

WTO Members Fail to Reach Consensus on the Bali Package

The news fell on Tuesday morning (November 26), after WTO Members gathered for a General Council, many times postponed twice to give themselves a chance to hammer down a deal on the Bali Package for the 9th Ministerial Conference this coming December. However, after more than 150 hours of negotiations and a marathon meeting over the weekend of November 22-24 – which last lap started at 10am on Sunday and finished at 7am on Monday, November 25 – Members couldn't escape the hard truth: they simply failed to reach consensus on several issues of the Bali Package and are now looking for Trade Ministers to finish the job.

“[W]e have made more progress in just the past few weeks than we have over the past five years. The ship almost sank a few times, but we managed to keep it afloat and on course,” WTO Director General Roberto Azevêdo told the full Membership. However, he added, “we have reached the end of the process in Geneva. I am sure you will brief your authorities on the situation we face. Your ministers will have an opportunity in Bali to address it.”

Rough, tough and Bloody Endeavour

Members have been negotiating hard since October 1st and have managed to make progress on several issues of the Bali package. As a result, they were able to stabilize nine of the ten texts composing the Bali Package i.e. four on agriculture (agriculture general services, public stockholding for food security purposes, export competition, tariff rate quota administration) and five documents related to development/least developed countries - in monitoring mechanism on special and differential treatment, duty-free and quota-free market access for LDCs, preferential rules of origin for LDCs, cotton and the operationalization of LDCs' waiver in services.).

That's the good news.

The bad news came when Members failed to close the gaps on trade facilitation (TF), although some also argued that India contributed to consolidate the stalemate by rejecting the food security text due to a disagreement over the duration of the peace clause.

On TF, meanwhile, negotiators managed to agree on Section II dealing with the linkage between section I (technical aspects of TF) and the financial assistance developing countries would receive from donors after committing to binding provisions. One WTO official said Members were successful in bringing the number of square brackets down to 59 from 2000. Section II, which Azevêdo once described as one of the icebergs standing in the way of a successful MC9 in Bali, “is now virtually ‘clean’”. The remaining brackets contained in section I are not “insurmountable,” the DG added. “I believe the landing zones are discernible to us,” he said. However, he sensed that Members were starting backtracking from making the necessary compromises to bring the TF package to the finish line.

What remains cannot be negotiated by Trade Ministers in Bali as it is too technical in nature, Azevêdo stressed, reiterating the agreement amongst Members that Bali shouldn't be a negotiating ministerial conference.

“I will inform the ministers that we have failed to find convergence. I will tell them that we came truly close to a successful outcome, but that, once more, the finish line eluded us,” the DG said.

The negotiated package, he added contained tremendous benefits for Members. It would have improved market access schemes of duty-free-quota-free and services; renewed push for the cotton negotiations and simplified rules of origin for LDCs' exports. In agriculture, the package would have put Members on track for a reform of export subsidies and measures of similar effect; provide a better implementation of TRQ commitments and set up a temporary shelter for food security programs.

“The worst of it all is that we would fail — we would lose all of this — for no justifiable reason. Nothing that is on the table requires any Member to go beyond what is doable,” Azevêdo declared.



A Non-Negotiating Ministerial Conference?

Members will now move to a new stage, leaving Ministers to decide on the way forward in Bali. The DG spent part of November 26th afternoon working the phone with several ministers.

And although it was agreed to make Bali a non-negotiating Ministerial Conference, it seems that there will somewhat be some discussions taking place. This assumption was later strengthened by the EU Trade Commissioner Karel De Gucht who seemed poised to convince ministers to close the deal when on November 26 he stressed that “a WTO package which covers food security, trade facilitation and a number of development issues which is beneficial to all WTO members is perfectly within reach. I believe this package can be finalised by the Ministerial Conference in Bali next week if all WTO members show the political will to reach a deal,” the commissioner said, adding that Azevêdo has “the EU’s full support in his endeavour to help bring this forward.”

