



**Notes from the WTO 8th Ministerial Conference, MC8,
held in Geneva December 15, 16 and 17, 2011**

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attending the Conference as observers and rapporteurs for AIPPI

Introductory notes

1. The WTO held its 8th Ministerial Conference (MC8) on December 15, 16 and 17, 2011.
2. The 6th and 7th WTO Ministerial Conferences were held in 2005 and 2009, in Hong Kong respectively in Geneva. At the Hong Kong WTO Ministerial Conference, AIPPI was represented by Esmé du Plessis, Co-Chair of AIPPI Special Committee Q94. At the 2009 Geneva WTO Ministerial Conference AIPPI was represented by Ivan Hjertman, Chair of the AIPPI Special Committee Q94. For the 2011 WTO Ministerial Conference it was decided by the Bureau that AIPPI would again be represented, by Ivan Hjertman, Chair and also Melanie Jose, Secretary, of AIPPI Special Committee Q94 respectively.
3. Your rapporteurs attended during the three days of the Conference those of the sessions which were open to NGOs: the Opening Session, the Plenary Meetings during the main conference, and the Closing Session.
4. Your rapporteurs also attended two press conferences: one concerning accession of the Russian Federation to the WTO, and the other being the press conference following the conclusion of the final session
5. Three so-called Working Sessions were held in parallel to the Plenary Sessions. These working Sessions were closed for NGOs. These Working Sessions were directed to three topics:
 - Importance of the Multilateral Trading System and the WTO;
 - Trade and Development; and
 - The Doha Development Agenda negotiations.
6. As had been expressly stated in the run-up to the MC8, both from the WTO, from capitals, and in media reports, the Doha Round negotiations generally had come to an impasse. While the present report is not the place to go into details on that situation and its implications, following are some notes from your rapporteurs.
7. The impasse was made especially clear from the outcome of the so-called Easter Package in April 2011. That Package comprised the collected reports of the WTO negotiating bodies in all the different areas involved in the Doha Round

- negotiations. Pascal Lamy, Director General of the WTO, said in a statement March 29, 2011, that the “biggest stumbling block” was what is called “NAMA sectorals”. This is about proposals for major trading countries, including emerging economies, to allow duty-free or lower-than-normal duty on imports in particular sectors within the non-agricultural market access (NAMA), negotiations.
8. That assessment was also made very clear in the statement by the US Trade Representative at the MC8, document WT/MIN(11)/ST/53 dated December 15, 2011: “... *the current impasse in many ways comes down to one single, vexing quandary: the WTO has not come to terms over core questions of shared responsibilities among its biggest and most successful Members. The world has changed profoundly since the negotiations began a decade ago, most obviously in the rise of the emerging economies. The results of our negotiations thus far do not reflect this change, and yet they must if we are to be successful.*”
 9. The stalled status of the Doha Round negotiations and its implications for the function and relevance of the WTO as an organization are reflected in the preliminary agenda for the MC8, document WT/MIN(11)/W/1 dated November 9, 2011. Here very general items are listed: *Overview of Activities of the WTO: Ministers will have the opportunity to review the operation and functioning of the multilateral trading system and to make general statements thereto; and Action by Ministers: Ministers are expected under this item to take any action which they may deem necessary for the work of the WTO, including decisions on the accession of new Members to the WTO Agreement.*”
 10. TRIPS issues had already earlier in 2011 been placed in what was called a “slow lane” in the negotiations. For the “Easter package” in April 2011, the status of the GI issues and of the TRIPS/CBD issue was reported by the Director-General, document TN/C/W/61 dated April 21, 2011. On the TRIPS/CBD issue a submission was made in the context of the Easter Package from a number of WTO Members including Brazil, India, and China, document TN/C/W/59 dated April 19, 2011, requesting a revised version of a new Article 29bis in the TRIPS Agreement calling for disclosure of origin of genetic resources and/or associated Traditional Knowledge involved in patent applications. Noteworthy is that this submission was not sponsored by the EU and Switzerland, two of the original sponsors of the 2008 “mini-ministerial” proposal for a TRIPS package on GIs and disclosure of origin of genetic resources.
 11. Nevertheless, of the decisions taken at the MC8, two are TRIPS-related:
 - extending until the next Ministerial Conference, to be held in 2013, the moratorium on what is called “non-violation complaints” under the TRIPS Agreement; and
 - instructing the TRIPS Council to extend, under TRIPS Article 66.1, the transition period expiring June 30, 2013, for Least-Developed Countries, LDCs, for implementing the TRIPS Agreement.

