Defining Success for WTO MC12

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Context

• COVID19 precautions –
  • Meeting in person a big plus, “sardine protocol” but may change, and
  • Bilateral meetings more challenging

• All Leaders pledged to make WTO a “success” (undefined; extent invested?)

• Will Ministers go beyond Ambassadors to overcome lack of movement?
Benchmarks? 11 MCs – 6 ending with declarations, 5 did not

- MC1, 1996 - Singapore – establishing workplan and adding new issues
- MC2, 1997 - Geneva – GATT at 50 – 15 leaders (w/ Clinton and Mandela)
- MC3, 1999 - Seattle – chaos inside and out, >900 arrested
- MC4, 2001 - Doha – following 9/11 – security threat, DDA launched
- MC5, 2003 - Cancun – deadlock – anti-WTO demonstrations
  - July 2004 -- Geneva package
- MC6, 2005 - Hong Kong – re-dedication, more farmer demonstrations
  - 2008 - Financial crisis, DDA collapses
- MC 7, 2009 - Geneva, holding the line
- MC8, 2011 – Geneva, holding the line
- MC9, 2013 Bali – TFA
- MC10, 2015 Nairobi - Ban on agricultural export subsidies
- MC11, 2017 Buenos Aires – No agreed declaration, JSIs born
Cautionary note on under-evaluating an MC

- *Kissinger*: How influential is the French Revolution?
- *Zhou Enlai*: It is too early to tell.

- Trade Facilitation Agreement – a “Singapore issue” in 1996, concluded in 2013, entered into effect in 2017

- The “failed” Buenos Aires Ministerial – JSIs are born

- MC12: possible paths forward for obtaining workable dispute settlement, move toward restoring deliberation and negotiation, mandate for some limited enhancements of the executive functions
Situation fluid --

• Many delegations are working hard, along with the Chair and the DG, to achieve a positive outcome
• The General Council meets next week to review the status of all issues
• Breakthrough or breakdown? --
  • TRIPS waiver compromise for Trade and Health?
  • PSH – solution?
  • Fisheries subsidies ??

• The forecast is an estimate
  • What will not be achieved is more certain
  • But we can reach some conclusions of what will happen
100% certainty – there will be positive outcomes

Since Buenos Aires, in either or both of two forms:

- **Multilateral** –
  - Depends on none of 164 opposing to have agreed results
  - -- therefore outcomes less predictable

- **Plurilateral** –
  - Formed by groups of like-minded
  - -- nearly 100% certainty of what will occur
Multilateral outcomes possible

If an agreed declaration – includes

- Trade and Health (likely only if TRIPS waiver solved)
- WTO reform process launch (likely)
- Fisheries subsidies (not there yet, some positive signs)
- Agriculture work program -- (very general or none)
  - Statements on trade and the environment (post COP26), trade and gender (question of follow-up)
  - (all may further hinge on SDT, PSH, TRIPS)
There will be plurilateral outcomes

Joint Statement Initiatives (JSIs) –

• Investment facilitation – expands scope of WTO (largely done)
• Domestic regulation of services - concluded
• MSMEs – agreed text, Informal Working Group
• E-commerce – progress report
• Important systemically: JSI endorsement by Ministers of parties
There will be plurilateral outcomes

Structured discussions on the environment –

• Trade and Environmental Sustainability (56 members, w/ China, US)

• Plastics (China-Fiji initiative)

• Fossil Fuel Subsidy reform (EU has now joined)
Trade and health – Walker proposal

- Comprehensive approach to value chain facilitation –
  - Export restrictions, trade facilitation, regulatory coherence and cooperation, tariffs, services, transparency and monitoring, and IO collaboration
- Coordinating Body to be established
  - To prepare Pandemic Preparedness Work Plan by MC13
- Not intended to be legally binding
Trade and Health – evaluation

• 20-month to put into place a substantive WTO pandemic response

• Drafted as steps WTO Members “will take” but “does not alter rights and obligations” – intended as nonbinding

