

## **India's Statement at Trade Negotiations Committee meeting at the level of Heads of Delegations held on 28<sup>th</sup> November 2017**

1. Thank you, DG, for convening this informal meeting of the TNC and for your report and assessment as the Chair of the TNC. Thank you also for outlining the organization of work at Buenos Aires.
2. We also thank the Chairs of the Negotiating Groups for their hard work and comprehensive reports.
3. At the outset, my delegation associates itself with the statement of the G33 delivered by Indonesia.
4. We are now approaching the last GC meeting before the forthcoming Ministerial Conference. During the last six months, considerable effort has gone into the many submissions and proposals we have seen in all areas of our work. In recent weeks, we have seen further intensification of discussion. However, there are still wide divergences both on substance and approach in many key areas.
5. Our discussions including in the recent exercise of drafting the Ministerial Declaration have also highlighted how difficult it is to reiterate principles that we have held dear since the birth of this organization. We are aware that some have sensitivities but we need to remember that all the world's eyes will be on Buenos Aires. If we equivocate, if our Ministers cannot reaffirm our commitment to multilateralism, development and inclusiveness, if we sacrifice mentioning our guiding principles or agreeing to work on Ministerial decisions and mandates in our Ministerial Declaration our silence will send out a message which will be louder than words; the echo of which will have far reaching repercussions on the credibility of organization, for years to come. Therefore, it is important for all of us to think about how best we can move forward without jeopardising the credibility of the system. It is in this context and spirit that I would like to enumerate India's priorities and position on various issues.

## **Agriculture**

6. Agricultural issues are some of the most important but also among the most complex issues in the WTO.

## **Public Stock Holding (PSH)**

7. A permanent solution on public stockholding for food security purposes is a priority for us and a large number of members in this organisation. A decision on this issue will signal WTO's commitment to the UN Sustainable Development Goal 2 and the fight against hunger and malnourishment across the globe.
8. We all know that there is a clear mandate and deadline for arriving at a permanent solution by December 2017. To fulfil this mandate the G33 has engaged constructively in an effort to arrive at a solution which is practical to implement and also takes into account the genuine concerns of members. A number of proposals have been submitted on this issue. However, with the Ministerial only two weeks away let me reiterate that we remain concerned at the excessively stringent transparency requirements and safeguards being proposed. We recognize the need for transparency provisions but these must be within reason and such as can be implemented by developing countries. The Norway-Singapore proposal tries to address some of our concerns. As regards safeguards, we believe that the language in the Bali Decision is overarching and attempts to add more conditions is unacceptable. Further, any permanent solution has to provide legal permanence through amendment of rules.
9. I would also like to reiterate that the mandate for a permanent solution on PSH flows from express ministerial decisions and has no link whatsoever, with the negotiations on domestic support.
10. The permanent solution has to be an improvement over the perpetual peace clause. Finally, a permanent solution on PSH has to be part of any substantive outcome at MC11. For us it is a gateway issue and we would like to caution that inability to deliver a permanent solution at MCXI, may lead us all to a spectacular failure at Buenos Aires and irreparable harm to the credibility of the WTO.

## **Domestic Support**

11. The Agreement on Agriculture provides considerable space and flexibility to a few developed members to provide huge trade distorting subsidies and further, to concentrate these subsidies on a few products without any limit. This is the mother of all trade distortions in agriculture trade and must be addressed. However, there is too much divergence among Members for an outcome on this issue at MC11. Some of the proposals may in fact further widen and perpetuate the imbalance between developed and developing countries. A post-MC11 work programme therefore, appears to be the best way forward with clear boundaries for discussions. Any meaningful reform in agriculture must first seek to reduce the disproportionately large subsidies of the developed countries, address product specific concentration and further, there must be no dilution of the special and differential treatment provisions for developing countries. To this end, we must begin by first eliminating the most trade-distorting forms of agricultural subsidies, namely, AMS. Our joint submission with China (JOB/AG/102) addresses this aspect and this issue has been supported by a large number of developing countries including those from G33 and ACP groups. Proposals that not only expect developing countries to share the burden but also reduce the S&D element are not acceptable to us.

## **SSM**

12. The G33 has made all efforts and engaged constructively through successive submissions on SSM highlighting the importance of this mechanism for many developing countries. This is an unfinished agenda that must be addressed as per the decision of our Ministers in Nairobi.

## **Cotton**

13. India would like to express its support to the efforts of the C-4 to achieve outcomes in this long pending area of the negotiations.

## **Development**

14. The recent drafting exercise of the Ministerial Declaration has brought to the fore some very fundamental issues. While there may be differences on how to achieve the objectives of the Doha Development Agenda, and Work Programme and there is

absolutely no ambiguity regarding its status. What is even more worrisome is that the centrality of development in the WTO is being questioned. We firmly believe that along with us a large number of members in this organization continue to attach significant importance to the development dimension of negotiations in the WTO.

15. Special and Differential Treatment for developing countries is a very important part of the WTO's mandate which needs to be carefully preserved without differentiating among developing Members.

### **Fisheries Subsidies**

16. India is home to two million subsistence fishermen and has sensitivities on the issue of prohibiting subsidies meant to preserve their livelihood. All the same, we have been engaging constructively in the negotiations for disciplines on fisheries subsidies. But, for a developing country like India where a large number of small, largely resource poor fish workers depend on traditional fishing activity as a source of livelihood, suitable special and differential treatment provisions would need to be built in while framing disciplines. Developing countries have limited capacity and resources and must be able to retain policy space for using these. We have also clearly stated that since a large number of fishermen in countries like India carry out fishing activities in the national jurisdictions up to the Exclusive Economic Zone, this area should also be excluded from the purview of the disciplines as far as unregulated, unreported fishing and prohibition of subsidies for overfished stocks are concerned.
17. Moreover, we cannot agree to any disciplines that would be in conflict with our existing domestic laws and regulations, both national and at the state level.

