

The New Roles of the WTO after the Pandemic Crisis

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Special thanks to Maria George and Leon Seidl.

Outline of the Presentation



1. The New Roles of the WTO

- a. WTO as a Facilitator in the coordination and transparency between WTO Members and the enhanced analytical role of the Secretariat
- b. Facilitator in the collaboration with other IGOs
- c. Facilitator in collaboration with the private sector and other hybrid initiatives
- d. Facilitator in reconciling Members following the proposal by India and South Africa for a TRIPS Compromise

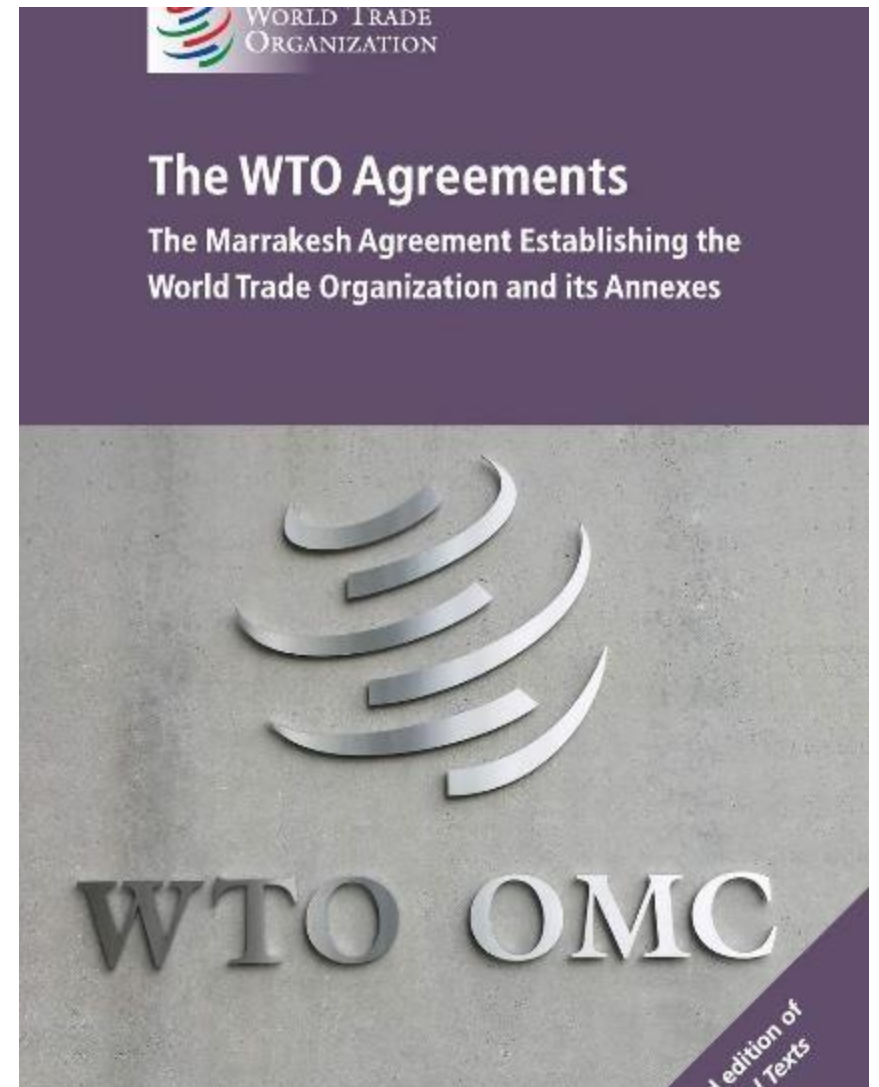
2. The results of the 12th WTO Ministerial Conference (MC12): An undeniable evidence of the expansion of the WTO's scope of responsibilities and actions

3. WTO Reform and the Run-Up to the 13th Ministerial Conference (MC13): Abu Dhabi 2024

The New Roles of the WTO

Relevant WTO Provisions Concerning COVID

- General Agreement on Tariffs and Trade (GATT)
 - Prohibition on export/import restrictions, Art. XI GATT
 - General Exceptions under Art. XX GATT
 - Import Tariffs under Art. II GATT
- Intellectual Property Rights (TRIPS)
 - Copyrights (Section 1), Industrial Designs (Section 4)
 - Patents (Section 5), Undisclosed Information (Section 7)
- Subsidies (SCM)
 - Government support causing adverse effects under Art. 5 SCM.
- Technical Barriers to Trade (TBT)
 - Avoid unnecessary obstacles to trade under Art. 2.2 TBT



Examples of COVID-19 Measures Affecting Trade in Goods



➤ Export Restrictions

- **Switzerland:** Ordinance 2 on Measures Aimed at Combatting the Coronavirus (16 March 2020), temporarily making the export of protective equipment and certain medical substances subject to a licensing requirement.
- **Kazakhstan :** Order No. 111 of the Minister of Agriculture (2 April 2020) giving the Minister of Agriculture the power to temporarily prohibit the export of certain agricultural products and to impose temporary quantitative restrictions on certain products.
- **Argentina:** Temporary implementation of export licensing requirement on medical ventilators due to the COVID-19 pandemic by the Ministry of Production Development (10 February 2021)
- **United States:** Presidential Memoranda allocating certain personal protective equipment for domestic use due to the COVID-19 pandemic (14 May 2020)

➤ TFA

- **Switzerland:** The notification from Switzerland includes trade-related measures to combat the Pandemic, such as priority lanes for certain vital goods at border checkpoints (8 October 2020).

The New Roles of the WTO:

WTO as a Facilitator in the coordination and transparency between WTO Members and the enhanced analytical role of the Secretariat

WTO's Response to COVID-19



- WTO Members began imposing **export restrictions** on foodstuffs and then on medical equipment related to COVID-19. There were also other measures such as:
- On 24 March 2020, DG Roberto Azevedo urged Members to **notify measures** on COVID-19:
 - Such notifications are made to ensure greater transparency.
 - Expertise of the WTO Staff at the disposal of WTO Members.
 - About half of the COVID19 related notifications made were TBT measures.
- COVID-19 required greater cooperation, collaboration and coordination between countries, IGOs, NGOs and the private sector for, among other things, equitable distribution of vaccines.



Examples of the WTO Secretariat's enhanced role in response to COVID-19



- COVID-19 page of the WTO allowed the tracking of trade measures by country and type of measures – E.g., Canada.
- Invitation to notify trade measures outside of the TPRM process facilitated coordination and Cooperation.
- **Secretariat took on an enhanced role** by writing reports, organizing and presenting notifications.

