At the request of members, the WTO Secretariat issued six factual papers as well as summaries of the thematic discussions, a compilation of the incubator group reports and an abstract of the ideas discussed in that process.

The new work programme for January to July 2019 includes six clusters of meetings of one week each, where each week will include a mix of consultations open to all members and time set aside for delegations to organize their own meetings. In addition, the programme includes the appointment of four facilitators to assist the Chair in various areas. The immediate objective is to develop simplified negotiating texts with fewer options as the basis for eventual decision-making by members by the end of 2019.

During 2018, there was no activity in the Negotiating Group on any rules issues other than fisheries subsidies.



Dispute Settlement Understanding

- **WTO members continued making progress in working through the 12 issues under discussion.**

Background on negotiations 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.

Chaired by Ambassador Coly Seck of Senegal, the Dispute Settlement Body in special session held around 15 meetings in 2018. The work in which the special session has been engaged since late 2016 concentrates on proposals submitted by members at an earlier stage of the negotiations.

The proposals have been classed into 12 issues on which WTO members agreed to conduct negotiations (developing country interests, effective compliance, flexibility and member control, mutually agreed solutions, panel composition, post-retaliation, remand, sequencing, strictly confidential information, third-party rights, timeframes, transparency and *amicus curiae* briefs).

In 2018, the special session continued focused work aimed at obtaining an updated picture of the potential for agreement among WTO members on incremental outcomes on individual issues or a comprehensive result covering several or all 12 issues. In some instances, it became clear that,

owing to the passing of time and developments in dispute settlement, there was less convergence than before.

The issues on which work was completed in 2018 covered technically difficult issues as well as issues on which members' views have diverged in the past (post-retaliation, transparency and *amicus curiae* briefs, timeframes and remand). At the end of the year, the Dispute Settlement Body in special session was left with four issues for discussion in 2019 (panel composition, flexibility and member control, effective compliance, and developing country interests). Some members expressed an interest in expediting the remaining work to allow for a prompt assessment of progress covering all 12 issues.

Towards the end of 2018, some members put forward proposals on WTO reform, some of which also cover aspects of the dispute settlement system. Initial discussions on those proposals took place in the WTO's General Council (see page 58).



Joint initiatives

Background on the joint initiatives

At the 11th Ministerial Conference in Buenos Aires in December 2017, four like-minded groups of WTO members issued joint statements committing themselves to advancing work in four areas: initiating exploratory work towards future negotiations on trade-related aspects of e-commerce; developing a multilateral framework on investment facilitation; launching an Informal Working Group on micro, small and medium-sized enterprises, with the aim of establishing a formal work programme; and increasing the participation of women in trade. In addition, another group reaffirmed its commitment to advancing ongoing talks on domestic regulation in services trade. The work of these groups is not supported by all WTO members. The conveners of the groups encouraged other WTO members to join them.

Electronic commerce	48
Investment facilitation for development	50
Micro, small and medium-sized enterprises	51
Trade and women's empowerment	53

Electronic commerce

- **Members of the Joint Statement on Electronic Commerce began exploring the possibility of WTO negotiations on trade-related aspects of e-commerce, holding nine meetings in 2018.**
- **The result was that ministers from 76 WTO members announced in January 2019 their intention to launch the negotiations.**
- **They stressed that the negotiations are open to all and continued to encourage all WTO members to participate.**

Members of the Joint Statement on Electronic Commerce initiative began to explore the possibility of WTO negotiations on trade-related aspects of electronic commerce, holding nine meetings in 2018 to which all WTO members were invited. The meetings were co-convened by Australia, Japan and Singapore and chaired by Australia.

At the 11th Ministerial Conference in Buenos Aires in December 2017, 71 ministers had issued a joint statement saying they had agreed to initiate "exploratory work together toward future WTO negotiations on trade-related aspects of electronic commerce". They stressed that participation would be open to all WTO members and would be without prejudice to participants' positions on future negotiations.

At the first meeting in March 2018, Deputy Director-General Xiaozhun Yi commended the proponents of the initiative for keeping the discussions within the WTO and open to all. Speaking on behalf of the Director-General,

he said: "The joint statement was signed by a large and diverse group of WTO members, including least-developed, developing and developed members. It is encouraging to see members, at different levels of development, taking meaningful steps towards a deeper discussion and broader understanding of e-commerce issues".

At the March meeting, delegations were urged to submit papers to identify issues of interest to WTO members. Based on the issues raised, the discussions were organized under four main themes: enabling digital trade/e-commerce; openness and digital trade/e-commerce; trust and digital trade/e-commerce; and cross-cutting issues, including development, transparency and cooperation.

