



# Geneva WATCH

An overview of the bilateral, plurilateral and multilateral trade negotiations

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## Searching for a Way Out of the Current Crisis

**The WTO full membership gathered in an informal Trade Negotiations Committee in advance of the July 26th General Council meeting, the last before Members observe the traditional August break. The meeting took place against the backdrop of unilateral measures put in place by several Members and particularly the US's use of Sections 232 and 301 to protect its industries.**

Members questioned the US's plan to use Section 232 in the context of autos. Many rejected the assumption that auto imports threaten America's security. The US, for its part, assumes that when invoked, GATT Article 21 cannot be contested as it falls outside of the WTO's jurisdiction.

The fact that Article 21 has not really been tested at the WTO is what creates problem as it produces a loophole that Members can use to counter all sorts of imports. This Pandora box and the impasse in appointments of judges to the Appellate Body (AB) are at the heart of the current trade crisis, which is evident by the increasing number of tit-for-tat actions imposed by delegates the past few weeks.

"There is real and justified concern about the escalation we are seeing. Whether or not you call it a trade war, certainly the first shots have been fired," Director General Roberto Azevedo told the full membership before adding that "a potential systemic impact, which poses a greater threat in the longer term," exists "particularly if countries begin to accept this tit-for-tat dynamic as the new normal."

"The situation requires an urgent response," the DG continued, "In some ways I actually think we may be seeing some progress. Leaders are increasingly aware and engaged in WTO issues – in a way that I have not seen before. There is renewed engagement from many Members on systemic issues, bringing more focus on the WTO and how it can be improved. I think that this could be positive – and could potentially help us to find a path out of the current crisis."

### Modernise the WTO

By renewed engagement, Azevedo refers to the call to reform the WTO, first voiced by French President Emmanuel Macron at the OECD Ministerial meeting early June. At the time Macron suggested that a small group of countries – including the US, the EU, Japan and China – get together to brainstorm on how to improve the organization and strengthen the multilateral trading system (MTS).

Since then, the talk about how to reform the WTO has been getting a lot of attention. The issue is expected to be discussed at the next G-20 leaders' summit late November (Nov 30-Dec.1, 2018) in Buenos Aires. However, before that, Canada has also invited a group of like-minded countries to brainstorm about the future of the WTO at an informal ministerial to be held in Quebec City the week of October 21. Canada's Ambassador to the WTO, Stephen de Boer, said the informal ministerial would also aim at identifying issues to be harvested at the MC12, including, among other things, fisheries subsidies, agriculture matters, micro, small and medium enterprises and women's empowerment.

Officials also expect that the issue of steel overcapacity to be addressed, as well as the current stalemate in the AB. The issue of development is likely to be targeted, as the US looks for a clear distinction in the treatment of emerging countries such as China and developing countries like, for example, Burkina Faso. The US said the WTO system would continue to suffer as long as the privileges given to certain countries (e.g. China) remain, simply because they have recently acceded the organization.

The President of the European Commission, Jean Claude Juncker, traveled this week to Washington DC to try to persuade US President Trump to drop the auto tariffs and relaunch a watered-down version of TTIP (based on a reciprocal tariff reduction on certain industrial products, excluding agriculture, and the opening of public procurement) as well as to discuss WTO reforms.

EU leaders have lately adopted a working programme with the aim to preserve the MTS and modernise the WTO as outlined at the conclusion of the June 28 EU Council meeting:

“In a context of growing trade tensions, the European Council underlines the importance of preserving and deepening the rules-based multilateral system. The EU is committed to working towards its modernisation and calls on all partners to contribute positively to this goal. It invites the Commission to propose a comprehensive approach to improving, together with like-minded partners, the functioning of the WTO in crucial areas such as:

- (i) more flexible negotiations.
- (ii) new rules that address current challenges, including in the field of industrial subsidies, intellectual property and forced technology transfers.
- (iii) reduction of trade costs.
- (iv) a new approach to development.
- (v) more effective and transparent dispute settlement, including the Appellate Body, with a view to ensuring a level playing field, and strengthening the WTO as an institution, including in its transparency and surveillance function.”

## Negotiation Issues

Members also discussed the status of the talks in the negotiating groups. Generally speaking, on many of the issues the membership remains divided.

In the area of agriculture, which almost all Members consider as important, huge divides still exist. Developing countries want to see public stockholding (PSH), the special safeguard mechanism (SSM), and the aggregate measure of support (AMS) be dealt with first, whereas developed and some agriculture exporting developing countries would prefer to advance discussions on market access.