COVID-19 and trade - Canada

This page gathers together trade-related information on Canada and COVID-19. It lists trade measures taken in response to the crisis, notifications submitted by Canada, and national enquiry points for further information. It also displays any proposals submitted on COVID-19.

Measures affecting trade in goods

The table below has been compiled by the WTO Secretariat. It is an informal situation report and an attempt to provide transparency with respect to trade and trade-related measures taken in the context of the COVID-19 crisis.

Measure	Source/Date	Date	Status
Goods imported into Canada are generally subject to the Goods and Services Tax (GST), at a rate of 5%, as well as applicable customs duties, which vary by product and country of origin. Typically, payments owing for customs duties and the GST on imports are due on a monthly basis. In order to provide cash flow and liquidity support for importers, Canada announced on 27 March 2020 that it will defer payment deadlines for March, April, and May to 30 June 2020	WTO documents G/MA/W/145, 1 April 2020 and G/TFA/W/24, 29 September 2020; Permanent Delegation of Canada to the WTO (24 September 2020) and Canada Border Service Agency, Customs Notice 20-11 (27 March 2020). Viewed at: https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn20-11-eng.html	undefined	Confirmed

Examples of analytical work undertaken by the Secretariat



COVID-19 AND WORLD TRADE

WTO reports on COVID-19 and world trade

20/11/2020	Developing & delivering COVID-19 vaccines around the world: A checklist of issues with trade impact
20/11/2020	Infographic: Developing & delivering COVID-19 vaccines around the world
03/11/2020	Future resilience to diseases of animal origin: the role of trade
15/10/2020	The TRIPS Agreement and COVID-19
24/09/2020	Helping MSMEs navigate the COVID-19 crisis
18/09/2020	How WTO members have used trade measures to expedite access to COVID-19 critical medical goods and services
26/08/2020	COVID-19 and agriculture: A story of resilience
25/08/2020	Cross-border mobility, COVID-19 and global trade
12/08/2020	Trade costs in the time of global pandemic
03/08/2020	The economic impact of COVID-19 on women in vulnerable sectors and economies

08/06/2020	The COVID-19 pandemic and trade-related developments in LDCs
28/05/2020	Trade in services in the context of COVID-19
04/05/2020	E-commerce, trade and the COVID-19 pandemic
27/04/2020	The treatment of medical products in regional trade agreements
23/04/2020	Export prohibitions and restrictions
07/04/2020	Transparency – why it matters at times of crisis
03/04/2020	Trade in Medical Goods in the Context of Tackling COVID-19 <ul style="list-style-type: none"> ▣ Annexes (in Excel) ▣ Download data (including data based on WCO-WHO revised classification) ▣ Data visualization app

Date	Title
31/10/2022	Overview of discussions in the Committee on Technical Barriers to Trade relating to COVID-19
20/07/2022	Trade in Medical Goods in the Context of Tackling COVID-19: Developments in 2019-21
07/06/2022	Update: Joint Indicative List of Critical COVID-19 Vaccine Inputs for Consultation
16/12/2021	Trade in Medical Goods in the Context of Tackling COVID-19: Developments in the first half of 2021
08/10/2021	COVID-19 vaccine production and tariffs on vaccine inputs
08/10/2021	Update: Indicative list of trade-related bottlenecks and trade-facilitating measures on critical products to combat COVID-19
08/10/2021	Infographic: The global race to vaccinate
20/07/2021	Indicative list of trade-related bottlenecks and trade-facilitating measures on critical products to combat COVID-19
13/07/2021	Joint Indicative List of Critical COVID-19 Vaccine Inputs for Consultation
01/07/2021	Improving trade data for products essential to fight COVID-19: a possible way forward
30/06/2021	Trade in Medical Goods in the Context of Tackling COVID-19: Developments in 2020
22/12/2020	Developing and delivering COVID-19 vaccines around the world: An information note about issues with trade impact
22/12/2020	Trade in Medical Goods in the Context of Tackling COVID-19
04/12/2020	Standards, regulations and COVID-19 – what actions taken by WTO members?

Leadership of DG Ngozi Okonjo-Iweala

- In February 2021, the WTO Members confirmed the appointment of the new Director General Dr. Ngozi Okonjo-Iweala, who previously chaired the Board of Gavi, the Vaccine Alliance.
- She has been working with associations, manufacturers, producers and distributors of vaccines and essential medical supplies to ramp up vaccine production and secure vaccine equity.
- DG Ngozi has urged that “**vaccine policy is trade policy**”, and stressed the value of collaboration, through creation of partnerships, and information sharing with the industry.



The New Roles of the WTO: Facilitator in the collaboration with other IGOs

Multi-Lateral Leaders Task Force on COVID-19 Vaccines, Therapeutics, and Diagnostics

- The heads of the IMF, World Bank, WHO and the WTO convened on 30 June 2021, the first meeting of “the Task Force” on COVID-19 Vaccines, Therapeutics and Diagnostics for Developing Countries.
- The Task Force, was formed as a “war room” to help **track, coordinate and advance delivery of COVID-19 health tools** to developing countries and to mobilize relevant stakeholders and national leaders to remove critical roadblocks in the way of this objective. Meetings of the MLT take place at the technical level, and also with the industry and private stakeholders.
- The MLT also has a website that serves as a platform for information on access to COVID-19 vaccines, therapeutics and diagnostics and on the activities of the 4 organisations in tackling the pandemic.



MULTILATERAL LEADERS TASK FORCE ON COVID-19 HOME ABOUT DATA RESOURCES

Entrepreneur 2021.03.02

TASK FORCE ON COVID-19 VACCINES, THERAPEUTICS, AND DIAGNOSTICS

A global effort to help developing countries access and deliver COVID-19 vaccines, testing, and therapeutics, as they work to end the pandemic and boost economic recovery.

The International Monetary Fund, World Bank Group, World Health Organization and World Trade Organization have joined forces to accelerate access to COVID-19 vaccines, therapeutics and diagnostics by leveraging multilateral finance and trade solutions, particularly in low- and middle-income countries.

Through this web site, which includes a global database and country-by-country data dashboards, the Task Force is tracking and monitoring specific global and country-level gaps to support faster and more targeted solutions to accelerate access to COVID-19 vaccines, treatments and tests in developing countries.

