



CIVIL SOCIETY DIALOGUE

11TH WTO MINISTERIAL CONFERENCE IN DECEMBER 2017

Date: 27/11/2017

Time: 14:30-16:30

Location: Charlemagne building, Sicco Mansholt Room, 170 Rue de la Loi, Brussels

Lead speakers

Mr Denis Redonnet, Director for WTO, Legal Affairs and Trade in Goods, DG TRADE.

Mr Bernard Kuiten, Head of External Affairs, WTO.

Moderator

Mr Peter Sandler, Director for Resources, Information and Policy Coordination, DG TRADE.

Agenda

1. Update on the state of play pre-MC11
2. Discussion with stakeholders

Panel Presentation

The Commission (DR/PS) emphasised the value of stakeholder engagement to the Commission and noted that the EU delegation to MC11 will comprise sixteen civil society representatives.

The Commission (DR) then described the state of play pre-MC11. The United States' refusal to approve appointments to the Appellate Body (AB) is putting real pressure on the system. As for the negotiating function, progress has stalled on a number of issues because of the lack of convergence due in part to disengagement from certain Members.

The EU is being realistic and is committed to achieving a balanced negotiated outcome in order to set the work of the WTO forward and prevent erosion of the centrality of the organisation. In this regard, it has tabled six textual proposals. The EU made a joint proposal on domestic support in agriculture together with Brazil, an important statement as two large exporters, but this did not gain traction. The proposal also covered public stockholding for food security purposes, a permanent solution for which is mandated by previous conferences. The most progress has been made on fisheries subsidies, in particular in the discussion on the prohibition of subsidies to Illegal, Unregulated and Unreported fishing (IUU) and

overfished stocks. Seven proposals are on the table, including the EU's one. There is also a negotiating text on domestic regulation in services though political divisions remain. The EU has proposed a working party with a negotiating mandate for e-commerce. On this and transparency & good regulatory practices (GRP) for goods, we will challenge the Membership in Buenos Aires on whether the status quo is sufficient. The EU also tabled a proposal on transparency in horizontal subsidies.

MC11 will see a general discussion on trade & development, as well as perhaps on WTO reform, an issue raised repeatedly by the US. Finally, there are no accessions at MC11 but the EU continues to be active in the accessions process, particularly as regards neighbourhood countries and LDCs.

Mr Kuiten also welcomed this opportunity to engage with civil society. On the positive side, he noted new negotiating coalitions between developed and developing countries and that Members have demonstrated willingness to move forward despite US disengagement. On the other hand, Mr Kuiten also noted with concern that Members were not taking US intransigence seriously enough, even after it had blocked agreement on a draft ministerial declaration. Compared to Nairobi, there is greater ambition for MC11 although expectations remain low. Argentina is determined to reach a ministerial declaration but the responsibility ultimately lies with ministers.

Mr Kuiten also noted the dedicated NGO centre near the Hilton hotel in Buenos Aires as well as the various side-events during the conference such as the business forum.

Highlights of the Discussion

Digital Europe sought clarification on the establishment of a new body to discuss **e-commerce**. The International Trade Union Confederation also queried the EU's goals as regards e-commerce and whether e-signatures should be addressed in the WTO or ITU. The ITUC also asked about the status of the **Mercosur negotiations**, the **Doha mandate** and the extent to which the Business Forum would set a precedent. The Foreign Trade Association commented that no progress has been made in **non-agricultural market access (NAMA)** in recent decades and wondered how the leadership void left by the United States would be filled.

The Commission (DR) explained that the EU has been pushing for a new locus for cross-cutting discussions on e-commerce with a negotiating mandate, in which e-signatures, as an element of e-commerce, could be discussed. The EU will continue to engage on Doha mandated issues but will not re-affirm Doha as the WTO should be capable of discussing areas of interest to Members. On NAMA, the EU has made non-tariff proposals mandated under NAMA but COM noted that tariff liberalisation is achieved through other routes and the WTO's competitive advantage lies in rules. The position taken by the US will not prevent the EU from making proposals and moving ahead with like-minded Members. Our concern with the US is more

acute regarding the dispute settlement mechanism. Finally, Mercosur negotiations are ongoing and it remains to be seen when they will conclude.

The WTO (BK) reported that the business forum to be held on 12 December is at the initiative of the Argentine authorities and as such it is unclear whether it will be replicated at future conferences. Mr Kuiten noted that the drive for this and similar events comes from stakeholders and invited those present to take initiative in this regard.

The European Services Forum sought clarification on the **domestic regulation in services** proposal, renewal of the **e-commerce moratorium**, and **plurilateral outcomes in e-commerce**. The European Federation for Transport and Environment queried trade in services and the status of the **Environmental Goods Agreement (EGA)**, as well as whether **Brexit** would be discussed at the WTO. Business Europe asked whether progress would be made on the **Appellate Body** situation.

On domestic regulation, the Commission responded that the Chairs have circulated reports but the Geneva process has not produced a set of clean texts. Linkages across files will be important during the negotiations but it is at yet unclear what capacity MC11 will generate to have files converge. As it stands, there is still a lot of resistance to transparency/GRP on goods, even as regards notification of final measures.

Indonesia recently cast doubt on the renewal of the e-commerce moratorium. There is insufficient time to move towards a plurilateral outcome on e-commerce before MC11. Similarly, it is unlikely that there will be any movement on TiSA or the EGA as neither the US nor China is willing to move forward. The EU and the UK have started reaching out to the Membership on Brexit in order to re-establish the UK as a Member of the WTO with autonomous schedules, but it will not be discussed outside of the bilateral context at MC11.

The EU made a joint proposal with 23 Members to try to overcome deadlock on appointments to the Appellate Body but this has not achieved consensus and it is unlikely that the issue will be resolved at MC11. The WTO commented that the AB concern has surfaced before. The problem deserves time to be resolved, but as the Commissioner and WTO DG Azevêdo have articulated, there will be very serious consequences to the system if the vacancies remain unfilled.

The European Trade Union Confederation questioned the advantages of the **e-commerce proposal for SMEs**, highlighted the need for EU leadership in **sustainable development** and expressed hope that the business forum would not set a precedent. The European Economic and Social Committee sought clarification on the ramifications of failure to reach **a declaration at M11** and to what extent other Members are following the US. Eurochambres sought more detail on **inclusive trade**, including for SMEs.

The Commission commented that the EU will remain strong against the US blockage of the Appellate Body Members' appointment. The EU is open to discussion on Rule 15 but not to the extent that it challenges a fundamental aspect of the system. There is a split in the Membership as to whether the digital dividend outweighs risk of digital divide. The growth of e-commerce could help a wider range of economic operators compete such as SMEs in developing countries. Greater transparency is also of relevance to SMEs, and the EU will support a cross-cutting discussion on SMEs at MC11.

The WTO commented that business forum should not become a precedent; it is for stakeholders to push for greater involvement. The Argentine government is very private-sector oriented and there is internal competition between the three ministries in charge of the conference. Failure to reach a declaration would be dangerous at MC11 as the system is already fragile.

The Bureau européen de l'agriculture française sought clarification on the **baseline outcomes**. EuroCommerce asked whether **services incorporated into goods (mode 5)** was being discussed at WTO level.

The Commission responded that the e-commerce proposal is a set of issues for multilateral rule-making and is not exhaustive. Engagement on our other proposals remains very limited. Mode 5 is a conceptual discussion that is emerging but will not make it to MC11 agenda. There is also talk of clustering negotiations per sector and it is expected that the dichotomy between regulatory committees and negotiating groups will become more blurred.
