

# Trade in Times of Crisis and Pandemic and Regional Trade Agreements: Way Forward - *Outcomes of MC12*

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**All views expressed during this presentation do not bind the WTO  
Secretariat**

Special thanks to Matheus Garcia ERSD.

# Ministerial Conference (MC12)



- The Ministerial Conference took place from 12-16 June 2022 at the WTO Headquarters in Geneva.
- The “Geneva Package”, also called the “unprecedented package” was adopted at MC12 and includes many documents:

## 1. MC12 Outcome Document

### A. Package on WTO Response to emergencies:

- i. WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics
- ii. TRIPS Compromise
- iii. Declaration on Emergency Response to Food insecurity
- iv. World Food Programme purchases exemption from export prohibitions and restrictions

### B. Agreement on Fisheries

### C. Work Programme on Electronic Commerce (E-commerce moratorium)

### D. Work Programme on Small Economies

### E. Sanitary and Phytosanitary Declaration: Respondi

### F. TRIPS Non-violation and situation complaints.



12<sup>th</sup> WTO MINISTERIAL  
CONFERENCE  
GENEVA 2022  
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# Outcome Document (Part I)

- The Outcome Document has two parts:
  - Part I: A Declaration by the Members
  - Part II: Decisions as adopted at MC12.



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## Part I:

- Reaffirm the **principles and objectives set out in the Marrakesh Agreement** Establishing the World Trade Organization and underscore the relevance and critical role of international trade and the WTO in global economic recovery, growth, prosperity, alleviation of poverty, welfare of all people, **sustainable development** and to **facilitate cooperation in relation to the protection and preservation of the environment in a manner consistent with respective needs and concerns at different levels of economic development.**
- Reaffirm the provisions of **special and differential treatment for developing country** Members and LDCs as an integral part of the WTO and its agreements. Special and differential treatment in WTO agreements should be precise, effective and operational.
- 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.
- Reaffirm the provisions of **special and differential treatment for developing country Members and LDCs as an integral part of the WTO and its agreements.** Special and differential treatment in WTO agreements should be precise, effective and operational.
- Commit to conduct discussions with the view to having a fully and well-functioning **dispute settlement system accessible to all Members by 2024.**

# Outcome Document (Part I continued)



- Recognition that **trade in services is vital to the global economy** and has a major role to play in global economic output and employment.
- 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.
- Recognize **women's economic empowerment** and the **contribution of MSMEs** to inclusive and sustainable economic growth, acknowledge their different context, challenges and capabilities in countries at different stages of development
- Recognize **global environmental challenges** including climate change and related natural disasters, loss of biodiversity and pollution. We note the **importance of the contribution of the multilateral trading system to promote the UN 2030 Agenda and its Sustainable Development Goals** in its economic, social, and environmental dimensions, in so far as they relate to WTO mandates and in a manner consistent with the respective needs and concerns of Members at different levels of economic development. In this regard, we reaffirm the importance of **providing relevant support to developing country Members, especially LDCs**, to achieve sustainable development, including through technological innovations. We note the role of the Committee on Trade and Environment as a standing forum dedicated to dialogue among Members on the relationship between trade measures and environmental measures.

# Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics



- Encourage Members to **understand and build upon the experience of the pandemic**, as contemplated by this declaration, in order to support increased resilience for COVID-19 and future pandemics.
- Recognize 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
- Recognize that **global recovery remains highly divergent across the Membership**, and that the pandemic continues to pose evolving challenges, **in particular related to the possible spread of new variants of COVID-19, and uneven paces of vaccination.**
- Recognize the importance of ensuring that any **emergency trade measures designed to tackle COVID-19**, if deemed necessary, **are targeted, proportionate, transparent, temporary**; and do not create unnecessary barriers to trade or unnecessary disruptions in supply chains.
- Recognizing that Members may apply export restrictions and otherwise take measures necessary to protect life and health in accordance with WTO rules, we intend to exercise due restraint in the imposition of export restrictions on such goods, including their inputs.
- **Encourage regulatory cooperation, as appropriate, and the sharing of regulatory information on a voluntary basis.**



# Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics (Continued)



- Underline the **critical role of services in ensuring resilience during COVID-19 and future pandemics** and acknowledge the importance of facilitating trade in services, including health services and ICT services, during COVID-19 and future pandemics.
- Acknowledge the **relevance of further cooperation** within the mandate of the WTO and its rules to boost post-pandemic recovery and trade flows, including on testing requirements and results, recognition of vaccination certificates and interoperability and mutual recognition of digital health applications, while continuing to protect public health and ensuring privacy and personal data protection.
- Members also note the work undertaken by the WTO Secretariat, **including in collaboration with other international organizations.**



# COVID-19 TRIPS Compromise

- DG Ngozi Okonjo-Iweala and DDG Anabel Gonzalez worked as “brokers” for the TRIPS compromise negotiations.
- Compromise encompasses **only patents** that concern the production and supply of **vaccines**.
- Eligible Members = all developing country 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.
- Members will decide **on its extension to cover the production and supply of COVID-19 diagnostics and therapeutics in no later than six months**.

## DRAFT MINISTERIAL DECISION ON THE TRIPS AGREEMENT

*Revision*



# Ministerial Declaration on 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.
- 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**.
- Recognize that adequate **food stocks can contribute to the realization of Members' domestic food security objectives** and encourage Members with available surplus stocks to release them on international markets consistently with WTO rules.





# Ministerial Decision on World Food Programme purchases exemption from export prohibitions or restrictions



- Members shall not impose export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme



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10 June 2022

(22-4437)

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Ministerial Conference  
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## DRAFT MINISTERIAL DECISION ON WORLD FOOD PROGRAMME FOOD PURCHASES EXEMPTION FROM EXPORT PROHIBITIONS OR RESTRICTIONS

The Ministerial Conference,

Having regard to Paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization;

Pursuant to Article 12 of the Agreement on Agriculture and Article XI of the GATT 1994;

In view of the critical humanitarian support provided by the World Food Programme, made more urgent as global hunger levels have increased sharply;

With the understanding that the World Food Programme always takes procurement decisions on the basis of its principles to "do no harm" to the supplying Member and promote local and regional food procurement;

Decides as follows:

1. Members shall not impose export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme.
2. This Decision shall not be construed to prevent the adoption by any Member of measures to ensure its domestic food security in accordance with the relevant provisions of the WTO agreements.

# 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.**
- Establishment of a **Fisheries fund** for technical assistance and capacity building.



# E-Commerce Moratorium

- Members agree to reinvigorate the **Work Programme on Electronic Commerce** based on the mandate set out in 1998.
- Intensify discussions on the moratorium and have the General Council hold periodic reviews
- Agree to maintain the E-commerce Moratorium on customs duties on electronic transmissions **until MC13** (31st December 2023). If the Conference is postponed, then the moratorium expires on **31<sup>st</sup> March 2024**.



WT/MIN(22)/W/23

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**Ministerial Conference  
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## **WORK PROGRAMME ON ELECTRONIC COMMERCE**

DRAFT MINISTERIAL DECISION OF 16 JUNE 2022

The *Ministerial Conference* decides as follows:

We agree to reinvigorate the work under the Work Programme on Electronic Commerce, based on the mandate as set out in WT/L/274 and particularly in line with its development dimension.

We shall intensify discussions on the moratorium and instruct the General Council to hold periodic reviews based on the reports that may be submitted by relevant WTO bodies, including on scope, definition, and impact of the moratorium on customs duties on electronic transmissions.

We agree to maintain the current practice of not imposing customs duties on electronic transmissions until MC13, which should ordinarily be held by 31 December 2023. Should MC13 be delayed beyond 31 March 2024, the moratorium will expire on that date unless Ministers or the General Council take a decision to extend.