### **Services Trade**

18. We have engaged constructively and in an open manner with the proponents of the domestic regulation disciplines under GATS. India had made textual suggestions (contained in RD/SERV/145) in an effort to bridge the wide divergences which exist in this area. However, we find that the revised texts circulated by the proponents have not incorporated these suggestions; nor do they clarify issues

which have been raised by a large number of members including us and the African Group. It is therefore quite clear that this approach will not lead to any fruitful results or outcomes at MC11.

19. We are steadfast in our belief that DR issues in isolation will have little or no impact on trade in services unless specific measures are also taken to address the numerous difficulties which service suppliers, particularly, those of developing countries face in complying with the complex regulatory regimes of developed countries related to recognition of qualifications. Another area which is extremely vital for promoting trade in services relates to addressing entry related '*at the border measures*' for movement of professionals. Our initiative on Trade Facilitation in Services was a step in this direction to provide a comprehensive basis for looking at all issues of services trade in a balanced and holistic manner. Heeding to your call to have a moment of truth and prioritize issues we are not seeking an outcome on TFS but we propose that there should be a well-structured post MCXI Work Programme on services incorporating some elements of the Indian proposal for Trade Facilitation in Services, including those related to Mode 4, as well as DR disciplines as per the Chair's Reports of 2009 and 2011. This, we believe would be the best way to move the services agenda forward at Geneva.

## **TRIPS-CBD**

20. For the post MCXI WP, we suggest the inclusion of TRIPS-CBD to take forward mandatory disclosure requirement for genetic resources and traditional knowledge in patent applications along with prior informed consent and benefit sharing.

## **E-Commerce**

21. India has submitted a draft Ministerial Declaration on E-commerce in a spirit of positive and constructive engagement to continue the substantive work which has been done under the exploratory and non-negotiating mandate of the current Work Programme. It is our view that we should continue to engage in in-depth discussions in the relevant subsidiary bodies to understand the complex dimensions of e commerce and also the digital divide which exists between the developing and developed countries.

22. We have made it explicitly clear on numerous occasions that we would not be open to any suggestions for engaging in rule making on E-commerce, as we feel this is highly premature. We firmly believe the benefits of E-commerce should not be confused with the gains of rulemaking on E-Commerce. We believe that rule-making at this stage could lock in the asymmetry and imbalance in this area, with the nascent E-commerce enterprises of developing countries like ours having to compete with global giants with the playing field tilted against them permanently. Further, we see everyday how our MSMEs that are engaged in e-trade face the unfair market power of monopolistic and dominant electronic platforms in pricing of their products. Therefore, it is our considered view that for a large section of the membership it would be beneficial to continue our engagement in the existing work programme which provides for discussions on all aspects related to E-commerce in the subsidiary bodies, as well as periodical review by the General Council. We cannot support any attempts to create new structures or '*tinker with*' the existing mechanisms of discussions as laid down in the 1998 work programme on E-commerce.
23. We have, in our e-commerce proposal, kept a place holder in our proposal on the moratorium on electronic transmission. We can agree to an extension of the moratorium for another two years subject to two conditions. One, a similar renewal for two years of the moratorium on TRIPS Non-violation and Situation Complaints and two, on an agreement on the continuation of the Work Programme on e-commerce, with all these decisions being taken together.

## **New Issues**

24. Mr. Chair, India has, on several occasions, explained its reservations on the introduction of new issues such as Investment Facilitation and MSMEs in the WTO till issues under the Doha Work Programme are addressed. India, therefore, believes that investment, including investment facilitation, is not an issue that can be discussed at the WTO and given the sensitives of many members it would not be desirable to seek an outcome on this issue at MC11.
25. On MSMEs, India has consistently highlighted that the existing rules in the WTO are neutral to the size and nature of the businesses.

This issue remains fundamental to the discussion on MSMEs. Therefore, there is no basis for engaging on discussions on MSMEs. Consequently, we firmly believe that this along with IF is not an area for discussing or deliberating at the Ministerial or even for a Working Group or Work Programme.

## **DSB**

26. We along with many other members are concerned about the ongoing impasse and the inordinate delay in the selection process for appointment of appellate body members. India believes that such an impasse could seriously undermine the credibility of this organisation and also effect the functioning of the appellate body which is a key pillar of the WTO. Therefore, we urge all members to constructively engage to address this issue on priority.

## **Conclusion**

27. To conclude, Chair, we strongly feel that the issue of permanent solution for PSH is a must have for us at MC-11 as it has an express mandate and deadline. This cannot be held hostage to linkages which have never existed in the past.
28. We believe that issues like Investment Facilitation, MSMEs, and Gender which have do not have mandates or place in the WTO should be kept out of our discussions at the Ministerial.
29. Chair, we also wish to highlight that the forthcoming Ministerial Conference is being held at a particularly difficult time and context for this organisation. This is not the opportune time to enter into contentious and divisive debates by seeking ambitious outcomes in E-commerce.
30. It is also important that at the Ministerial we have no hesitation in reaffirming principles, past mandates and decisions for the continuity of work and credibility of this organisation. India also believes that development is part of the basic structure of WTO.
31. Finally, let me categorically reassure you that India stands committed to constructively engaging at the ministerial for strengthening the multilateral rule-based trading system. However, we believe that only proposals that are mature should be brought

before Ministers and they should not be made to engage in discussions related to texts and technical matters.

32. We thank you, Chair and request that our statement is made part of the record of the General Council Meeting on 30 November, 2017.

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