Under enabling digital trade, participating WTO members addressed trade facilitation measures related to customs and logistics, and measures to facilitate electronic transactions, such as trade-related aspects of online payment



solutions, electronic authentication, e-signatures and e-contracts. With regard to openness, they explored goods and services market access relating to e-commerce and trade-related aspects of the cross-border flow of information.

Under the issue of trust, WTO members discussed the need to foster consumer and business trust in e-commerce – for example, by putting in place measures related to consumer and personal data protection, protection of industry data, source code and algorithms, intellectual property and cybersecurity. Finally, they addressed: a variety of cross-cutting issues relating to the publication and accessibility of laws and regulations relating to e-commerce; ways of addressing the digital divide, including through the provision of technical assistance, longer implementation timeframes and relevant market access commitments; and the importance of cooperation between WTO members' regulatory authorities, the public and private sector, and between relevant international organizations.

For each topic, delegations introduced their proposals, shared their national experiences and provided textual examples from their regional trade agreements, where e-commerce is often covered more thoroughly than it is multilaterally. Some background papers were prepared to help guide the discussions.

At a stocktaking meeting in July, the co-conveners presented a “snapshot” document highlighting work done, suggestions made by WTO members and the next steps in the process. Work post-July continued on the basis of the four thematic areas, with delegations introducing a variety of textual examples and ways of addressing each topic.

At a meeting on the margins of the World Economic Forum meeting in Davos, Switzerland, in January 2019, ministers from 76 WTO members, which account for 90 per cent of global trade, announced their intention to begin WTO negotiations on trade-related aspects of electronic commerce. In the joint statement, they said they will “seek to achieve a high standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible”.

The statement said the group recognises and “will take into account the unique opportunities and challenges faced by members, including developing countries and least-developed countries (LDCs), as well as by micro, small and medium sized enterprises (MSMEs), in relation to electronic commerce”. They continued to encourage all WTO members to participate.

76 WTO members announced their intention to begin WTO negotiations on trade-related aspects of e-commerce.



Investment facilitation for development

- **Recognizing the links between trade, investment and development, the initiative aims to identify and develop the elements of a more investment-friendly, transparent, predictable and efficient business climate.**
- **In line with the joint ministerial statement issued in December 2017, the initiative does not address market access, investment protection and investor-state dispute settlement.**
- **The initiative made progress in enhancing participants' understanding of the issues, including how a multilateral framework on investment facilitation could support WTO members' efforts to facilitate investment.**
- **Facilitating greater participation by developing and least-developed countries in global investment flows is at the core of the discussions.**

Over 70 members on average attended the eight meetings.

During 2018, discussions on investment facilitation for development, held under an initiative launched in December 2017 by 70 WTO members, made substantive progress.

Over 70 members on average attended the eight meetings – from developed, developing and least-developed members. They included both signatories and non-signatories of the joint ministerial statement on investment facilitation for development issued at the 11th Ministerial Conference in Buenos Aires in December 2017. A stock-taking meeting took place in December 2018. Participation in the meetings has been without prejudice to members' positions on the initiative.

The December 2017 joint ministerial statement called for “beginning structured discussions with the aim of developing a multilateral framework on investment facilitation”. These discussions seek to identify and develop the elements of a framework for facilitating foreign direct investments. The joint statement made clear that the discussions would not address market access, investment protection and investor-state dispute settlement. It encouraged all WTO members to actively participate in the initiative.

In the same way that the WTO is helping to facilitate global trade – with its 2017 Trade Facilitation Agreement (see page 86) – a growing number of members argue that the WTO could help to facilitate global investment.

According to the United Nations Conference on Trade and Development (UNCTAD), developing countries need an additional US\$ 2.5 trillion in investment annually to achieve the United Nations 2030 Sustainable Development Goals, and foreign direct investment (FDI) remains the largest and most constant external source of finance for developing economies. FDI is particularly important for least-developed countries.

Investment is not a new subject for the multilateral trading system. WTO members already undertook important investment-related commitments in

the Uruguay Round, notably in the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Investment Measures and the Agreement on Government Procurement. The GATS contains elements applying directly to certain investment measures.

Structured discussions

Participants organized the meetings thematically and, in accordance with the joint statement, addressed the elements of a multilateral framework that would improve the transparency and predictability of investment measures, streamline and speed up administrative procedures and requirements, and enhance international cooperation, information sharing, the exchange of best practices and relations with relevant stakeholders, including dispute prevention.

Development was at the core of the discussions. Meetings benefited from presentations by experts from WTO members' capitals and international organizations as well as background “non-papers” on each relevant topic examining notably existing WTO provisions and how these are relevant to investment facilitation. All documents were circulated to all WTO members. The coordinator of the discussions, Ambassador Juan-Carlos González (Colombia), regularly reported to the entire WTO membership as well as individual country groupings on request.

