

Special Edition on WTO 9th Ministerial Conference in Bali and the TPP Ministerial Meeting in Singapore

Drumroll, Please!

Twelve years after the launching of the Doha Development Agenda (DDA), World Trade Organization (WTO) Members have finally managed to agree on a package deal that will help bring the multilateral trade negotiations and the WTO back onto the global trading radar.

The so-called Bali Package – which is composed of a series of decisions pertaining to trade facilitation, issues related to agriculture and development targeting primarily least-developed countries (LDC) – has instantly injected a fresh impetus into the multilateral trading system which was on the edge of becoming irrelevant following a series of unsuccessful attempts to conclude the Doha Round since its inception in 2001. It thus won't be an exaggeration to state that at its 9th Ministerial Conference (MC9), held December 3–7 on the Indonesian island, “the WTO has come alive.”

“For first time in our history, the WTO has truly delivered,” Director-General Roberto Azevêdo said on December 7 after 5 days of intensive negotiations. “We're back in business!”

“Today, we have saved the WTO,” European Union Trade Commissioner Karel de Gucht added. Indonesian trade minister Gita Wirjawan, who also chaired the MC9, admitted that he was hopeful that “the mystique of Bali” would have a positive effect on the negotiations. “This is the place where deals get done. I am delighted that Bali has not let us down.”

The agreement will undoubtedly serve as an important stepping stone towards tackling the remaining issues of the stalled Doha Round. By adopting it, Members have reaffirmed not just their commitment to the WTO, but also a new renewed pledge to deliver on the DDA. Completing the DDA is still far from being an easy task though, given the number of challenging topics contained in the revised 2008 draft modalities text (Rev 4). Nonetheless, it undeniable that the mystique of Bali has brought the WTO back from what Mr. de Gucht described as “the darkness of multilateral irrelevance into the light of multilateral action and success.”

“It always seems impossible until it's done,” Azevêdo said, quoting the late South African Leader, Nelson Mandela, who passed away two days before WTO Members reached consensus. The deal struck in Bali, has indeed given “a new morning to the World Trade Organisation.”

‘The Azevêdo Effect’

The negotiations themselves really intensified the night of December 5th. Azevêdo along with Indonesian trade minister, Gita Wirjawan, U.S. Trade Representative (USTR), Michael Froman, and India's Commerce and Industry Minister, Anand Sharma, met until the early morning of December 6th to resolve what was perceived as the biggest hurdle to a successful MC9: the issue of food security.

Sharma said India did not come to Bali to beg for food security and that its \$20B *National Food Security Act*, approved by its parliament last September, was not up for negotiation. Because WTO Members need to update the 86–88 reference prices used in the calculation of the aggregate measurement of support (AMS), Sharma said his country was looking for an interim solution that would stay in place until a permanent solution is found on food security.

After hours of consultations, India and the U.S. – and with some last-minute consultation with Pakistan – managed to find a compromise on food security on the evening of December 6th.

The new agreement allows the interim mechanism (i.e. the peace clause) to stay in place for programs that already exist at the date of the decision, until a permanent solution is found on food security for adoption by the 11th Ministerial Conference (to be held in 2017). Until this permanent solution is struck, Members shall refrain from challenging programs under the peace clause through the WTO Dispute Settlement Mechanism.

In return, India will have to satisfy a number of measures aimed at increasing transparency through the notification process and will be forced to notify the WTO if its AMS is on verge exceeding programs covered under the peace clause.

The U.S. said the text on the peace clause puts India under a strict regime with respect to its program. “I feel extremely comfortable about where we ended up. The reason I’m comfortable is because there are very clear protections in the agreement to ensure that markets are not distorted,” U.S. Ambassador to the WTO, Michael Punke said.

Sharma, for his part, was satisfied with the duration of the peace clause while Pakistan said its concerns have been taken into account in the text when it stipulates that programs under the peace clause “shall not distort trade or adversely affect the food security of other Members.”

More Drama

Soon, the agreement rallied the support of 155 countries. The four remaining countries, led by Cuba, on behalf of Venezuela, Bolivia, and Nicaragua, rejected the package over a paragraph on transit pertaining to the U.S. trade embargo against Cuba which had been removed from the Trade Facilitation text. The negotiations continued throughout the night without a solution in sight.

