

**General Council Meeting
July 23-24, 2019**

Statement by India

Agenda Item 8: Strengthening the WTO to promote Development and Inclusivity – Communication from Bolivia, Cuba, Ecuador, India, Malawi, South Africa, Tunisia, Uganda and Zimbabwe (WT/GC/W/778)

Introduction and context

I have the pleasure to introduce our submission on WTO reform. The joint communication by the Plurinational State of Bolivia, Cuba, Ecuador, India, Malawi, South Africa, Tunisia, Uganda and Zimbabwe in document WT/GC/W/778 seeks to bring balance to the on-going discussions on WTO reform by reaffirming the importance of development to the work of this organization.

2. WTO reforms are now at the centre-stage of our discussions in Geneva. As the original proponents of reforms to correct the asymmetries in the covered Agreements, developing Members are more than willing to engage constructively in these discussions.

3. However, the reform agenda being propagated seeks to push a one-sided narrative with disregard for issues of importance and concern to developing countries, and erodes the core principles of consensus-based decision making, non-discrimination and S&D. Recent proposals to differentiate between developing Members; impose punitive strictures for noncompliance with notification obligations; and do away with S&D in negotiations on fisheries subsidies are illustrative of the lack of balance in the reform proposals that have been tabled. This needs to be remedied and soon. We need to have on the table reform proposals that reflect the views of developing countries including LDCs.

4. There has never been a greater need to ensure that issues of their interest are not side-lined in ongoing discussions on WTO reform. With a view to fulfilling this pressing need, the concept paper attempts to bring in balance and inclusivity to the discussions on reform, and to strengthen the WTO while taking everyone along.

Presentation of the developing country reform paper

5. Our concept paper reminds Members that the Marrakesh Agreement establishing the WTO recognizes that international trade is not an end in itself, but a means of contributing to certain objectives including ensuring that developing countries and LDCs secure a share in international trade commensurate with the needs of their economic development.

6. In order to be widely acceptable, discussions on WTO reform should be premised on the principles of inclusivity and equity, and not serve to widen existing asymmetries in the covered agreements. Our concept paper emphasizes that the

following issues must be addressed if the WTO is to be strengthened in a balanced manner:

i. Preserving the core values of the Multilateral Trading System

The core value and basic principles of the multilateral trading system must be preserved and strengthened, particularly with a view to building trust among Members.

Preserving and strengthening the WTO must include:

- Disciplining laws and regulations of WTO Members which mandate unilateral action on trade issues that are inconsistent with WTO rules.
- Strengthening the multilateral character of the WTO, especially through the preservation of the practice of decision-making by consensus and respecting Art X of the Marrakesh Agreement on Amendments
- Ensuring that plurilateral joint statement initiatives do not change the fundamental architecture of the WTO
- Correcting the existing imbalances in the covered agreements as mandated in the Doha Round by building on the work done so far, in accordance with existing mandates.

ii. Resolving the impasse in the Dispute Settlement System

- A functioning, independent and effective dispute settlement system is indispensable for preserving the rights and obligations of all WTO Members and for ensuring that the rules are enforced in a fair and even-handed manner. Without such a system there would be little incentive to negotiate new rules or to undertake reforms. Therefore, resolution of the Appellate Body (AB) impasse needs to precede other reforms.
- All WTO Members have a treaty-obligation to ensure the maintenance of a standing Appellate Body comprising of seven members as per Articles 17.1 and 17.2 of the DSU.
- Attempts at addressing the crisis in the Dispute Settlement Mechanism must preserve its essential features namely an independent, two-tier dispute settlement system, automaticity in the launch of proceedings and decision-making by the Dispute Settlement Body (DSB) by negative consensus, where provided. Developing Members' concerns about affordability and equitable access to the use of the dispute settlement system are also very important.

iii. Safeguarding development concerns

- Our concept paper reaffirms the centrality of Special and Differential Treatment (S&D) as a non-negotiable, treaty-embedded right for developing Members and LDCs. It is essential to preserve S&D for allowing developing Members the space to formulate their domestic trade policy, in a way that

helps them to reduce poverty, generate employment and integrate meaningfully into the global trading system.

- While developing Members have achieved progress on some economic indicators since the inception of the WTO, the old gaps in the levels of development are far from being bridged, and in some areas, have even widened. And, new divides, especially in the digital and technological spheres, are becoming more pronounced. How intellectual property is held, the way profits of MNCs flow, how global value chains are structured, the way value-addition in manufacturing is organized and financial flows happen, all show how little things have changed.
- Our paper highlights the important issues in the unfinished agenda of the WTO on development, which need to be implemented and addressed on priority. These include rebalancing the asymmetric rules of the Uruguay Round; strengthening S&D provisions in accordance with para 34 of the Doha Ministerial Declaration; addressing issues related to agriculture, especially cotton, domestic support, SSM and a permanent solution for public stockholding for food security. In the ongoing fisheries subsidies negotiations also, the disciplines should be fair, equitable and balanced. It is imperative to have an effective and appropriate special and differential treatment for developing countries providing them with adequate policy space to address their needs of development. The theft of traditional knowledge is another important issue that needs to be addressed in the reform process, as it adversely affects the interests of developing countries.

iv. Transparency and Notifications

- Any outcome on transparency at the WTO should take into account the capacity constraints faced by developing Members, and focus on addressing these difficulties through inclusive and mutually-agreed approaches. We cannot agree to the punitive approaches suggested by some Members in document JOB/GC/204 as a means to enforce transparency obligations. Members suffering from capacity constraints cannot be expected to take on additional notification obligations.
- Developed Members should lead by example in submitting comprehensive, timely and accurate notifications especially regarding their final bound AMS commitments, mode 4 market access commitments, Article 66.2 of the TRIPS Agreement and disclosure of origin of biological resources and associated traditional knowledge in patent applications.
- Transparency should permeate the full spectrum of the operation of the WTO, from its day-to-day meetings, as well as Ministerial Conferences.

- There is a need to take into account the resource constraints of small delegations by rationalizing the number of meetings at the WTO to ensure that there are no overlaps. In areas where there are active negotiations for outcomes, these meetings should as far as possible take place in formal mode, including having a minuted record of discussions.

Conclusion

- To conclude, our immediate priority in WTO reforms should be to resolve the ongoing impasse in the Appellate Body to address the unilateral measures as these pose serious existential challenges for the organisation. Any reforms must be development centric, preserve the core values of the system, strengthen the provisions of special and differential treatment in existing and future agreements and preserve the multilateral character of WTO.