At the stock-taking meeting in December 2018, participants agreed that the discussions had successfully identified possible elements of a multilateral framework on investment facilitation. The coordinator compiled, under his own responsibility, a checklist of issues raised by members. There was broad agreement that work starting in 2019 will focus on developing the possible elements, using the checklist as a reference. A proposed schedule of meetings for the first part of 2019, prepared under the coordinator's responsibility, was circulated to all members.



Micro, small and medium-sized enterprises

- The Informal Working Group on Micro, Small and Medium-sized Enterprises (MSMEs) held its first thematic sessions. Membership rose to 89 when Armenia joined at year-end.
- At its five thematic sessions, the informal group discussed a range of cross-cutting topics, from access to information to trade facilitation and trade finance.
- The group appointed Uruguay as general coordinator for 2018 and named a coordinating committee of eight WTO members.

The working group aims to address obstacles to MSME participation in international trade.

The Informal Working Group on MSMEs, launched in December 2017 by 88 WTO members, appointed Uruguay as its general coordinator for 2018 and established a coordinating committee composed of eight members: Bahrain; Côte d'Ivoire; El Salvador; Hong Kong, China; Nigeria; Pakistan; the Philippines; and Switzerland. The working group, which is open to all WTO members, aims to address obstacles to MSME participation in international trade.

The group, whose members account for 78 per cent of world exports, held five thematic sessions in the year to discuss cross-cutting issues, including access to information, trade finance (see page 108), trade costs and trade facilitation (see page 86), technical assistance and capacity building, and the internet as a tool to access global markets.

Thematic sessions

Switzerland hosted the first thematic session in March on the importance of adequate access to information. Members were presented with an information platform called the Global Trade Helpdesk (HelpMeTrade.org) – a joint ITC-UNCTAD-WTO project, launched at the WTO's 11th Ministerial Conference in Buenos Aires. Numerous studies – by the WTO and the International Trade Centre (ITC), among others – show that lack of transparency and poor access to information regarding distribution channels, export markets and applicable procedures are major barriers to MSMEs' participation in international trade.

Discussions focused on the need for MSMEs to receive information in their own language, on the responsibility of governments to inform MSMEs of initiatives such as the Helpdesk and on the



importance of establishing national contact points to provide policy updates and to help collect information. The group called on WTO members to support the Helpdesk.

A follow-up meeting in May discussed actions members could take to support the project, including the distribution of a country survey to map information sources and the establishment of national contact points. In November, the WTO, ITC and UNCTAD agreed to further develop the platform. As part of the agreement, they will provide technical assistance to developing countries to help them maintain up-to-date information in the Helpdesk and will raise awareness among MSMEs about how to benefit from this trade information.

Côte d'Ivoire organized the second thematic session in June to discuss the trade finance gap for MSMEs. Participants shared their national experiences and expressed an interest in mapping national and regional programmes that support MSMEs' access to trade finance. The group also heard a presentation on the Legal Entity Identifier (LEI) – a free 20-digit alpha-numeric code that profiles “who is who” and “who owns what”. It is used for identifying businesses involved in international financial transactions and could benefit MSMEs.

On World MSME day (27 June), Pakistan hosted a meeting on trade costs and trade facilitation issues affecting MSMEs. Participants expressed

interest in further examining trade facilitation measures, such as how to standardize import and export documents, including certificates of origin. Addressing the meeting, DG Azevêdo highlighted how the WTO's Trade Facilitation Agreement will ease small businesses' participation in global markets by cutting trade costs and reducing administrative burdens.

At the 2018 Public Forum (see page 150), El Salvador and the Philippines organized a working session on “Enabling Global MSMEs: How technical assistance and capacity-building initiatives could take into account the trade needs and challenges of MSMEs”. The session concluded that technical assistance and capacity building should focus on access to information, access to finance and access to markets.

The last thematic session of the year focused on the internet as a tool to access global markets. Participants stressed the need for a broad exchange of experience and knowledge about how to make the internet accessible to their populations. The diversity of levels of development and base levels of digital literacy were noted, all of which contribute to very different needs and challenges.

At the final meeting in November, Uruguay expressed three key objectives for the group in 2019: achieve concrete deliverables, expand group membership and aim for a ministerial declaration in 2020. During the meeting Armenia was welcomed as the 89th member of the group.

DG Azevêdo addressed, by invitation, a workshop organized by the Informal Group on MSMEs on World MSME Day.



Trade and women's empowerment

- A group of WTO members held three workshops on how trade can promote women's economic empowerment, responding to the call in the Buenos Aires 2017 Declaration.
- The discussions focused on the importance of gender-based analysis in trade and ways in which government procurement markets and global value chains can foster women's integration into trade.
- Some members used their trade policy reviews to highlight steps they are taking to promote gender equality.

The Buenos Aires Declaration seeks to foster women's integration into world trade.

