



9th WTO MINISTERIAL CONFERENCE, BALI
December, 3 – 7, 2013

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attending the Conference as Observer on behalf of AIPPI.

The WTO held its 9th Ministerial Conference (MC9) on December 3, 4, 5 and 6, 2013.

Background

The 9th Ministerial Conference was convened for the specific reason of trying to, inter alia, tackle various issues and finalise harmonisation on various subjects including parts of the Doha Development Agenda as listed herein below:-

- A. Trade facilitation — eliminating "red tape" in trade
- B. Export subsidies in agricultural subsidies; matching steps on agricultural market access, domestic support and the rest of the broader Doha Round package. WTO members had already agreed to eliminate all of these, when the 2005 Hong Kong Ministerial Conference set 2013 as the deadline. That deadline was missed because of the impasse in the Doha Round.
- C. Agriculture negotiations:-
 - i. Tariff quotas (also known as tariff-rate quotas, TRQs) as were agreed in the 1986–94 Uruguay Round negotiations as a means of allowing exporters some access to other countries' markets when the normal (out-of-quota) tariffs on imports are high.
 - ii. Stockholding for food security: interim 'due restraint', although members agree that food security is a vital issue, particularly for the poor, some are concerned that this

particular way of dealing with it might weaken the disciplines that apply to all domestic support.

iii. A proposed list of general services of particular interest to developing countries- Developing countries want more programmes that are relevant to them on the list, and the African Group and G-33 have identified: land rehabilitation, soil conservation and resource management, drought management and flood control, rural employment programmes, issuing land ownership titles and settlement programmes.

D. Cotton negotiations: - In 2005 members had already agreed that export subsidies on cotton would be eliminated, and that developed countries would allow cotton from least developed countries into their markets duty-free and without quotas.

E. Decisions for least-developed countries: - Least-developed countries (LDCs) are the poorest members of the world community. They comprise about 12 per cent of the world's population but account for less than 2 per cent of world GDP and about 1 per cent of global trade in goods. Their participation in global trade in services is even less. In the 2005 Hong Kong Ministerial Conference, members adopted a Decision on Measures in Favour of Least Developed Countries where developed countries, and developing-country members declaring themselves in a position to do so, agreed to implement duty-free and quota-free (DFQF) market access for products originating from LDCs. Since the adoption of the Hong Kong Decision, members have made significant progress towards the goal of providing DFQF market access on a lasting basis for all products originating from all LDCs. Nearly all developed-country members provide either full or nearly full DFQF market access, and a number of developing-country members also grant a significant degree of DFQF market access to LDC products.

F. Monitoring Mechanism:- Paragraph 44 of the Doha Ministerial Declaration mandated negotiations on S&D, calling on WTO members to review all provisions with a view to strengthening them and making them more precise, effective and operational. The proposal to establish a Monitoring Mechanism of S&D provisions was initially submitted by the African Group in 2002. The General Council agreed to establish a mechanism for special and differential treatment in July 2002, and instructed the Special Session of the CTD to elaborate the functions, structure and terms of reference for such a mechanism. At the Geneva Ministerial Conference in 2011, ministers agreed to expedite work towards finalizing

the Monitoring Mechanism. Since 2011, the Chair of the Special Session of the CTD, Ambassador Kwok Fook Seng of Singapore, held consultations in various formats aiming to bridge members' convergence on the concepts and operations of the Monitoring Mechanism.

G. Small, vulnerable economies:- The term "small, vulnerable economies" applies to members with economies that, in the period 1999 to 2004, had an average share of (a) world merchandise trade of no more than 0.16 per cent or less, and (b) world trade in non-agricultural products of no more than 0.1 per cent and (c) world trade in agricultural products of no more than 0.4 per cent (TN/AG/W/4/Rev.4 paragraph. 157). Members therefore agreed in 2002 on a Work Programme on Small Economies as part of the Doha Declaration.

H. Yemen's accession to the WTO:- Members of the Working Party on the Accession of Yemen agreed on 26 September 2013 the terms of WTO membership for Yemen. At the 9th Ministerial Conference in Bali, the accession package will be presented to ministers, who are expected to formally approve Yemen's membership. Yemen will have until 2 June 2014 to ratify its accession package.

I. Electronic commerce:- At the Eighth Ministerial Conference in Geneva in December 2011, work on e-commerce has been substantively addressed in the Council for Trade in Services, the Committee on Trade and Development, the Council for Trade in Goods and other WTO bodies., Ministers agreed to reinvigorate the Work Programme. They instructed the General Council to hold periodic reviews of the progress of the Programme. These reviews were undertaken at meetings in July and December 2012 and in July 2013.

J. 'Non-violation' in intellectual property — up for a decision in Bali:- The Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement contains a temporary restraint (a "moratorium", Article 64.2) on bringing non-violation complaints. This has been extended several times, more recently from one Ministerial Conference to the next.