• Likely contingent on outcome of TRIPS waiver
  • Bridging differences likely to alter rights and perhaps obligations

• Value (despite being nonbinding): guidance offered can lead to the development of common or consistent policies and measures.
Fisheries subsidies

- Outlook still clouded but effort continues to close gaps
  - Linkage to other issues?
  - Quality of discipline?
  - SDT?, etc.
Agriculture

- **Work program** (very general or none)
  - No change in positions expected
  - PSH compromise?
  - WFP pledge
WTO Reform Process

• **What is involved** (explicit or not?)
  • Appellate function/dispute settlement more generally
  • Negotiating function
  • Monitoring and transparency (executive functions?)
    • Progress report in 6 months, final to MC 13
    • All subject to consensus (potential non-adoption)
**Other elements/outcomes**

- **Moratorium** on customs duties on electronic transmissions (outcome unclear)
- **Moratorium** on nonviolation TRIPs cases
- **Development** – Statement (outcome uncertain),
  - LDC graduation?
  - Landlocked, vulnerable
- **Digital economy, Trade for Peace (T4P), Art. XII balancing**
Where does leadership come from?

- The **U.S.** is back after a break - says willing to engage but not seizing the lead.
- The **EU** is back after a long series of extra-multilateral flirtations. Able to lead?
- **China** is showing signs of willingness to engage.
  - Plastic pollution
  - “Developing” but would take responsibilities in line with its capacity
  - Signaling change with EGA, CPTPP, DEPA.
  - Growing skepticism of trading partners
- **The mid-sized in coalitions --**
  - Brazil, Singapore, Australia, Canada, Japan, NZ etc., investing.
- **India; South Africa**, inflexible?
- **Other developing countries** not homogeneous,
The Ngozi factor

• Members chose NGOZI OKONJO-IWEALA for her presumed ability to move things forward, not in the mold of predecessors
  • Drive
  • Contacts at high levels
  • Visibility amongst IOs

• Does she bring political “magic”?

• Advice: do not bet against her
Not among the deliverables for Trade and Health

- Any change in the WTO’s rules (except possibly TRIPs)
  - e.g.: No definition of “equitable share” that is to be made available if export controls are put into place.
- Any immediate agreed change in tariffs
  - The ITA for Covid19 related essential electronic equipment
  - The Pharmaceutical agreement
    - Expanding the country coverage to India and China
    - Expanding the list of drugs for those relevant to treating COVID19
  - Duty suspension or elimination for essential products
- Any enforceable facilitation commitments for cross-border trade in essential products
Not among the deliverables – personal list +

• An immediate solution to AB impasse

• Adoption of open plurilaterals (JSIs) as a formal part of the WTO *acquis*

• An end to the unconditional, all-purpose Member veto ("medieval procedures")

• A decision that makes explicit that the multilateral trading system is based on market forces determining competitive outcomes.

• Re-confirmation that the WTO is about progressive trade liberalization

• An agreed condemnation of forced labor
Not among the deliverables – personal list

• A decision that FTAs and other preferential arrangements must all be justified as more trade creating than trade diverting

• Restoring balance to the system
  • Assuring the availability of remedies when trade causes harm;
  • Updating the distribution of benefits and obligations

• Creating clear executive functions
  • Expecting from the DG negotiating proposals, an active role in pressing for compliance with obligations or support for proactive autonomous monitoring, engaging in strategic foresight and policy planning

• The establishment of an adequate and independent WTO budget
What is at stake at MC12

• The future arc of the multilateral trading system.

• Credibility/viability of the WTO

• Accelerating resort to other configurations of the like-minded outside the WTO
  • Bilateral agreements
  • CPTPP enlargement
  • Agreements like DEPA
MC12 is important

- MC12 is a way station – an interim téléphérique stop
- Both multilateral agreements and plurilaterals will be needed within the WTO
- The world needs a strong and effective WTO.
Thank you

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