Azevêdo decided to send everybody to bed around 4am and reconvened at 10am on December 7th at which point a compromise – a reaffirmation of WTO principles on freedom of transit inserted in the ministerial declaration – was reached with Cuba allowing for a deal to finally emerge.

A New Beginning

The Bali Package includes decisions in 10 texts:

- Agreement on Trade Facilitation

Agriculture

- General Services
- Public Stockholding for Food Security Purposes
- Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture
- Export Competition – Draft Ministerial Declaration
- Cotton

Development and LDC issues

- Preferential Rules of Origin for Least-Developed Countries
- Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries
- Duty-Free and Quota-Free Market Access for Least-Developed Countries
- Monitoring Mechanism on Special and Differential Treatment

In a nutshell, the trade facilitation deal – the central piece of the Bali package which, according to some estimates, would inject up to \$1trillion to the world economy – would reduce the cost of trading, smoothing the flow of goods across borders and provide more certainty for business.

The final text includes several binding provisions (on advance rulings and expedited shipments sought by the U.S.; electronic payment of customs duties requested by the EU or on customs cooperation advocated by India) which would benefit all Members, but particularly developing countries, as it will provide them with access to assistance to improve their system and procedures.

The TRQ Administration proposal essentially aims at improving the utilization of tariff rate quotas mechanisms and to increase transparency through the notification process. The decision does in fact move ahead with the implementation of an underfill mechanism such as the one included in Rev 4. The underfill mechanism aims at ensuring the TRQ meet a minimum fill rate of 65%. Where the fill rates have been below 65% for two consecutive years, or where no notifications have been received for two consecutive years, the mechanism provides for a consultation process to be enacted. The process could eventually result in a change of administrative methods, including the administration of the TRQs on a first-come, first-served basis.

Because the decision applies differently to developing countries, which can in fact escape the new disciplines, and in particular with respect to China which has experienced extremely low fill rates over the years, a number of countries including the U.S. have reserved the right not to apply the system for 6 years.

Brainstorming the Post-Bali Work Programme

“This package is not an end, it’s a beginning,” Azevêdo said. “We have crossed the finish line in Bali but the race is not yet over. Now we must complete the Doha Round [DDA]” the Indonesian trade minister added.

In Bali, Members instructed their negotiators to prepare a clearly-defined work program on the remaining DDA issues built on the decisions taken at the MC9. The next 12 months will be devoted to addressing this. The U.S. has expressed interest in tackling market access issues, such as market access for non-agricultural products (NAMA) or increased liberalization in agriculture and services.

“Now it’s time to turn to the post-Bali agenda. There will be difficult issues to grapple with. The road will be rugged at times. But we know that we can make the journey because we have succeeded today.” USTR Froman declared.

See You in Davos!

The discussion on what comes next for the multilateral trade negotiations will, without a doubt, start on the sidelines of the World Economic Forum Annual Meeting scheduled to take place in the Swiss ski resort of Davos-Klosters from January 22–25, 2014.

The burning question there will be whether Members agree to pursue the so-called “pragmatic and realistic” approach; one that is not too “prescriptive,” in tackling the remainder of the DDA. In the past, Members have support the idea of breaking the round into a more manageable packages to build confidence, which was successfully achieved in Bali. The question now is whether they would agree to stick to that strategy or revert to the single–undertaking that the DDA was launched as.

TPP Ministers Meet in Singapore, Fail to Conclude Talks

Trade Ministers and Chief Negotiators from the 12 Trans-Pacific Partnership Agreement (TPP) countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam) met intensively during four days (December 7–10, 2013) in Singapore, but failed to conclude the negotiations. TPP Leaders had issued a deadline for completion while on the margins of the Asia Pacific Economic Cooperation (APEC) Summit in Bali, last October.

The outcome came as little surprise to most observers, given the number of outstanding issues that were still considered far from being resolved. The group, nevertheless, claimed to have made “substantial progress toward completing the agreement”. The intensive consultations in Singapore featured Ministers negotiating bilaterally and in small groups which allowed them to identify “potential ‘landing zones’ for the majority of key outstanding issues in the text,” the Trade ministers said after their gathering.

“We will continue to work with flexibility to finalize these text issues as well as market access issues,” USTR Froman, said on behalf of the group. “I’m very pleased with the results of this meeting,” he added, “It’s best to keep our focus on achieving a high standard, ambitious and comprehensive agreement, and the meetings here have taken us another step closer to those objectives.”