# Ministerial Decision on the Work Programme on Small Economies



- Members take note of the work carried out since 2018, including that on challenges small economies experience in their efforts to reduce trade costs, particularly in the area; and instruct the **Committee on Trade and Development (CTD)** to continue its work in the Dedicated Session on Small Economies experience in their efforts to reduce trade costs, particularly in the area **of trade facilitation; opportunities and challenges for small economies in attracting investments; economic and trade impact of natural disasters on small economies.**
- Instruct the Dedicated Session on Small Economies to consider in further detail the various submissions that have been received to date, examine any additional proposals that Members might wish to submit and, where possible, and within its mandate, make recommendations to the General Council on any of these proposals.
- The **CTD in Dedicated Session** shall continue monitoring the progress of the small economy proposals in WTO bodies and in negotiating groups with the aim of providing responses, as soon as possible, to the trade-related issues identified for the fuller integration of Small Vulnerable Economies (SVE) in the multilateral trading system.



# Ministerial Declaration on Sanitary and Phytosanitary Declaration: Responding to Modern SPS Challenges



- Members reaffirmed the rights/obligations under the SPS as well as its importance to supports rural livelihoods, facilitates trade, and supports sustainable agricultural growth.
- Declaration notes that the agricultural landscape has evolved since the adoption of the SPS Agreement in 1995 (e.g. expanding global populations, increased pace of innovation, importance of sustainable agricultural practices etc...)
- Calls on the **SPS Committee of the WTO to further enhance the implementation of the SPS Agreement** in an effort to better manage issues related to international trade in food, animals and plants by undertaking a work programme, open to all Members and Observers, consisting of new efforts to identify:
  1. Challenges in the implementation of the SPS Agreement and the mechanisms available to address them; and
  2. The impacts of emerging challenges on the application of the SPS Agreement".

# Ministerial Declaration on Sanitary and Phytosanitary Declaration: Responding to Modern SPS Challenges (Continued)



- Calls for the SPS Committee to explore new themes:
  1. How to **facilitate food security through sustainable growth and innovation** in agricultural production and international trade
  2. How to **support basing SPS measures on scientific evidence and principles**, including where international standards, guidelines, or recommendations do not exist or are not appropriate
  3. How to **enhance the safe international trade in food**, animals and plants and products thereof through the adaptation of SPS measures to regional conditions
  4. How to **encourage cooperation with observer organizations** that support the work of the SPS Committee and the international standard setting bodies through technical exchanges and assistance
  5. Increase participation of and support for the special needs of **developing and LDCs** in the development and application of SPS measures

# Ministerial Decision on TRIPS Non-violation and situation complaints



WT/MIN(21)/W/4

23 November 2021

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(21-8854)

- WTO Members agreed that non-violation and situation complaints shall not be brought in the context of the TRIPS Agreement until the Council for TRIPS can make recommendations regarding the subject in MC13.

**Ministerial Conference  
Twelfth Session  
Geneva, 30 November-3 December 2021**

## TRIPS NON-VIOLATION AND SITUATION COMPLAINTS

### DRAFT MINISTERIAL DECISION

At its meeting on 22-23 November 2021, the General Council agreed to forward the following draft Decision<sup>1</sup> to the Ministerial Conference for adoption.

The Ministerial Conference decides as follows:

We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to the General Council Decision of 10 December 2019 on "TRIPS Non-Violation and Situation Complaints" (WT/L/1080), and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the 13<sup>th</sup> Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

# Procedural Issues under MC12



- The Ministerial Conference included “thematic sessions” at which ministers negotiated on specific subjects. Other than the session on “challenges facing the multilateral system” (E.g. Pandemic, TRIPS waiver, Food security, Fisheries, Agriculture, WTO Reform, E-commerce Moratorium).
- In the context of the pandemic and the need for efficiency, Ministers’ Formal statements were pre-recorded videos.
- One WTO Member has proposed yearly Ministerial Conferences, a proposal which DG Ngozi recently praised.