World Trade Organization Bali Ministerial

The World Trade Organization Bali Ministerial meet reached an agreement on Global trade reforms a first, since the organization was established in 1995. On December 7, 2013, approximately 159 ministers from the WTO voted to accept the Bali package, which focuses

on four broad areas viz. trade facilitation, agriculture, cotton and development and issues pertaining to least-developed countries. Very few sessions which were open to NGOs

To begin with the credibility of the Bali package was questioned as it has been a very long and tiresome 12 years since the introduction of the Doha Round of talks. The WTO Ministerial Candidates had approached this Round of talks to be another round of fruitless negotiations wherein the idea and purpose of the WTO would most probably further diluted.

A small group of countries — Cuba, Bolivia, Nicaragua, Venezuela even recorded serious reservations about what they considered to be imbalances in the package in favour of richer countries.

However the mood amongst the Ministerial Candidates was that there had to be some progress from the previous WTO Agreement, and that countries had to make sacrifices to achieve progress and that such an Agreement would renew dynamism amongst the WTO countries and pave the way for further steps towards reducing trade barriers and also improving market access.

There was an accession of the Yemen to the WTO, which although being the 35th least developed country has over the last 13 years evolved its domestic laws to become WTO compliant. The Parliament of Yemen will have to ratify its accession package within six months i.e. 2 June 2014. It must subsequently inform the WTO of the ratification and 30 days later it will officially become a member.

The Ministerial Conferences which dealt with the following issues :-

Whether non-violation cases should apply to intellectual property?

Explanation : WTO agreements on goods and services allow countries to bring cases against each other if one feels that another government's action or a specific situation has deprived it of an expected benefit, even if no agreement has been directly violated. Decision on this issue has been extended.

Whether WTO members agree to impose customs duties on electronic transmissions?

Explanation : The Declaration on Global Electronic Commerce adopted by the Second (Geneva) Ministerial Conference on 20 May 1998 urged the WTO General Council to establish a comprehensive work programme to examine all trade-related issues arising from global e-commerce. The General Council adopted the plan for this work programme on 25 September 1998, initiating discussions on issues of e-commerce and trade by the Goods, Services and TRIPS (intellectual property) councils and the Committee on Trade and Development. In 2011, at the WTO's Eighth Ministerial Conference, WTO members agreed to continue their current practice of not imposing customs duties on electronic transmissions. At Bali, Members once again maintained the practice of not imposing customs duties on electronic transmissions until the next session to be held in 2015.

The challenges and opportunities experienced by small economies? Aid for Trade Mandate? Increase flow of technology to developing countries?

Explanation : The Committee on Trade and Development (CTD) put forth various proposals in several areas of the Doha Round negotiations, mainly in agriculture, industrial goods, services, rules, including fisheries subsidies, trade facilitation, and in regular WTO bodies such as the Committee on Subsidies and Countervailing Measures for the benefit of small nations which although not forming an official sub-category of members, face specific challenges due to their small size and the distance which separates them from their key trading partners. Discussion focused on the challenges and opportunities experienced by small economies when linking into global value chains in trade in goods and services and what trading partners were doing in the area of providing specific capacity-building efforts to assist small economies. Complex issues that encompass the nexus between trade and transfer of technology to developing countries and continuing need of Aid for Trade for developing countries, and in particular of Least developed Countries (LDCs) was also discussed and kept for the post 2015 agenda .

Decisions were taken on the general services, public stockholding for food security purposes, understanding on tariff rate quota administration provisions of agricultural products, as defined in article 2 of the agreement on agriculture with direct regard to the Marrakesh Agreement.

Ministerial Decisions were taken on Export Competition, Cotton, Preferential Rules Of Origin For Least-Developed Countries, Operationalization Of The Waiver Concerning Preferential Treatment To Services And Service Suppliers Of Least-Developed Countries, Duty-Free And Quota-Free (Dfqf) Market Access For Least-Developed Countries and Monitoring Mechanism On Special And Differential Treatment extending to all special and differential provisions contained in multilateral WTO Agreements, Ministerial and General Council Decisions.

Various Press statements made at the different plenary sessions. One such statement to the press was made by Minister of Commerce and Industry from India, Mr. Anand Sharma who lead the Indian Delegation and was a part of the G 33 group.

A short extract from the statement made in the plenary session on 4th December 2013 by Union Minister of Commerce and Industry from India, Mr. Anand Sharma follows for the reference of the AIPPI

".....for over 12 years we have struggled to bring the complex negotiations of the Doha Round to conclusion. The continuing stalemate has led to frustration and cynicism. When this was the only round dedicated to the development agenda. We have a shared responsibility in preserving the credibility of the WTO as a negotiating forum.