If anything, the Singapore WTO ministerial provided some momentum to the TPP negotiations. The 2013 deadline envisioned by Leaders also contributed to creating that momentum, said New Zealand's trade minister, Tim Groser. Ministers are now looking to ride the wave and continue their intensive work in the coming weeks, leading up to yet another ministerial meeting, sometime in January 2014. The goal remains the same: hammer down an agreement as quickly as possible, which they said "would contribute in strengthening the multilateral trading system."

Challenging Issues Remain...

The ministers stopped short from setting a new deadline to conclude the talks, which still contain several challenging topics such as intellectual property (IP), state-owned enterprises (SOEs) and market access.

The latter has seen little progress in Singapore; due in part to the lack of transparency created by the bilateral approach favoured by the U.S. Sources reported that market access discussions between the U.S. and Japan have not progressed much due to the latter's sensitivity on agriculture and the difficult discussions on automobiles and non-trade measures.

"We spent also a fair amount of time with Japan working on market access and our parallel negotiation over autos. We made some progress on those negotiations, but not enough to achieve the meaningful market access that we require and we're going to continue working on that," USTR Froman said after the meeting. He also admitted that on other market access issues, "there is also further work to be done."

Market access remains one of the main targets for countries such as Australia and New Zealand. Australia's trade minister, Andrew Robb, indicated that his country was ready to consider an eventual agreement on the thorny issue of investor-state dispute settlement (ISDS) if there was an ambitious outcome in market access. "We're willing to continue with that (ISDS) in the context of the TPP, provided there is a substantial market access result and other conditions are met," he said adding that the Singapore Ministerial permitted "substantial progress", but that the agreement is still "a work in progress".

Japan's senior vice minister for trade, Yasutoshi Nishimura, believes the talks would continue after ministers meet again in January next year, as differences still exist on many issues. Malaysia, for instance, only started engaging on the issue of SOEs when chief negotiators met in Salt Lake City (Utah) to prepare for the Singapore TPP ministerial gathering. The SOEs chapter has lately emerged as a very controversial issue among Malaysian political circles and Chief Negotiator, J. Jayasiri, said his government is currently working towards tabling a proposal that would address Malaysia's concerns with the chapter.

At this point, trade ministers have not agreed on anything besides identifying the landing zones for future negotiations, Groser said, reminding that like in all trade negotiations, the toughest political decisions are left for the end.

... But 'Great Momentum' Achieved

Froman described the Singapore TPP ministerial as creating "great momentum" since ministers "really accomplished an enormous amount across the various texts" by identifying "potential landing zones on the great majority of the outstanding issues."

"[W]e're now focused on building on that momentum with the direction given by the Ministers on the landing zones. Negotiators will have the opportunity now to flesh out the details, and we'll work with them over the course of the next few weeks with the expectation that the ministers will reconvene sometime next month," he added.

Some reports have stressed that as many as 14 chapters of the 29 under negotiations have been substantially closed. Froman, meanwhile, reiterated that TPP countries have agreed to the single undertaking meaning that nothing is agreed to until everything is agreed to. "[T]here are issues in virtually every chapter – some are small, some are large," the USTR reported.

On the issue of currency manipulation, which some thought would be addressed in Singapore and added as part of the negotiations, the USTR confirmed that the issue has not been discussed, although the issue remains of great importance to the U.S. administration.

The USTR seems to refrain from bringing up the issue at the TPP table, preferring leaving the issue under the responsibility of the U.S. Treasury Department, to be discussed in another venue, such as the G-20 and the G-8 Summits.

“Obviously it’s an issue of great importance, and something we’ve been focused on in this Administration from the start, whether it was vis-a-vis China where we have continuously pressed for more market oriented exchange rates at the highest levels, in all the various meetings, and through the G20,” the USTR said.

Upcoming Events

- World Economic Forum 2014, January 22–25, Davos-Klosters (Switzerland)
- TPP Ministerial Meeting, January 2014, Location TBD

Note to Readers:

This is the final edition of *Geneva Watch* in 2013 and it will return in January.

Geneva Watch is published by Dairy Farmers of Canada, Chicken Farmers of Canada, Egg Farmers of Canada, Turkey Farmers of Canada and Canadian Hatching Egg Producers to report on the various events occurring in Geneva, particularly on the WTO negotiations on agriculture.

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