Read more on the purpose of this website and how to explore the data

WORLD BANK GROUP WORLD TRADE ORGANIZATION World Health Organization IMF

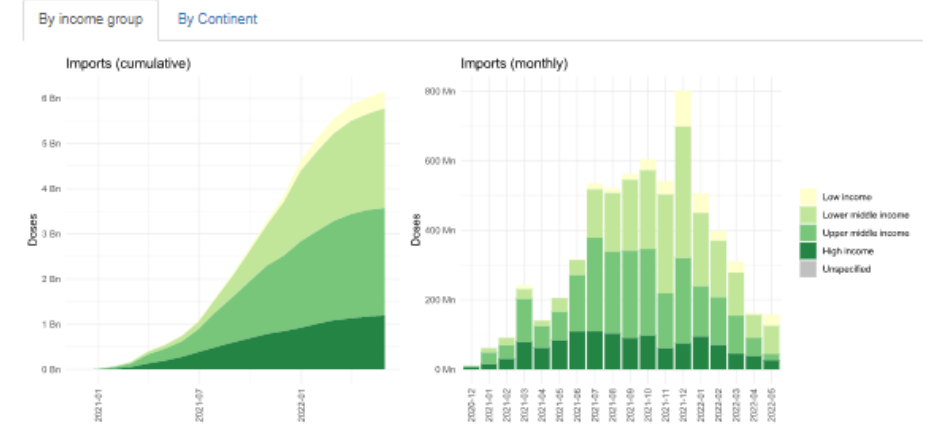
Country Classifications Indicators Explore data tables

WTO – IMF COVID-19 Vaccine Trade Tracker

- Vaccine Trade Tracker launched on 22 November 2021 to ensure transparency in the **cross-border movement of vaccines, vaccine inputs and essential medical supplies** against COVID-19.
- As of **31 May 2022**, the total supply of COVID-19 vaccine estimated by the Vaccine Tracker was **15.2 billion doses**.
- **Currently**, WTO and IMF have stopped collecting information and will no longer provide updates to the Vaccine Trade Tracker.

3. Imports

Imports are defined as the number of doses received from producing economies, mirroring the information provided in the exports section. This definition does not take into account imports of vaccine substances in bulk form to be used in "fill and finish" sites.



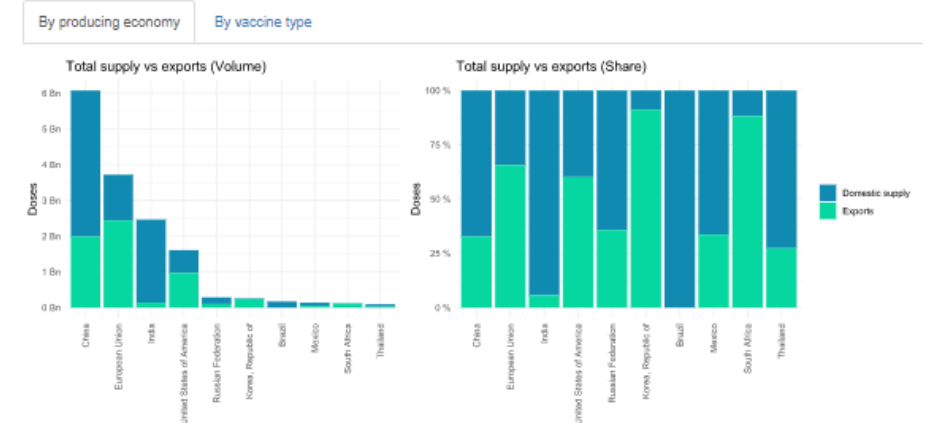
Total number of doses imported by income group

Income Group Imports	Number of doses (million)	Doses per 100 people	Population (million)
Low income	390.6	55.5	704.3
Lower middle income	2,206.5	73.7	2,995.4
Upper middle income	2,376.2	81.1	2,930.4
High income	1,195.3	96.0	1,244.6

Note: as of 31 May 2022

4. Total Supply

Total supply contains both exported and domestically delivered doses.



WTO, WIPO, WHO Trilateral Cooperation on Public Health, IP and Trade



- The Directors General of WHO, WIPO and the WTO, **agreed to enhance their support to Members battling the pandemic** by organizing a series of workshops to augment the flow of information on the pandemic.
- The DGs agreed to implement a joint platform for tripartite technical assistance to Member governments relating to their needs for COVID-19 medical technologies.

A screenshot of the WIPO website showing an article titled "WHO, WIPO, WTO Trilateral Cooperation on Public Health, IP and Trade". The page includes a navigation bar with links for Media, Meetings, Contact Us, IP Portal, and English. Below the navigation bar is a search bar and a breadcrumb trail: Home > Policy > Global Health. The main content area features the article title, a sub-header, and a paragraph of text. To the right of the text is a featured image of a modern building with a glass facade and a network of blue lines overlaid on it. Below the image is a caption: "WIPO's COVID-19 Related Services and Support" and a "Contact us" button. At the bottom of the page, there is a "FEATURED" section with a photo of a meeting and a sub-header: "WHO, WIPO, WTO Map Out Further Collaboration to Tackle COVID-19 Pandemic". The text below the sub-header describes the meeting and the agreement between the three organizations.

Media | Meetings | Contact Us | IP Portal | English -

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

IP Services | Policy | Cooperation | Resources | About IP | About WIPO

Search WIPO

Home > Policy > Global Health

WHO, WIPO, WTO Trilateral Cooperation on Public Health, IP and Trade

The World Health Organization (WHO), the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) are strengthening their cooperation and practical coordination on issues around public health, [intellectual property](#) (IP) and trade.

[Read more...](#)

[Contact us](#)

FEATURED



[WHO, WIPO, WTO Map Out Further Collaboration to Tackle COVID-19 Pandemic](#)

The Directors General of WHO, WIPO and the WTO, agreed to enhance their support to members battling the pandemic by collaborating on a series of workshops to augment the flow of information on the pandemic and by implementing a joint platform for tripartite technical assistance to member governments relating to their needs for medical technologies. As a result of their meeting on June 15, Tedros Adhanom Ghebreyesus, Daren Tang and Ngozi Okonjo-Iweala issued the following statement.

