

# Geneva WATCH

An overview of the bilateral, plurilateral and multilateral trade negotiations

Charles Akande, Editor

## Negotiators Brainstorming for a Fresh Start

**With the aim to explore “fresh perspectives and new pathways” that may help move the World Trade Organization (WTO) negotiations forward, several Members – including the EU and the African, Caribbean and Pacific Group (ACP) – have started brainstorming possible avenues for the negotiations following the 11<sup>th</sup> Ministerial Conference (MC11) in Buenos Aires, Argentina last December.**

There is no question in the mind of the vast majority of the Membership that the MC11 failed to deliver on many of the issues that were on the agenda. This was the case for the attempt to curb Members’ trade-distorting domestic support or reaching a permanent solution for the public stockholding for food security purposes. The outcome was also very limited on issues that many considered doable, such as fisheries subsidies or a detailed program on topics to tackle after MC11. That being said, Members welcomed several declarations to launch plurilateral negotiations on issues such as e-commerce and investment facilitation.

“In terms of resuming work in each of these areas, I don’t think it can just be business as usual. We need to find ways to avoid repeating unsuccessful approaches, and reaching the same unsatisfactory result,” WTO Director General, Roberto Azevêdo, said at the ACP brainstorming session on February 15<sup>th</sup>. “So we need to reflect – but to do so in an active way,” he added.

Avoiding the “business as usual” mode is also the objective of the European Union, which plans to “play a leading role in sustaining and strengthening” the WTO. In a paper outlining its future priorities at the WTO, the EU suggests four avenues of work to be considered in the post-MC11 context:

- 1) *Sustaining the dispute settlement system* by finding a solution to the blockage of the Appellate Body

- 2) *An open variable geometry approach in WTO negotiations* which is composed of three possible parts:

(a) *multilateral negotiations* to tackle issues such as fisheries subsidies and other areas such as agriculture “will doubtless be a focus of a number of Members” the EU states

(b) *flexible multilateralism* which would represent the next best alternative in the absence of multilateral negotiations, the EU paper states. This would take the form of plurilateral negotiations among interested parties with an MFN (most favoured nation) outcome. “It would necessitate a case-by-case assessment of the critical mass that is needed in order to pursue an agreement” the EU said. The EU sees the exploratory talks on e-commerce, services and investment facilitation in that category, which could also feature talks on subsidies, non-tariff barriers (NTB), export restrictions, state-owned enterprises (SOE), and possible market access/sectoral issues

(c) *non-MFN plurilateral* to be undertaken on a limited number of topics. The goal of the gathering will be to arrive at a clearer picture on what issues should be considered priorities for Members’ work and how to move the negotiations forward leading up the MC12 in 2019.

The last two tracks would seek to improve the functioning of the WTO by calling on Members to better engage on the issue of transparency and notification for instance and find a way to better address the issue of development at the WTO.

EU Trade Ministers are expected to discuss this paper at their February 27 informal meeting in Sofia, Bulgaria. WTO Trade Ministers will also brainstorm fresh approaches to resume the talks at various mini-ministerial meetings scheduled to take place this year. India has invited more than 40 delegations to discuss the negotiations' priorities in Delhi on March 19-20. In addition, trade ministers will also gather in Paris, France on the sidelines of the May 29-30 Organisation for Economic Co-operation and Development (OECD) Forum.

## CPTPP Text Released

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) member countries (Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Viet Nam) released the legally scrubbed version of the CPTPP text on February 21<sup>st</sup>.

New Zealand, which is the depositary of the CPTPP agreement, believes that the agreement “has become more important because of the growing threats to the effective operation of the World Trade Organisation rules.” The deal “will create new opportunities for international trade, including preferential access for the first time to Japan, Canada, Mexico and Peru,” said its Minister for Trade and Export Growth, David Parker.

The new text has not included any additional suspensions of TPP provisions beyond the 22 that were discussed last November on the sidelines of the APEC summit. “The suspensions mean that prior expensive changes to New Zealand’s intellectual property law and our medicine-buying agency Pharmac no longer apply,” David Parker. They also “narrow the scope of investor-state dispute settlement in the CPTPP, an area of particular concern to us,” he added in a statement released the same day.

The group, however, has not released any of the side letters agreed among the parties e.g. Canada’s with other CPTPP countries on culture and automobiles, New Zealand’s request for suspension of investor-state dispute settlement (ISDS), or Vietnam’s on labour rights.

How many countries have agreed to side letters with Canada is unknown, let alone who they are, informed sources say, adding that these side-letters will not be released until the signing ceremony in Chile on March 8<sup>th</sup>.

The CPTPP preamble reaffirms the importance of cultural identity and diversity, environmental protection and conservation, gender equality, indigenous rights, and labour rights. This seems to be all Canada will get after raising cultural exception as a red line last November – unless there is more on this included in the side letters informed sources said.

Observers noted that the “schedules and annexes specific to the United States” are not part of the CPTPP. However, the main concern they added is related to the terms for U.S. re-entry and the reactivation of suspended items as it remains vague, particularly when it comes to whether the U.S. would be able to negotiate additional concessions. About 25 congressional republicans have signed a letter urging U.S. President Donald Trump to “work aggressively” to rejoin the group with the goal of countering China’s influence in the region. Japanese officials have stated several times that they hope the U.S. will re-join the group, but that negotiating new demands would be difficult.

The CPTPP agreement will enter into force 60 days after at least 6 (or at least 50%) of the signatories have notified New Zealand.

**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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