

Outcomes of the Twelfth WTO Ministerial Conference, Geneva

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Overview of Outcomes

➤ **EMERGENCY RESPONSES**

➤ **Trade and Health**

- Ministerial Decision on the TRIPS Agreement
- Ministerial Declaration on the WTO Response to the COVID-19 Pandemic & Preparedness for future pandemics

➤ **Trade and Agriculture**

- Ministerial Decision on the exemption of WFP purchases from export restrictions
- Ministerial Declaration on the emergency response to Food Insecurity

➤ **Agreement on Fisheries Subsidies**

➤ **Other Decisions & Outcomes, including ECommerce & SPS Declaration**

➤ **THE WAY FORWARD**

Trade and Health - Ministerial Decision on the TRIPS Agreement

- Allows eligible Members to limit patent rights provided under Art 28.1 of the TRIPS Agreement by authorizing the use of the subject matter of a patent required for the production and supply of COVID-19 vaccines without the consent of the right holder
- All developing country Members are eligible Members, but those with existing capacity to manufacture COVID-19 Vaccines encouraged to make a binding commitment not to avail themselves of this Decision
- Eligible Members need not require a proposed user of the subject matter of a patent to make efforts to obtain authorization from the right holder
- Authorised use need not predominantly be for the supply of the domestic market: can be exported to other eligible members and also be supplied to international or regional joint initiatives to ensure equitable access to vaccines.
- Eligible members to undertake reasonable efforts to prevent re-exportation of vaccines imported under this Decision + effective legal remedies to be made available.
- Adequate remuneration to consider the humanitarian and not for profit purpose of specific vaccine distribution programme aimed at providing equitable access to vaccines
- Staged agreement: applies to vaccines; decision to be made whether to extend to diagnostics and therapeutics after 6 months - to be in force for 5 years

Trade and Health: WTO Declaration on Response to the Covid-19 Pandemic /Future Preparedness

- Declaration so not legally binding
- Commitment to transparency, including notifications of trade-related measures with respect to COVID-19 and future pandemics. To be made in a timely and comprehensive manner in accordance with WTO rules.
- Recognition of the importance of ensuring that any emergency trade measures designed to address COVID-19 are “targeted, proportionate, transparent, temporary and do not create unnecessary barriers to trade or unnecessary disruptions in supply chains. Account to be taken of the diverse circumstances of Members, particularly LDCs
- Recognition of the importance of the Trade Facilitation Agreement, regulatory cooperation among Members; reaffirmation of the Doha Declaration on the TRIPS Agreement and Public Health of 2001;
- Recognition that increasing the level of global preparedness to COVID-19 and future pandemics requires strengthened productive, scientific and technological capacity across the world . In line with WTO rules, underscore the importance of promoting technology transfer that contributes to building capacity
- Recognition of the impact of COVID-19 on the services sector, particularly the tourism sector; the role of global food security in resilience-building and responding to the current and future pandemics
- Confirmation that the Declaration does not alter the rights and obligations of WTO Members; does not also create sub-categories of developing country Members

Trade and Agriculture: WFP Decision / Declaration on Emergency Response to Food Insecurity

- **WFP DECISION:** Agreement not to impose export prohibitions or restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the WFP.
- However, preservation of the right of Members to adopt measures to ensure their domestic food security in accordance with relevant provisions of WTO Agreements.
- **DECLARATION ON FOOD INSECURITY:** Declaration so not legally binding, but nevertheless important.
- It recognises that trade, along with domestic production, plays a vital role in improving global food security in all its dimensions and enhancing nutrition.
- It also underscores the need for agri-food products to flow. It says emergency measures to address food security concerns should minimize trade distortions as far as possible – temporary, targeted and transparent (proportionate dropped).
- Commits Members to taking concrete steps to facilitate trade and improve the functioning and long-term resilience of global markets for food and agriculture, including cereals as well as fertilizers and other agriculture production inputs.
- Declaration also launches a work programme to address the particular needs of least developed countries and net food-importing developing countries, and highlights the importance of promptly sharing information about policies that may affect trade and markets for food and agriculture.