COVAX Supply Chain and Manufacturing Taskforce

- Initiative between Coalition for Epidemic Preparedness Innovations (CEPI), World Health Organization (WHO), Global Alliance for Vaccines and Immunization (GAVI) and United Nations Children’s Fund (UNICEF).
- Aims to ensure equitable access to vaccines, therapeutics and diagnostics especially for low-to-middle income countries.
- The WTO Secretariat has been contributing to the Initiative through its work on COVID-19, and particularly, equitable access to COVID-19 vaccines
- In January 2022, COVAX reached the mark of 1 billion vaccines distributed



COVAX

CEPI



ACTaccelerator
ACCESS TO COVID-19 TOOLS

Involvement in the Initiatives of other IGOs – The WHO Pandemic Treaty

- In 2021, the 194 member States of the WHO agreed to negotiate a global **Pandemic Prevention, Preparedness and Response Accord**.
- A “Zero Draft” was circulated by the Bureau of the Intergovernmental Negotiating Body in February 2023.
- Since the Accord has implications in many other fields of international cooperation, the WHO is engaging with stakeholder, NGOs, and other IGOs.
- The provisions of the draft concerning intellectual property rights carry important implications for the WTO.



The New Roles of WTO :

Facilitator in collaboration with the private sector and other hybrid initiatives

Request by Canada and others for the Director General's intervention



WT/GC/230/Rev.2

12 April 2021

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(21-3018)

General Council

Original: English

- In April 2021, several Members requested the DG to **convene discussions** with manufacturers of Covid-19 related medical products, particularly vaccines, citing the convening power and resources of the Organization
- The aim of these discussions was:
 - Identifying and making use of unused or underutilised production capacity,
 - Facilitating licensing agreements,
 - Addressing trade-related barriers to vaccine production,
 - Promoting the availability of other Covid-19 related medical products.
- Since this request, DG Ngozi has had multiple meetings with business leaders and vaccine manufacturers with a view to discuss strategies on supporting global value chains; and improving production, distribution, and access to COVID-19 health tools.

ENHANCING THE ROLE OF THE WORLD TRADE ORGANIZATION IN THE GLOBAL EFFORT TOWARD THE PRODUCTION AND DISTRIBUTION OF COVID-19 VACCINES AND OTHER MEDICAL PRODUCTS

COMMUNICATION FROM AUSTRALIA, BRAZIL, CANADA, CHILE, COLOMBIA, ECUADOR, NEW ZEALAND, NORWAY AND TURKEY

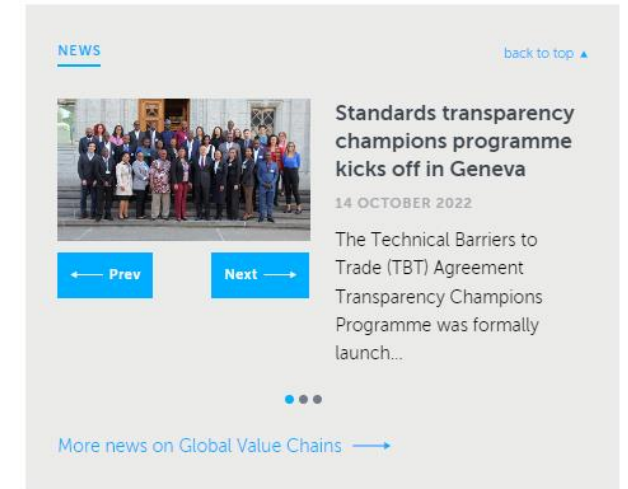
*Revision**

Work on Vaccine Supply Chains

- COVID-19 has disrupted the supply chains of most companies, **especially micro, small and medium-sized enterprises (MSMEs)**.
- WTO Members asked DG Ngozi to address vaccine and supply chain issues. The DG organized meetings to facilitate coordination with the private sector, which were originally limited to supply chain issues related to vaccine manufacturing.
- In addition, the DG was asked to address supply chains in general, beyond vaccines. In specific, the WTO has been used as a forum to bring together the different actors in order to eliminate bottlenecks in supply chains.

Global Value Chains

This portal provides access to the Trade in Value-Added (TiVA) Database and the Global Value Chain (GVC) Indicators Database as well as publications, research papers and events dealing with the measurement and analysis of trade taking place within GVCs.

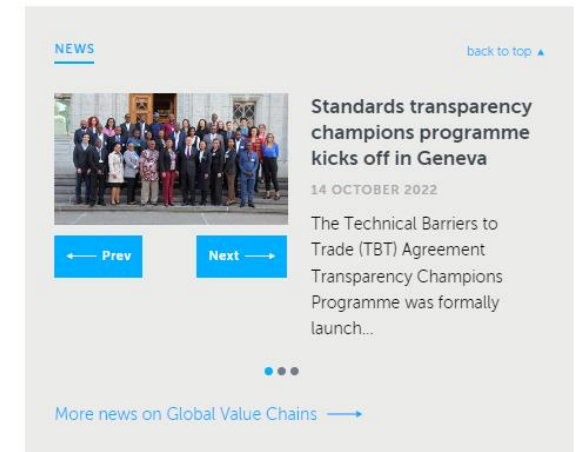


Work on Supply Chains in general

- On several occasions, most recently on **21 March 2022**, the WTO hosted the “**Global Supply Chain Forum**”, where various stakeholders, such as government representatives, experts and Members of the private sector, shared their experiences and suggestions for mitigating future supply chain shocks.
- WTO also hosted a **technical workshop from 7 to 11 November 2022** on the *Global Value Chain Development Report 2023: Resilient and Sustainable Global Value Chains in Turbulent Times*. The workshop featured the participation of economic and trade experts from the WTO and other organizations to address a variety of trade-related Global Value Chains (GVCs) issues, such as “Measuring GVC Participation”, “Climate Change and GVCs”, and “GVCs, Geopolitics and Pandemics”.

Global Value Chains

This portal provides access to the Trade in Value-Added (TIVA) Database and the Global Value Chain (GVC) Indicators Database as well as publications, research papers and events dealing with the measurement and analysis of trade taking place within GVCs.



Trade Forum for Decarbonization Standards



- The momentum to engage with private sector has continued in the WTO. with the recent WTO Trade Forum **for Decarbonization Standards in the Steel Sector** held on **9 March 2023**, which brought together the some of the **biggest steel companies** from around the world (like **ArcelorMittal, POSCO, Gerdau**), with Government representatives, **other IGOs** (like **OECD, IEA**) and **industry associations** (like **World Steel Association, ResponsibleSteel**).
- The landmark forum saw the **steel industry actively request the WTO's participation on the issue of steel decarbonization standards**, as a **facilitator of dialogue** between different governments, and between industry and government. In particular, the participants highlighted the role of the WTO
 - In promoting **international cooperation** and discussion in a landscape of heterogeneity;
 - In encouraging the use of its **principles of equivalence and mutual recognition** of standards between countries, particularly through its various committees including the **CTE and TBT Committee**;
 - As a forum with **equal and inclusive** participation of **developing and least developing countries**; and
 - **Facilitating transparency and information sharing** on standards between the industry, SSBs, Member countries and other stakeholders.