Meanwhile, issues such as e-commerce are already being tackled at the plurilateral level and those involved in these discussions stressed that the talks are progressing well. Members expect more engagement in the fisheries subsidies talks this fall as some stressed that it was important to meet the MC12 deadline.

Agriculture will also see an increase in activities as the Chair plans to hold special monthly sessions. In other areas such as services and non-agricultural market access (NAMA), there has been no change. On trade-related aspects of intellectual property rights (TRIPS), Members have rejected the EU’s attempt to bring to the WTO the geographical indications (GIs) outcome reached in its bilateral agreements with Canada and the Japan.

The US said it is satisfied with the way the talks have been progressing in the agriculture area lately. Some “good work” has taken place with good proposals tabled by Members including on domestic support (Canada and

Cairns group) and market access (US, Paraguay and Uruguay on tariffs).

## Market Access Proposals

In its July 15<sup>th</sup> paper pertaining to tariff implementation issues, the US called for reciprocal tariff reductions and identified six market access areas where further work is needed in order for Members’ tariff regimes to be better understood.

### 1) *Bound versus applied tariffs*

The US says that in 2016, the gap between average bound rates (54.7%) and average applied rates (14.5%) for all WTO Members’ agricultural tariff lines was still significant. The most “water” in Members’ tariffs were mostly observed in developing countries such as India, Indonesia, Mexico, Brazil, and Argentina, who possess significant gaps between their bound and applied rates, allowing them to modify duties in response to domestic and international market conditions without notice and thus contributing to market uncertainty.

In their paper, Paraguay and Uruguay suggested to bring the bound rates closer to the applied tariffs to enhance predictability and lock-in the tariff cuts Members have made through regional trade agreement for instance.

### 2) *Complex Tariffs*

The US claimed that complex tariffs (compound tariffs, mixed tariffs, and formulaic measures such as Minimum Import Prices, Price Bands, Variable Levies, Gate Price mechanisms) contribute to trade distortion by ensuring imports do not enter the domestic market at prices below domestic market prices.

Paraguay and Uruguay suggested that Members agree to simplify tariffs by transforming their complex duties into *ad valorem* equivalent in order to “facilitate the application of formulas for tariff cuts.”

### 3) *High Tariffs*

Tariff peaks are mostly linked to sensitive products. Eighteen WTO Members have bound duties above 500%. On the other hand, “most of India’s agricultural tariff schedule is bound consistently at a rate of 150%, for nearly all products with animal or vegetable fats tariffs are bound at 300%. The US suggested that additional analysis of countries’ most protective tariff lines will help better understand the application of trade restrictions.

### 4) *Issues with Tariff Rate Quotas*

Members have more than 1,000 TRQs in their bound schedules, some with “relatively low in-quota and out-of-quota rates (e.g., Brazil, EU, Japan, US), others had in-quota rates well below very high out-of-quota rates (e.g., Indonesia, India, Korea), and a few had both high in-quota and out-of-quota rates (e.g., Mexico and Russia).”

Paraguay and Uruguay asked whether Members would agree to tackle this issue “in several incremental steps,” by addressing each of these topics, including the special agricultural safeguard (SSG), “individually and in sequential manner.” Even though this will apply to a select number of countries, the result would nevertheless benefit the full Membership, the two Latin American countries said.

### 5) *Special Agricultural Safeguards (SSGs)*

Thirty-nine countries reserve rights to use the SSG. While these rights are broad, the US stressed in its analysis that actual use has been relatively limited, citing itself and Chinese Taipei as the two largest users of SSG (both price- and volume-based). Some countries, like Russia, have called for this privilege to be eliminated. However, users have claimed that this would also spell the end of the SSM as well.

### 6) *Regional/Preferential Trade Agreements*

The US reported that, “most favoured nation (MFN) tariff rates are increasingly becoming less relevant to larger shares of global agricultural trade due to the proliferation of preferential and free trade agreements (FTAs),” and cited that preferential duties in the Japan, the EU, Canada, Indonesia, and the US are established at less than 10% of the MFN tariff rate. “If the preferential or free trade agreements cover substantially all agriculture and result in complete tariff elimination, the result can provide enormous trade liberalizing opportunities.” In other words, the suggestion would be to lock-in the liberalization efforts undertaken by Members through their numerous bilateral and regional agreements completed the past few years.

The US reiterated its request that the WTO Secretariat compile information on Members’ market access commitments to improve their knowledge on the issue. Paraguay and Uruguay on the other hand, requested that a work programme be established “to ensure that all market access elements will be addressed in due time.”

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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