Agreement on Fisheries Subsidies

- **Limited agreement** covering illegal, unreported, unregulated (IUU) fishing and overfished stocks. Agreement to enter into force in accordance with Article X:3 of the Agreement, which requires acceptance by two-thirds of the membership.
- **Article 3:** Prohibition of subsidies to a vessel or operator engaged in IUU fishing following determination made by a coastal Member, a flag state Member or a relevant RFMO/A
- **Art 3.3:** Due process requirements to be followed
- **Art 3.7:** each Member to have in law place laws, regulations and administrative procedures to ensure that the subsidies referred to in Art 3.1 are not granted or maintained.
- **Art 3.8:** SDT for developing country Members, including LDCs: transitional period of 2 years from the date of entry into force of the Agreement – possibility to provide subsidies to support fishing up to and within the EEZ.
- **Art 4:** Prohibition of subsidies for fishing or fishing-related activities regarding an overfished stock
- **Art 4.3:** Notwithstanding Art 4.1, a Member may grant or maintain subsidies referred to in Art 4.1 if such subsidies or other measures are implemented to “rebuild the stock to a biologically sustainable level.”
- **Art 4.4:** SDT for developing country Members, including LDCs: transitional period of 2 years from the date of entry into force of the Agreement – possibility to provide subsidies to support fishing of overfished stocks up to and within the EEZ.

Agreement on Fisheries Subsidies

- **Article 5.1:** Prohibition of subsidies to fishing or fishing-related activities outside of the jurisdiction of a coastal Member or coastal non-Member and outside the competence of a relevant RFMO/A
- **Art 5.2:** Special care and restraint when granting subsidies to vessels not flying a Member's flag
- **Art 5.3:** Special care and restraint when granting subsidies to fishing or fishing related activities regarding stocks the status of which is unknown
- **Art 6:** Due restraint in raising matters involving LDC Members.
- **Art 7:** Technical Assistance
- **Art 8:** Elaborate notification and transparency requirements
- **Art 9:** Institutional Arrangements – creation of a Committee on Fisheries Subsidies
- **Art 10:** Dispute Settlement – applicability of the DSU; provisions of Article 4 of the SCM Agreement to apply to consultations and settlement of disputes under Articles 3,4 & 5 of the Fisheries Agreement.
- **Art 11:** Final provisions; possibility to grant subsidies for disaster relief.
- **Art 12:** Sunset clause – Agreement to terminate if comprehensive disciplines are not negotiated within 4 years of entry into force of the Agreement.

Other Decisions /Outcomes

- **MC12 Outcome Document: Article 3:** Commitment to work towards WTO reform; reaffirmation of foundational WTO principles, but reforms should improve all WTO functions
- **Article 4: DSU** Acknowledgement of concerns about the dispute settlement system, including those related to the AB and commitment to conduct discussions with the view of having a fully and well-functioning dispute settlement system accessible to all Members by 2024.
- **Article 5: LDC graduation** – Certain WTO measures can facilitate the smooth and sustainable transition of graduating LDC Members. **Article 10:.** Recognition of importance of services trade to the global economy. Stops short of calling for a resumption of negotiations
- **Ecommerce Moratorium** – Not the current practice of not imposing customs duties on electronic transmissions until MC13 – 31 December or at the latest 31 March 2024
- **SPS Declaration**: Enhance the implementation of the SPS Agreement through a work programme in the SPS Committee and better manage emerging challenges
- **Way Forward**
 - **on agriculture** – Would Members be working towards modalities at MC13?
 - **on fisheries** - implementation of the Agreement (ratification of protocol), administering the fund etc
 - **on WTO reform:** commencement of discussions on the dispute settlement system and other relevant topics
 - **what about issues such as** trade in services, NAMA, Trade and Environment etc.,