Technical Workshop on a Global Carbon Pricing Framework



- On 31 March 2023, the **WTO Secretariat** took the initiative to organise a technical workshop at which a Global Carbon Pricing Framework was presented in line with the 1.5°C climate commitment in the Paris Agreement.
- The purpose of this presentation is to initiate discussion following the concerns raised by :
 - The **private sector** regarding compliance with with diverse policies about carbon emissions.
 - WTO Members within committees such as the **Committee on Market Access**. Developing countries being more concerned about development perspectives and their scope for industrialization whereas Developed economies are more concerned about a level playing field.
- This Framework sought to integrate the Paris Agreement's Principle of Common but Differentiated Responsibilities (CBDR) based on 3 main components:
 1. A **carbon price for each country** based on Historical contribution to emissions, Current level of development, Cost of climate change, Adverse impact of climate change mitigation;
 2. **Share carbon tax revenues** to support adversely affected countries.
 3. **Equivalence** consistent with other policy instrument than carbon pricing that could be more suitable for Members, especially Developing countries (eg. Subsidies and regulations)

Making Trade Score for Women



- On 1 May 2023, in line with their commitments under the Memorandum of Understanding in force until 31 December 2027, WTO and FIFA welcomed the *Make Trade Score for Women* event in collaboration with Australia and New Zealand.
- Firstly, the event focused on the different **interactions between football and trade**:
 - Notifications on football gears within the **TBT Committee**;
 - Football touches upon **different areas of trade** (intellectual property, trade in services, free movement of persons and investments, etc);
 - The market of cotton football gear could help **Cotton-4** (Benin, Burkina Faso, Chad, Mali) and other developing countries (e.g., Côte d'Ivoire) **penetrating new markets** and **adding value to raw materials domestically**.
- Secondly, the event focused on **WTO and FIFA similar women empowerment objectives** including:
 - **Narrowing the pay gap** between men and women;
 - **Generalizing women inclusion** in sport (e.g., as referees) and in international trade (increasement of employment, especially for women through cotton-to-textile value chains)



Proposal to Formalize Engagement with the Private Sector (Brazil and The United States)



- In September 2021, Brazil and the US circulated a proposal to make interaction with the private sector more regular and formalized within the Committee on Trade Facilitation
- They suggested allowing for discussions with and presentations by private sector representatives on the margins of Committee meetings, ensuring equitable and diverse geographical and social representation



G/TFA/W/42/Rev.1

27 September 2021

(21-7194)

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Committee on Trade Facilitation

Original: English

PROPOSAL TO FORMALIZE ENGAGEMENT WITH THE PRIVATE SECTOR

COMMUNICATION FROM BRAZIL AND THE UNITED STATES

Revision

PROPOSAL

5. We propose that the Committee convene informally, virtually or in hybrid format, on the margins of formal Committee meetings to host discussions with and presentations from the private sector to facilitate direct feedback regarding on-the-ground implementation of the TFA. The private sector organizations may present how implementation of specific provisions of the TFA has improved the private sector experience or identify areas of remaining challenges.

5bis. In order to encourage participation from a wide variety of businesses and diversity of organizations, geographic locations, and perspectives, the Committee may consider in operationalizing this proposal as follows:

- A. The geographical location of active participants shall rotate at each informal meeting, for example, Europe, Central Asia, and Russia; Africa and the Middle East; Asia; and the Americas. Thus ensuring a focus on each region of the world;

Advisory Groups

- On 21 June 2023, DG Okonjo-Iweala created two advisory groups **to improve engagement with non-state actors and stakeholders.**
 - The **Civil Society Advisory Group** comprises representatives of several NGOs, such as the WWF and the International Trade Union Confederation.
 - The **Business Advisory Group**, for its part, brings together business leaders and industry associations, like the International Chamber of Commerce.



The New Roles of WTO :

Facilitator in reconciling Members following the proposal by India and South Africa for a TRIPS Compromise

COVID-19 TRIPS Compromise

- DG Ngozi Okonjo-Iweala and DDG Anabel Gonzalez worked as “brokers” for the TRIPS compromise negotiations. Waiver intended to facilitate current efforts to de-concentrate and geographically diversify supply of vaccines in the future.
- Members had active involvement in the final text of the waiver as adopted, as evidenced by the negotiations that continued until the final hour to have an acceptable text of the footnote on eligible Members.
- Compromise encompasses **only patents** that concern the production and supply of **vaccines**.
- On 16 December 2022, **Members agreed to push back the 6-month time limit** for deciding whether to extend coverage of the COVID-19 TRIPS Compromise to cover the production and supply of COVID-19 diagnostics and therapeutics **without indicating a new deadline**. At the moment, **no extension is foreseen before October 2023**.
- Opt-out provided for Eligible Members = all developing country Members (defined in Footnote 1).
 - Developing country Members with existing capacity to manufacture COVID-19 vaccines are ‘encouraged to make a binding commitment to not avail themselves’ of the TRIPS Waiver.
 - Such binding commitments include statements made at the General Council.
- On 8 March 2023, Seth Berkley, the CEO of Gavi, the Vaccine Alliance stated that : *“the TRIPS waiver did ‘nothing’ for vaccine access”*.



TRIPS Waiver



WORLD TRADE
ORGANIZATION

WT/MIN(22)/30
WT/L/1141

22 June 2022

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WORLD TRADE
ORGANIZATION

(22-4786)

Ministerial Conference
Twelfth Session
Geneva, 12-15 June 2022

MINISTERIAL DECISION ON THE TRIPS AGREEMENT

ADOPTED ON 17 JUNE 2022

1. Notwithstanding the provision of patent rights under its domestic legislation, an eligible Member¹ may limit the rights provided for under Article 28.1 of the TRIPS Agreement (hereinafter "the Agreement") by **authorizing the use of the subject matter of a patent² required for the production and supply of COVID-19 vaccines without the consent of the right holder** to the extent necessary to address the COVID-19 pandemic, in accordance with the provisions of Article 31 of the Agreement, as clarified and waived in paragraphs 2 to 6 below.
2. For greater clarity, an eligible Member may authorize the use of the subject matter of a patent under Article 31 without the right holder's consent through any instrument available in the law of the Member such as executive orders, emergency decrees, government use authorizations, and judicial or administrative orders, whether or not a Member has a compulsory license regime in place. For the purpose of this Decision, the "law of a Member" referred to in Article 31 is not limited to legislative acts such as those laying down rules on compulsory licensing, but it also includes other acts, such as executive orders, emergency decrees, and judicial or administrative orders.

