



# Geneva WATCH

An overview of the bilateral, plurilateral and multilateral trade negotiations

Charles Akande, Editor

## Off to Buenos Aires!

**World Trade Organization (WTO) negotiating groups multiplied meetings in various formats the past few weeks with the aim to get as much work as possible done in Geneva before leaving for the 11th Ministerial Conference (MC11) in Buenos Aires (Argentina).**

One of the main tasks was to have the draft Ministerial Declaration close to finalization prior to the start of the MC11. However, this could not be achieved, as the U.S. opposed, reiterating the centrality of the multilateral trading system (MTS) with the issue of development at its core. This did not come as a surprise as the U.S. has been taking a similar position at various international summits over this past year (G-7; G-20 and APEC), one source said.

That being said, the chair of the MC11, Susana Malcora, pledged to pursue the discussion in Argentina with the hope of resolving the issue and reaching an agreement on an overarching MC11 declaration.

Having no Ministerial Declaration does not necessarily mean that there won't be ministerial decisions taken on issues at the MC11. As was the case at the MC10 in Nairobi, Trade Ministers will once again be busy negotiating in Buenos Aires. Members have agreed to appoint a few facilitators – whose role will be to convene meetings and facilitate conversations – to work with the negotiating group chairs. So far, five areas have been identified as requiring a facilitator: agriculture, development, rules, e-commerce, and services. There may be additional facilitators for other negotiating areas such as micro, small and medium enterprises (MSMEs), and investment facilitation but some officials said there is no mandate to negotiate an outcome on these issues at the MC11.

The meetings meanwhile will be open to all Ministers to avoid small group discussions among key players which frustrated many delegations in Nairobi. The MC11 will kick off with an opening ceremony on December 10<sup>th</sup>, which will be attended by several Latin American

countries' Heads of State. The negotiations themselves will start on December 11<sup>th</sup> with meetings conducted by the chairs and the facilitators. At the end of each afternoon, an informal heads of delegation meeting (HODs) will take place for the facilitators to report on their progress.

WTO Director General, Roberto Azevêdo, is looking for the MC11 to:

- take stock of the significant progress achieved
- to deliver wherever they can, and
- to set the direction for future work

“Whether you manage to agree outcomes, a work program or neither will depend on the work in each areas and of course the decision of the HODs,” he said.

### Issues up for Decision

Agricultural negotiators held their last meeting in Geneva on December 4 to hear the Chair's final report on the state-of-play in agriculture talks. The meeting brought to an end the Geneva process, as delegates depart for Argentina to continue the talks.

According to officials, there seems to be an agreement on three main issues that could be considered “ready” for BA. These are public stockholding for food security purposes (PSH), export prohibitions and restrictions, and fisheries subsidies.

### Public Stockholding

There is still a gap between what the proponents request as a permanent solution and the rest of the Membership. The concern expressed by both developing and developed exporting countries remains linked to the proponents' ability to ensure that their stockpiles do not spill over into the world market.

Ambassador Karau noted that a permanent solution molded around the Bali Interim Decision is most likely to attract convergence. He intends to carry discussions around this at MC11 under Ministerial guidance.

## Fisheries Subsidies

The past week, Members made progress in drafting a Ministerial Decision on fisheries subsidies for Trade Ministers to consider at the MC11. They agreed to feature in the draft a commitment to sustain negotiations for comprehensive fishery subsidy disciplines after MC11 and were exploring whether to also include a political commitment in the interim against certain harmful subsidies.

Options contained in the draft decision are:

1. continuing negotiations after MC11
2. a self-policing prohibition for subsidies relating to illegal, unreported and unregulated (IUU) fishing and overfished stocks
3. a standstill commitment to refrain from introducing new or extending existing subsidies
4. obligations to be transparent about subsidy programs
5. a process to review implementation
6. a proviso that the Ministerial Decision will not have legal implications on maritime disputes

The U.S. proposed to focus efforts on developing stricter transparency and reporting requirements concerning subsidy programs, and other areas of trade and investment policy. Canada encouraged Members to focus efforts on areas of convergence which are, broadly, IUU fishing and transparency. It may be less productive to address areas that are less likely to produce result in Buenos Aires, Canada said.

There are nuances on what can truly be delivered as Members disagree on how to discipline subsidies that lead to overcapacity and overfishing. However, there is still hope that an agreement can be reached on IUU fishing at the MC11, leaving the rest of the fisheries subsidies matter to be included in the post-MC11 work program.

## Export Prohibition & Restriction

Singapore proposed that Members applying export restrictions submit an advance notification at least 30 days prior to applying the measures, and in special situations, within 10 days of its implementation. After hearing some complaints and in order to facilitate Ministers' discussion at MC11, Singapore revised its proposal to remove some extra notification requirements. The requirement for a Member imposing export restrictions to notify 30 days in advance is replaced by a best-endeavour clause, one source said. The proposal also contains a provision that would require Members to not impose export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme.

This is generally seen as a non-controversial issue on which an acceptable agreement could probably be worked out but key countries have made it clear that they will not accept an agreement on this issue as the only agriculture outcome in Buenos Aires.

## The Grey Area

Beside the above mentioned issues, there are a range of subjects falling into what officials call the "grey area"; these include pretty much everything else on the agenda for the MC11, i.e. domestic support, agriculture market access, the special safeguard mechanism for developing countries (SSM), the remaining issues of export competition as well as e-commerce, and domestic regulation on trade facilitation on services.

"It's pretty much given that we won't have an agreement on these issues in Buenos Aires," one official said. However, for these topics, Ambassador Karau, recommends that Members pursue a limited outcome in the form of a post-MC11 work program.

## Market Access

Members – particularly Latin American countries such as Paraguay and Peru who have advocated for cuts in tariff peaks, tariff escalation and in-quota tariffs – have been forced to accept the idea of a Post-MC11 work program. The same goes for Russia, which has been pushing for the elimination of the special safeguard (SSG), and Tunisia, which has been looking for the conversion of all complex tariffs into *ad valorem* equivalents.

A recent submission from Argentina, Brazil, Chile, Paraguay, Thailand, and Uruguay looked into the prospects of tackling the market access pillar post-MC11 without being too specific on the issues to be discussed (no cherry picking – at least for the time being). G-10 Members even suggested that the proposed work program remains simple and not prejudice any negotiation results. They, along with some African Group countries, have also requested that future talks on agriculture market access be linked to other areas of market access negotiations such as industrial products (NAMA) and services.

The challenge at MC11 will be to find the appropriate wording to define a post-MC11 market access work program that can be agreeable to all.

## Domestic Support

For a long period of time, Members held the belief that something could be agreed on domestic support in Buenos Aires. There have been many submissions on this issue; however, the positions of key Members have not evolved. This has led some, like Australia and Canada, to suggest to leave the MC11 having locked in, at the minimum, the concept of overall limits on domestic support as the next step to guide future talks.

The U.S. said it remained convinced that Members will not be able to deliver on domestic support and reiterated the need to of having up-to-date notifications in order to "clearly define the problems we are facing". The U.S. added that Members should be prudent to avoid including any complex negotiations in a future work program, which could lead to "substantive divergences we are unable to

bridge.” India and China, meanwhile, repeated their desire to focus solely on AMS but also to look at disciplining the Green Box as well (India).

Given these persistent differences, Ambassador Karau intends to recommend that Members work “towards a limited outcome potentially comprising a decision on some core principles and a work program to guide the negotiations post-MC11.”

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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