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# 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.



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**Thank you**

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