“As we are so close to the shared objective, we should not give up.” De Gucht said, echoing what the DG himself told the full Membership earlier that day: “We are almost there. If we are to get this deal over the line it will need political engagement - and political will.”

The US was less enthusiastic about what can be done in Bali. US ambassador to the WTO, Michael Punke, said during the general Council that he was “skeptical that those who appear to be refusing to reach agreement can now be convinced by another long night of negotiation,” adding that he doesn’t expect magic solutions to emerge through negotiations by Ministers in Bali.”

“Are we really proposing to put texts up on the screen and ask a plenary session of our 159 Ministers to find words where we could not? Would the Membership accept a Green Room, where thirty Ministers cut a deal while 129 wait outside in the hallway?” he asked.

“I have heard some suggestions of taking a couple of weeks after Bali to tie up negotiations. But I think we all know that won’t work. We have known for two years that Bali would be a moment of reckoning. What we cannot decide by then will not fall suddenly into place in the weeks thereafter,” Punke said.

Members will use the next few days to consider the way forward and how to address both the issues on the table and the future of the WTO negotiating pillar in Bali.

TPP Chief Negotiators Meet in Salt Lake City, Prepare for Singapore Ministerial

Trans-Pacific Partnership (TPP) chief negotiators and key experts met on November 19–24 in Salt Lake City, Utah to advance the negotiations as far as possible so they can be completed this year when Trade Ministers meet in Singapore on December 7–10, 2013. Prior to the chiefs’ meeting in Salt Lake, the 12 countries (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and the United States) had held a series of intersessionals on various chapters, including rules of origin (RoO), government procurement, state-owned enterprises (SOEs) and investment.

In Salt Lake, the focus was put on market access, environment, labour, intellectual property (IP), government procurement, e-commerce, temporary entry of business persons, and non-conforming measures. With the Singapore ministerial only two weeks away, negotiators intensified their effort to close additional chapters. Although serious talks are taking place, it’s seems clear, however, that the negotiations cannot be fully completed this year as directed by leaders and reiterated in Bali on the sidelines of the Asia Pacific Economic Cooperation (APEC) summit last October.

Nevertheless, on November 24th, chief negotiators reported significant progress. They said to have resolved a substantial number of outstanding issues across the negotiations, including with regard to IP, cross-border trade in services, temporary entry, environment, market access, SOEs, investment, financial services, sanitary and phytosanitary issues, government procurement, labour, e-commerce, legal issues, technical barriers to trade, and rules of origin.

Their work in Salt Lake, they claimed, has significantly narrowed the number of issues to be addressed directly by Ministers at their upcoming meeting in Singapore and, with this goal in mind, lead negotiators aim to pursue their discussions in the coming days to further set the stage for a productive meeting for the trade ministers in Singapore.

That being said, officials said sensitive issues – SOEs, textiles, environment, IP, market access for goods (tariff elimination) and RoO – still remain tough, all of which are expected to be left until the very end. But, unlike the APEC Summit last October, which ended with a mere declaration urging negotiators to conclude the talks this year, the ministerial meeting in Singapore is expected to be more substantial and serves as an important stepping stone toward a rapid resolution of the remaining chapters under negotiations.

There, Trade Ministers' task will be twofold:

1. Decide on some key political options related to some chapters, and
2. Provide clear direction on the way forward.

After a rather calm few weeks following the Leaders' Summit in Bali, it seems that the pace has picked up once more in Salt Lake. Whether this late frenzy in the negotiations will lead to a conclusion this year remains to be seen as most delegates still have a blurred view of the finish line i.e. whether this comes during the 1st quarter of 2014, mid 2014 or prior to the U.S. mid-term elections.

Upcoming Events

- WTO 9th Ministerial Conference (MC9), December 3–6, 2013, Bali (Indonesia)
- TPP Ministerial Meeting, December 7–10, 2013 (Singapore)

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