¹ For the purpose of this Decision, all developing country Members are eligible Members. **Developing country Members with existing capacity to manufacture COVID-19 vaccines are encouraged to make a binding commitment not to avail themselves of this Decision.** Such binding commitments include statements made by eligible Members to the General Council, such as those made at the General Council meeting on 10 May 2022, and will be recorded by the Council for TRIPS and will be compiled and published publicly on the WTO website.

² For the purpose of this Decision, it is understood that 'subject matter of a patent' includes ingredients and processes necessary for the manufacture of the COVID-19 vaccine.

3. Members agree on the following clarifications and waiver for eligible Members to authorize the use of the subject matter of a patent in accordance with paragraphs 1 and 2:
 - (b) An eligible Member may waive the requirement of Article 31(f) that authorized use under Article 31 be predominantly to supply its domestic market and may allow any proportion of the products manufactured under the authorization in accordance with this Decision to be exported to eligible Members, including through international or regional joint initiatives that aim to ensure the equitable access of eligible Members to the COVID-19 vaccine covered by the authorization.
6. An eligible Member may apply the provisions of this Decision until 5 years from the date of this Decision. The General Council may extend such a period taking into consideration the exceptional circumstances of the COVID-19 pandemic. The General Council will review annually the operation of this Decision.
7. Members shall not challenge any measures taken in conformity with this Decision under subparagraphs 1(b) and 1(c) of Article XXIII of the GATT 1994.
8. No later than six months from the date of this Decision, Members will decide on its extension to cover the **production and supply of COVID-19 diagnostics and therapeutics.**
9. This Decision is without prejudice to the flexibilities that Members have under the TRIPS Agreement, including flexibilities affirmed in the Doha Declaration on the TRIPS Agreement and Public Health, and without prejudice to their rights and obligations under the TRIPS Agreement, except as otherwise provided for in paragraph 3(b). For greater certainty, this Decision is without prejudice to the interpretation of the above-mentioned flexibilities, rights and obligations outside the scope of this Decision.

The results of the 12th WTO Ministerial Conference (MC12):

**An undeniable evidence of the expansion of
the WTO's scope of responsibilities and
actions**

Extracts from the MC12 Outcome Document

- Ministers resolved “**to strengthen the rules-based, non-discriminatory, open, fair, inclusive, equitable and transparent multilateral trading system**, underscoring the relevance and critical role of trade and the WTO in (among others) the alleviation of poverty, **sustainable development and the preservation of the environment.**” (Para. 1)
- Members commit to “work towards necessary reform of the WTO. While reaffirming the foundational principles of the WTO, we envision **reforms to improve all its functions.**” The reform work shall be “Member-driven, open, transparent, inclusive, and must address the interests of all Members, including development issues.” (Para. 3)
- Members “acknowledge the challenges and concerns with respect to the dispute settlement system including those related to the Appellate Body, recognize the importance and urgency of addressing those challenges and concerns, and commit to conduct discussions with the view to **having a fully and well-functioning dispute settlement system accessible to all Members by 2024.**” (para 4)
- Members recognize the “importance of strengthened collaboration and cooperation with other intergovernmental organizations and other relevant stakeholders that have responsibilities related to those of the WTO to restore trust (Para. 12)
- They recognized “global environmental challenges, **including climate change, related natural disasters, loss of biodiversity and pollution,**” and noted the **Sustainable Development Goals (SDGs)** in their **economic, social, and environmental dimensions**, and **the role of the Committee on Trade and Environment** in this regard (Para. 14)



WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics



WT/MIN(22)/31
WT/L/1142

22 June 2022

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(22-4787)

Ministerial Conference
Twelfth Session
Geneva, 12-15 June 2022

MINISTERIAL DECLARATION ON THE WTO RESPONSE TO THE
COVID-19 PANDEMIC AND PREPAREDNESS FOR **FUTURE PANDEMICS**

ADOPTED ON 17 JUNE 2022

- The MC12 Future Pandemics declaration recognizes “the role of the multilateral trading system in supporting the **expansion and diversification of production of essential goods** and related services needed in the fight against COVID-19 and Future Pandemics...”
- Members committed to “**transparency**, including that notifications of trade-related measures with respect to COVID-19 and future pandemics would be submitted in a timely and comprehensive manner in accordance with WTO Rules.
- The declaration, in particular, took note of the “**work undertaken by the WTO Secretariat, including in collaboration with other international organizations**” and the “importance of the WTO working, along with World Health Organizations and other international organizations...”
- Members have tentatively begun compiling the records of their discussions on COVID-19 in order to draw from them best practices for future pandemics.

National and International Food Security

- With the **Ministerial Declaration on the Emergency Response to Food Insecurity**, Members commit to take concrete steps to facilitate trade and **improve the functioning and long-term resilience of global markets for food and agriculture**, including cereals, fertilizers, and other agriculture production inputs.
- They also reaffirm the importance of **not imposing export prohibitions or restrictions** in a manner inconsistent with relevant WTO provisions and note that any emergency measures introduced to address food security concerns shall minimize trade distortions as far as possible; be temporary, targeted, and transparent.
- Members also resolved **to cooperate with a view to ensuring enhanced productivity** and production, trade, availability and accessibility and affordability of food for those who need it, highlighting the importance of providing technical and financial assistance to LDCs and NFIDCs.
- On 21 November 2022, at an informal session of the WTO Committee on Agriculture, Members **approved the Work Program addressing food insecurity** in accordance with paragraph 8 of The MC12 *Ministerial Declaration on the Emergency Response to Food Insecurity*.
- The Working Group shall submit its report and recommendations to the Committee on Agriculture **by 30 November 2023**, unless the Committee agrees to extend the deadline.