In 2018, a group of WTO members held the first three of six workshops intended to build on the 2017 Buenos Aires Declaration on Trade and Women's Economic Empowerment. Launched at the 11th Ministerial Conference and endorsed by over 120 WTO members, the declaration seeks to remove barriers to women's economic empowerment and to foster women's integration into world trade. It sees exchanging information on policies and programmes and collecting relevant economic data as key steps.

The three workshops – held in March, June and October – focused, respectively, on the importance of gender-based analysis in trade, government procurement markets and their importance for inclusive economic development, and how global value chains can foster women's economic empowerment. The remaining three workshops will be held in 2019, with the discussions reflected in a report to the 12th Ministerial Conference in 2020.

In March, economists and policy makers shared their methods for gathering and studying data on how gender and trade intersect – from women's participation as entrepreneurs and workers to their role as consumers. Many of the presentations pointed to the fact that, in general, businesses owned by women export less than companies owned by men.

The June workshop addressed the participation of women-owned businesses and traders in government procurement markets and brought together specialists in this sector, representatives from international organizations, WTO members and experts. Speakers highlighted the small share of public procurement business awarded to enterprises owned by women, estimated at 1 per cent by the International Trade Centre (ITC).

Addressing the workshop, DG Azevêdo said: "Improving women's access to this sector would unlock many opportunities for female entrepreneurs, with a direct impact on their economic wellbeing. The sheer size of the global public procurement market underlines the potential." The workshop was co-organized by Moldova, the WTO, the ITC and the European Bank for Reconstruction and Development.

The third workshop focused on the challenges women face in integrating into global value chains (GVCs). It highlighted the perspectives of various participants in GVCs, best practices and experiences of WTO members.

Ms Anoush der Boghossian, the WTO's Trade and Gender Focal Point, said: "Today, more than 70 per cent of world trade passes through global value chains. If we want to make trade work for women and to expand their participation in trade





The June workshop addressed the participation of women-owned businesses in government procurement markets.

through global value chains, the WTO can offer some solutions. Through capacity-building in the area of standards, the implementation of the Trade Facilitation Agreement, Aid for Trade and promoting targeted trade policies, the WTO can help to empower women.”

The Trade and Gender Focal Point was appointed in June 2017 and tasked with coordinating work among divisions on gender issues, taking stock of what the WTO is doing and considering opportunities for further work and new initiatives (see page 113).

Some WTO members have used their trade policy reviews to highlight policy developments that contribute to gender equality. The reviews were identified in the Buenos Aires Declaration as one of the processes that could be used by members to share information. In 2018, six members (the European Union, Iceland, The Gambia, Montenegro, the Philippines and Colombia) reported trade policies targeting women’s empowerment. Members under review also received questions on their policies relating to women’s empowerment, with the objective of clarifying policies and gathering additional information.



Joint statement on domestic regulation of trade in services

- **Participants in the joint initiative on domestic regulation for services trade held their first meetings and made progress in discussions on new disciplines.**
- **Work will continue, with the aim of achieving an outcome by the next Ministerial Conference in June 2020.**

A group of 60 members convened meetings open to all members.

In 2018, a group of 60 members convened meetings open to all WTO members, with a view to advancing text-based discussions on domestic regulation, as agreed by a Joint Ministerial Statement issued at the 11th Ministerial Conference in Buenos Aires in December 2017. Work was based on a text proposal submitted by a group of 57 members to the Ministerial Conference. The group met eight times during the year.

The work is organized outside the Working Party on Domestic Regulation (see page 41), which has a mandate to develop any necessary disciplines to ensure that members' regulations relating to licensing, qualification and technical standards do not constitute unnecessary barriers to trade in services.

Intensive discussions in the Working Party, a subsidiary of the Council for Trade in Services, in the run-up to and during the 11th Ministerial Conference failed to achieve agreement on proposals for concluding the negotiations.

At the centre of debate were proposals put forward by 57 members (counting EU member states individually) in a consolidated

single text. The proposed disciplines covered general provisions, administration of measures, independence, transparency, technical standards, development of measures, non-discrimination between men and women, necessity and development.

At the Conference, 60 members issued a joint ministerial statement reaffirming their commitment to advancing the talks and called on all WTO members to intensify work in this area. They said that the aim is to deliver "a multilateral outcome" and that the group will continue working with "all members" to conclude the negotiations of disciplines "in advance of the next ministerial conference", which is due to be held in Nur-Sultan, Kazakhstan, in June 2020.

The Chair of the talks, Mr Felipe Hees (Brazil), noted at the end of 2018 that there were no outstanding issues among participants on most of the proposed substantive obligations although the square brackets around the text indicated that the entire text remained under consideration. Further work was required in 2019 on some elements, the Chair noted.