WTO Accessions

12. Against the backdrop of the challenging world economic climate four countries acceded to the WTO at the MC8. The Russian Federation, Samoa, Montenegro, and Vanuatu.

Accession of the Russian Federation

13. After an 18 year accession process, the Russian Federation joined the WTO on Friday 16 December. The approval of the Russian Federation's bid was among the highlights of the 8MC.
14. Russia first applied to join the WTO in 1993, under the former GATT system. They then entered period of 18 years of bi-lateral negotiations with GATT/WTO members concerning goods and services and various systemic obligations. Significant divergence of views between Russia and the EU, US and Georgia respectively were the source of repeated setbacks in the accession process. However, in the lead up to its accession, Russia concluded 30 bilateral agreements on market access for services and 57 on market access for goods.
15. In addition, Russia intends to join the WTO Government Procurement Agreement (GPA). Russia would initially become an observer to the GPA upon becoming a member of the WTO. Once a member of the WTO, Russia intends to initiate negotiations for GPA membership within four years of its accession to the WTO.
16. As part of the accession process, Russia has also undertaken to bring the following obligations in line with WTO rules:
 - various domestic subsidy programs;
 - sanitary and phytosanitary measures;
 - technical barriers to trade;
 - trade related investment measures; and
 - the protection of intellectual property rights.
17. Russia's accession was approved by the trade Ministers at the MC8. A copy of the Decision, dated 16 December 2011, can be found at the WTO website at <http://www.wto.org>. However, the Russian parliament will still need to ratify its accession package. It has until 15 June 2012 to do so and its membership will become official 30 days following ratification.

Accession of Samoa

18. WTO Ministers adopted Samoa's WTO terms of entry at the MC8, on 17 December 2011. A copy of the Decision, dated 17 December 2011, can be found at the WTO website at <http://www.wto.org>. Samoa will have until 15 June 2012 to ratify its accession package and will become a fully-fledged WTO member 30 days after notifying ratification of its accession packages to the WTO.

19. Samoa's Deputy Prime Minister Fonotoe Lauofo said that this accession was a milestone in the island's development. He added that the accession will be beneficial for Samoa's economy.
20. WTO Director General Pascal Lamy stated that technical assistance and capacity building is crucial to empower countries like Samoa to be in a position to negotiate trade rules.
21. Ministers congratulated Samoa for this considerable achievement and acknowledged that the accession process was long and challenging for the small LDC island.
22. Samoa is the 5th least-developed country to join the multilateral trading system since 1995.
23. Director General Pascal Lamy stated *that "for a small island in the Pacific, the road to the WTO in Geneva is long and winding. But with Samoa and Vanuatu joining this year, you demonstrate that it is possible with patience, perseverance and determination. In your accession process, we have learnt many lessons. We have learnt that technical assistance and capacity building is crucial to empower countries like Samoa to be in a position to negotiate trade rules. We have learnt that there are specificities to small, vulnerable island states that must be taken into account when negotiating trade rules. We have learnt that the rules governing accessions of least-developed countries can and must be further simplified to help you join the WTO family. With Samoa joining the WTO, we will have an active partner to lead on all these areas. As you know, the WTO is sharply divided into three categories : "friends of football"; "friends of rugby"; and "friends of cricket". Your arrival is clearly going to help the "friends of rugby. Congratulations to the Samoan government and its people for having reached the WTO accession finish line. Samoa, welcome to the WTO. Taloja lava aficio mai."*

Accession of Vanuatu

24. The WTO approved Vanuatu's accession package on 26 October 2011 and the parties signed the paperwork at the MC8 on 17 December 2011. Vanuatu must now ratify the deal by 31 December 2011 and in doing so will become the WTO's 154th member 30 days after the ratification.
25. WTO Director General Pascal Lamy stated "with Vanuatu the WTO receives a least-developed country into the family. Its membership will strengthen the multilateral trading system and provide this country with a stable and predictable trade environment. Vanuatu's accession brings the WTO one step closer to our goal of universal membership."