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22 June 2022

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Ministerial Conference
Twelfth Session
Geneva, 12-15 June 2022

**MINISTERIAL DECLARATION ON THE
EMERGENCY RESPONSE TO FOOD INSECURITY**

ADOPTED ON 17 JUNE 2022

Joint Statement by Multi-Lateral Leaders on Food Insecurity (FAO, IMF, WBG, WTF, WTO)



- The heads of the World Trade Organization, UN Food and Agriculture Organization, International Monetary Fund, World Bank Group and UN World Food Programme **issued a joint statement on 8 February** calling for an urgent response to the unprecedented food and nutrition security crisis.
- They highlighted the following three main goals:
 1. Rescue of hunger hotspots
 2. Trade facilitation, improvement of the functioning of markets, and **enhancement of the role of the private sector.**
 3. Reform and repurpose of untargeted, inefficient, and costly subsidies with careful targeting and efficiency.



Joint Statement by the Heads of the Food and Agriculture Organization, International Monetary Fund, World Bank Group, World Food Programme and World Trade Organization on the Global Food and Nutrition Security Crisis

Food and Agriculture Organization (FAO) Director General Qu Dongyu, International Monetary Fund (IMF) Managing Director Kristalina Georgieva, World Bank Group (WBG) President David Malpass, World Food Programme (WFP) Executive Director David Beasley and World Trade Organization (WTO) Director General Ngozi Okonjo-Iweala issued the following joint statement calling for continued urgent action to address the global crisis on food and nutrition security.

Agreement on Fisheries Subsidies

- Revolutionary: **Focus on sustainable development instead of competitive concerns such as adverse effects under the SCM.** The new benchmark is sustainable development.
- Relates to Sustainable Development Goal (SDG) 14 → “Conserve and sustainably use the oceans, seas and marine resources”
- All Members agreed to maintain provisions related to **illegal, unreported, and unregulated fishing** (Stage 1).
- Final Agreement **removed** provisions relating to subsidies that **contribute to overcapacity and overfishing.**
 - Members commit to continue negotiating on comprehensive provisions on overcapacity and overfishing (Stage 2).
 - If these comprehensive disciplines **are not adopted within four years** of the entry into force of the Agreement, and unless otherwise decided by the General Council, **the Fisheries Agreement shall stand immediately terminated.**
- **Switzerland** became first country to ratify, followed by **Singapore, Seychelles, the United States** and **Canada, Iceland** and **United Arab Emirates.**
- Establishment of a **Fisheries fund** for technical assistance and capacity building for developing countries and LDCs, which **became operational on 8 November 2022.** **Japan** provided the first contribution to the fund.



Funds and Implementation Facilities



- The Fisheries Subsidies Agreement has created a **WTO Fisheries Funding Mechanism** to provide technical assistance and capacity buildings for developing country members and LDCs, which has been operational since 8 November 2022.
- This is not the first time that Members have recognized the importance of enabling developing country Members to implement the negotiated agreements.
- The first such effort was the Trade Facilitation Agreement Facility, launched in 2014. It is charged with assisting the developing countries with their notifications under the Agreement, improve their capacities and **provide them with the means to finance trade facilitation projects.**
- A similar mechanism is planned in the context of the Investment Facilitation for Development Agreement.



WTO Reform and the Run-Up to the 13th Ministerial Conference (MC13) Abu Dhabi 2024

Reforms in the WTO



- Reform refers to a bevy of proposals by Members to improve the functioning of the WTO.
- Two main categories of reform proposals can be identified: -
 1. **Improvement of the main functions** of the WTO through procedural reform – negotiation, transparency, monitoring and Dispute Settlement.
 2. **Modernisation of rules** of the WTO – proposals on SPS, TBT, Fisheries.
- Members have been circulating reform proposals **since 2016-2017**.
- Besides formal proposals, a “**reform by doing**” is already underway, including in the regular committees.

WTO reform – an overview

The issue of WTO reform is a broad one, encompassing many facets of the WTO's work. The debate over WTO reform is nothing new. Almost from the organization's inception, members have been thinking about how the WTO could be improved and respond more effectively to the challenges facing the multilateral trading system. However, the push for WTO reform has gained momentum in recent years, reflecting the four general concerns outlined below.

General concerns

1. The challenges WTO members face in initiating, negotiating and concluding trade agreements, both for outstanding issues as well as for new issues
2. The need to strengthen the work of the WTO's regular bodies and committees as well as strengthen notification and transparency disciplines under existing agreements
3. The question of whether, and to what extent, the WTO's more advanced emerging economies should take on greater obligations under the WTO agreements, and whether existing special and differential treatment provisions for developing and least developed countries are sufficient or effective
4. Improvements in the functioning of the WTO's dispute settlement system and overcoming the four-year impasse on the appointment of new Appellate Body members.

Procedural Reform: US Proposal to improve the way of working within WTO Committees and Bodies

- The US proposal circulated on **26 April 2023** is a part of Members' effort to improve the way of working within WTO Committees and Bodies.
- This proposal suggests to modernize and update the General Council and Heads of Delegation or Trade Negotiation Committee agendas including for example:
 - **Annotated agenda;**
 - Organization of items **based on newness and action required by Members** (i.e., adoption, discussion or information);
 - **Reorganizing agendas** to group similar agenda items together;
 - Specific and separate agenda items **for meetings held under the Informal Heads of Delegation or Trade Negotiations Committee;**
 - Institution of a clock during **General Council meetings.**
- According the US proposal, “administrative and organizational issues such as these form an integral part of WTO reform discussions”.



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General Council

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IMPROVING THE OPERATION OF THE GENERAL COUNCIL AND HEADS OF DELEGATION/TRADE NEGOTIATIONS COMMITTEE



Procedural Reform: EU Proposal on Transparency, Notifications and Deliberative Functions Proposals post MC12

- The **EU proposal** circulated on **22 February 2023** takes a broader view of the scope of deliberative functions and suggests following improvements:
 - Development of non-binding instruments to facilitate implementation, identification of best practice, and increased use of informal meetings, thematic sessions, enhanced cross-committee coordination and joint sessions to leverage in-house expertise;
- The proposal also suggests using the deliberative functions of the WTO to **address issues like state-intervention for industrial sectors, trade and environment challenges, and promoting inclusiveness in trade.**

REINFORCING THE DELIBERATIVE FUNCTION OF THE WTO TO RESPOND TO GLOBAL TRADE POLICY CHALLENGES



Reform on Dispute Settlement – MC12 and beyond

- Talks on reforming the ailing dispute settlement system, whose Appellate Body has been dysfunctional since 2019, have intensified since MC12.
- During MC12 Members recognized the need to establish an effective dispute settlement system that is accessible to everyone by 2024 in the MC12 Outcome Document :

*“We acknowledge the challenges and concerns with respect to the dispute settlement system including those related to the Appellate Body, recognize the importance and urgency of addressing those challenges and concerns, and commit to conduct discussions with the view to **having a fully and well-functioning dispute settlement system accessible to all Members by 2024.**” (para 4)*

- WTO Members have been participating in US-led discussions on reforming the dispute settlement system. Talks have now entered a new phase of multilateral negotiations with Mr. Marco Molina, Permanent Representative of Guatemala to the WTO acting as facilitator. Over **70 proposals have been submitted** and **text-based negotiations** have begun in September.