India has remained sincerely and constructively engaged in challenging negotiations in Geneva. A candid evaluation of the proposed package is required. We firmly believe that the package at Bali must be substantive with demonstrable horizontal balance. Historical imbalances in trade rules must be corrected to ensure a rule based fair and equitable order.

Agriculture sustains millions of subsistence farmers. Their interest must be secured. Food Security is essential for 4 billion people of the world. A trade agreement must be in harmony with our shared commitment of eliminating hunger and ensuring the right to food. These are an integral part of the millennium development goals.

For India, Food Security is Non – Negotiable. Need of public Stock Holdings of food grains to ensure Food Security must be respected. Dated WTO Rules must be corrected. The due restraint in its current form cannot be accepted; It must remain in force, till we reach a negotiated permanent solution and provide adequate protection from all kinds of challenge.

We appreciate the collaborative efforts for putting in place a New Trade Facilitation Agreement. India has remained constructively engaged, yet a few contentious issues remain. We consider it premature to support an inconclusive TF Agreement. India has and knows the Text Proposed on the five LDC issues. India has for the past five years continuously given duty free, market free access to the LDC's.

I bring with me the mandate of my government to expand the coverage of duty free, market free access to 96.2 % of Indian Tariff Lines.

India has been an unwavering votary of multilateralism. The Doha Round is the litmus test for us. We must agree on a firm post Bali work programme to conclude the DDA. Let Bali be remembered for bringing development back into focus....."

After having sent the entire Ministerial Conference into a tizzy by openly declaring that India would not sign the dotted line as required unless its concerns were met, India and some countries demanded that current prices be used for the valuation of the volume of food stocks countries can legally hold, which would mean amending the agriculture agreement of the Uruguay Round and would not be acceptable to other members. Alternatively, India proposed an interim arrangement. The United States proposed a 'sunset clause' of four years – a time-line which India did not accept. Finally, in the early hours of the 6th, a deal came through in the form of an interim mechanism until a permanent solution will be found.

Thus also the First Multilateral Trade Facilitation Agreement came to be concluded at Bali in the wee hours of 6th December 2013, after tiring hours of discussion, debate, dialogue and arguments.

At the closing session, whilst lauding the work achieved at Bali and the efforts of all involved Mr Roberto Azevêdo Director-General quoted Mr. Nelson Mandela saying that "It always seems impossible, until it's done."

The Questions for the Special Committee Q94 may have to be relooked at and re - deliberated on various aspects of the draft declarations and the Trade Facilitation Agreement and the interim arrangements. The practical application of each of these

declarations and the ramification of the Agreement and the interim Arrangement on future multilateral agreements.

So far as agricultural policy framework work in most developing countries like India, has been focused on irrigation, fertilizers, seeds, land rights agri-science and agri- technology. While these are important issues, these now are not the only issues. The WTO Bali deal has brought agricultural subsidies issues right to the fore front.

There were discussions by various NGO groups on the sidelines of the impact of the Trans-Pacific Partnership (TPP) negotiations, Food security, Trade facilitation, Labour and job issues which will still remain important issues in the next round of negotiations.

Trade Facilitation Agreement and its implementation

AIPPI can consider the impact in regard to IP issues of the Trade Facilitation Agreement and its implementation.

The issues addressed in the Agreement are:_

Publication and easy availability of information.

It lays down the norms for the publication of rules, regulations and procedures relating to import, export, transit procedures, rates of duties and taxes, laws and regulations, etc in an easily accessible manner.

Opportunity to Comment.

It makes provisions for enabling traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations relating to the movement, release and clearance of goods.

Advance Rulings.

Defines advance ruling as a written decision provided by a Member to an applicant prior to the Importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:

- (i). the good's tariff classification, and
- (ii). the origin of the good

It also prescribes the general rules for issuing an advance ruling.

Appeal or review procedures.

It provides for a right to appeal to every person who has been aggrieved by any administrative decision issued by Customs authorities of the country.

Disciplines on fees and charges and penalties imposed on or in connection with importation and exportation

Release and clearance of goods

Establishes procedures for inter alia the processing of documentation prior to the arrival of imported goods, electronic payments, post-clearance audit, pre-arrival processing of goods, etc

Use of "authorized operators" scheme

Procedures to expedite shipments and faster release of perishable goods.

Common Customs procedures and uniform documentation for release and clearance of goods.

Provisions for Customs co-operation and exchange of information among member countries.

Establishment of Committee on Trade Facilitation

The Trade Facilitation Agreement also provides for special and differential treatment to developing and under-developed economies in order to assist such member countries in implementing the provisions of this Agreement.

These improvements could increase trade opportunities globally by lowering transaction costs, and time. Some studies have suggested substantial increase of global GDP and also generation of new jobs.

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