Accession of Montenegro

26. On 17 December 2011, world trade Ministers agreed to accept Montenegro as a new WTO member at the 8MC. This was the fourth accession to the WTO for 2011. A news article detailing their accession can be found at the following link: http://www.wto.org/english/news_e/news11_e/mn11a_17dec11_e.htm

27. Ministers warmly welcomed Montenegro in the WTO and congratulated Montenegro for meeting the accession challenges.
28. As part of its accession commitments, Montenegro has agreed to further liberalize its trade regime and accelerate its integration in the world economy. It has also pledged to provide a transparent and predictable environment for trade and foreign investment.
29. From the date of accession, Montenegro has committed to fully apply all WTO provisions. In particular, WTO rules, including Montenegro's Protocol of Accession, will apply uniformly throughout its customs territory and other territories under its control. Montenegro will also, two years after accession, establish an official journal dedicated to the publication of all legislation related to international trade.
30. The accession of Montenegro is an important step towards making the WTO a truly global organization. It further reinforces and demonstrates that the WTO and multilateralism remain a priority for world trade policy.
31. Dr Vladimir Kavarić, Montenegro's Minister of the Economy stated that "This is a big step forward in integrating the multilateral trading system. WTO membership is one of the main priorities of the government. This accession also shows Montenegro's ability to integrate into the international community."
32. Montenegro's accession was approved by the Trade Ministers at the 8MC. A copy of the Decision, dated 16 December 2011, can be found at the WTO website <http://www.wto.org>. However, the Montenegro parliament will still need to ratify its accession package. It has until 31 March 2012 to do so and its membership will become official 30 days following ratification.

Future Directions

33. WTO members acknowledged the concerns on the global economic climate and agreed that:
 - there is no credible alternative to the rules based multilateral trading system;
 - and
 - protectionist trade measures must be avoided.
34. The Chairman, in his summary report, stressed that the future work of the WTO must give priority to the development issues of least developed countries, in particular cotton. Further, that the WTO needs to take into account the views of all its members.
35. Despite the uncertainty surrounding the DOHA negotiations, the MC8 has sent a clear message that the WTO remains relevant and important to world trade, as illustrated by the accessions of the Russian Federation, Montenegro, Samoa and Vanuatu.

36. In his concluding remarks, Pascal Lamy stressed that despite these worrying economic times, *"don't chop off the branch you're sitting on..."* (Russian proverb). The multi lateral trading system is vital to world economic stability.
37. Finally, the DOHA negotiation impasse has led to members exploring new approaches to negotiating. Members were urged to have political courage and goodwill in concluding the DOHA round.

Implications from the WTO MC8 for AIPPI work on TRIPS related issues

38. Even though TRIPS issues were downplayed at the WTO MC8 and mentioned by just a few delegations, (namely: Bangladesh, Guatemala, Peru, Italy, Uganda, Haiti, Honduras, Niger, Guinea, Samoa – as an Observer, Mauretania, Cambodia and Ecuador) these issues will certainly remain on the international IP agenda. With that understanding, your rapporteurs would like to make the following notes and suggestions for AIPPI.
39. The emphasis in the presentations at the MC8 from a very large number of WTO Members on the importance of assistance to LDCs should be carefully considered by AIPPI in regard to possible action regarding help for LDCs with TRIPS implementation in a broad sense. This should be taken up by AIPPI Special Committee Q207, Development and Intellectual Property, in cooperation with AIPPI Special Committee Q94.
40. It must be expected that the discussions of the TRIPS issues on GIs will continue in the TRIPS Council. Italy stressed that IP rights, in particular GIs with respect to production methods and cultural protection must remain high on the TRIPS agenda. Likewise, that LDCs should be afforded every opportunity to implement TRIPS. To follow those discussions will obviously be a significant action item for the AIPPI Special Committee Q220 Geographical Indications, in cooperation with AIPPI Special Committee Q94.
41. Similarly, it must be expected that the discussions in the TRIPS Council on the TRIPS/CBD relationship will continue, especially the issue of disclosure in patent applications of the origin for genetic resources and associated traditional knowledge involved in the underlying invention, even though main emphasis on these issues for 2012 apparently will be in the WIPO IGC. The 2010 AIPPI joint Questionnaire from Special Committees Q94 and Q166 on this topic may need to be refined and updated.
42. An additional issue gaining traction, although not strictly on the mainstream DOHA agenda and currently the subject of a moratorium, concerns the treatment of TRIPS non-violation complaints. At this stage there is no implication for further AIPPI work on this issue. It is noted in this report for information only with a view to monitor development in this space.

43. It goes without saying that AIPPI should continue to monitor WTO/the TRIPS Council in regard not only to the TRIPS issues mentioned above, but also more generally and on other specific issues. This will primarily continue to be an action item for Special Committee Q94. What this may mean in practice has been taken up in the Annual Reports from AIPPI Special Committee Q94.

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