Reform by doing



- Reform by doing is generally understood to mean the **continuous introduction and evaluation of small-scale changes to the procedural practices** of the WTO councils and committees.
- During the General Council Meeting on 24 to 25 July 2023, ten first steps were presented, including:
 - **Enhancing Secretariat Support** for Delegates and new council chairs
 - **Modernizing the airgrams** (documents circulated before council meetings containing the agenda)
 - Considering the use of **annotated and e-agendas**
 - Continuing **experience-sharing and information sessions**
- Three Committees, the Trade Facilitation Committee, the Market Access Committee, and the Committee of Participants on the Expansion of Trade in Information Technology Products have recently resolved to start using annotated agendas and begin a trial for e-agendas from next year onward. The Council for Trade in Goods is also considering proposals for the same.

An example of Reform by Doing – The Joint Statement Initiatives (JSI)



- Proponents of adapting new approaches have **initiated plurilateral, like-minded Joint Statement Initiatives (JSIs) and Informal Platform for discussions** on issues :
 - **JSIs:** E-Commerce, Domestic Services Regulation, Investment Facilitation and Working Group on MSMEs.
 - **Informal Platform for discussions:** Informal Dialogue on Plastics Pollution and Sustainable Plastics Trade, Trade and Environmental Sustainability Structured Discussions and Fossil Fuel Subsidies.
- Such initiatives are triggered by sub-groups of WTO Members.



Another example of Reform by Doing – Specific Trade Concerns (STCs)



- STC mechanism has already been extensively used in the Committee on Technical Barriers to Trade, Committee on Sanitary and Phytosanitary Measures, and Market Access Committee.
- Overall goal of reforming STCs: Enhance their **use**, improve **effectiveness**, bringing **coherence** across committees.
- STC Proposals focus on:
 - Developing more prescriptive **procedures** for raising and responding to STCs;
 - Circulation of **written questions and agenda** in advance;
 - Encouraging more substantive replies;
 - **Mediation by the Chair**;
 - Consultations between formal meetings by Members;
 - Coherence and **information sharing** between committees;
 - **Assistance** for developing country and LDC Members;
 - Developing a **central repository / database** that lists and categorizes STCs and tracks their status.



Modernisation: Proposal by the African Group to Rebalance the SCM Agreement

- On 26 May 2023, the African Group circulated a proposal to ‘rebalance’ the SCM Agreement in order to give Members **more policy space for their industrial policies**.
- It calls for:
 - Adjusting the GNP threshold to qualify for S&DT under Article 27.2(a) and adding further criteria like export diversification and regional investment needs. Furthermore, generally adding more leniency.
 - Adding a limited exception to the prohibition of domestic content requirements for subsidies for developing country Members.
 - Increase the threshold for continued imposition of countervailing duties on imports from developing countries and adding consideration for market penetration rather than exclusively relying on import volume.
 - **Reinstate Article 8 to allow for non-actionable subsidies pursuing legitimate policy objectives** like regional development, environmental transformation and R&D.

A CASE FOR REBALANCING THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES (ASCM) – POLICY SPACE TO PROMOTE INDUSTRIALISATION IN DEVELOPING COUNTRIES

COMMUNICATION FROM THE AFRICAN GROUP (ANGOLA; BENIN; BOTSWANA; BURKINA FASO; BURUNDI; CABO VERDE; CAMEROON; CENTRAL AFRICAN REPUBLIC; CHAD; CONGO; CÔTE D'IVOIRE; DEMOCRATIC REPUBLIC OF CONGO; DJIBOUTI; EGYPT; ESWATINI; GABON; THE GAMBIA; GHANA; GUINEA; GUINEA-BISSAU; KENYA; LESOTHO; LIBERIA; MADAGASCAR; MALAWI; MALI; MAURITANIA; MAURITIUS; MOROCCO; MOZAMBIQUE; NAMIBIA; NIGER; NIGERIA; RWANDA; SENEGAL; SEYCHELLES; SIERRA LEONE; SOUTH AFRICA; TANZANIA; TOGO; TUNISIA; UGANDA; ZAMBIA AND ZIMBABWE)

Modernisation: Proposal for a Ministerial Statement on Supply Chains – China



- The proposed statement calls for a **commitment to openness and trade liberalization** while strengthening the resilience of global supply chains.
- It stresses the importance of implementing the **Trade Facilitation Agreement**.
- The statement focuses in particular on reducing trade barriers put in place during the Pandemic and **encouraging trade in services, green trade, and digital trade**.
- Finally, it encourages the Secretariat to conduct studies into supply chains and put forward policy recommendations.



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STRENGTHENING THE RESILIENCE AND STABILITY OF GLOBAL INDUSTRIAL AND SUPPLY CHAINS

COMMUNICATION FROM CHINA

Roadmap to MC13

- The Conference will take place in **Abu Dhabi, United Arab Emirates on 26-29 February 2024** and will be chaired by UAE Foreign Trade Minister Thani bin Ahmed Al Zeyoudi.
- The GC chair has organised a reform retreat in late September to discuss industrial policy.
- There will be a senior officials meeting on 23-24 October to prepare possible outcomes for MC13, the first such meeting in the history of the Organization.
- Bookended by two GC meetings in November and December, the process aims to **make MC13 as successful as possible.**



New multilateralism

- Thanks to this **new, less linear and more dynamic multilateralism**, international trade has never been as **important** as it is today.
- *“So many of the problems we have to solve today are problems of the global commons. There is no one country that can solve them alone. We need cooperation to solve these problems; we need multilateralism”*– 16 January 2023, DG Ngozi Okonjo-Iweala.
- In the last edition of her blog “Trade Thoughts, from Geneva”, DDG Anabel González called for a **creative multilateralism**. She pointed out that the WTO had already made considerable progress in the face of difficult conditions and that it was still very attractive, as numerous accession processes show. But she also noted that more action is necessary and that MC13 was a crucial time to achieve it.



Q&A