

**India's Statements at the General Council meeting held on
7th May 2019**

'Informal Process on Appellate Body Matters'

- A. We would like to join in warmly welcoming Ambassadors of Sri Lanka and Nepal who have recently joined.
- B. We would also like to thank Ambassador Walker for his report on the Informal Process related to the Appellate Body.

General points

1. There is a growing desire among many Members to reform the WTO. We believe we could kickstart the process of reforms by finding a solution to the impasse of filling up of Appellate Body vacancies.
2. Since the last GC meeting, we have had several meetings under the Informal Walker Process on Appellate Body matters, where many Members have submitted proposals. We thank all Members who have made submissions on this critical issue and support the informal solution seeking process. Keeping in view the urgency of this matter. It is now imperative for the Member who has major concerns with the functioning of the Appellate Body, to express its views on various proposals tabled and engage substantively in finding a solution.
3. Without going in to specifics of the 11 proposals the table I would only like to underline one interesting point. The interaction or the dialogue mechanism between the DSB and Appellate Body, has been suggested in almost all the proposals. The so called 'gripe session' originally proposed in the proposal W/752 which we have co sponsored seems to be gaining traction. However, it will require an elaborate mechanism to operationalise, keeping the independence of the Appellate Body and avoiding any undue pressure on its members.
4. Finally, we again call on all Members to try to converge on a solution and to respect their treaty obligations under Article 17.1 and 17.2 of the DSU for maintaining a standing Appellate Body and filling up its vacancies as they arise. It would be insincere and hypocritical on our part to use the pretext of the Appellate Body's alleged digression from the mandate of the DSU to justify our wilful non-compliance with the same.

'Procedures to Strengthen the Negotiating Function of the WTO'

1. Chair, India is disappointed by this resubmission by the United States and the slant of the communications tabled by the US in WTO documents WT/GC/W/757/Rev.1 and WT/GC/W/764 on the sensitive issue of development.
2. This morning the United States repeated its statement made at the last GC meeting. And now we have a repeat proposal. We may be excused for saying what is going on and are there no new ideas?
3. In this context, we would like to reiterate our position stated in the last GC meeting that Special and Differential Treatment (SDT) for developing Members and LDCs is an unconditional right. It recognizes the enormous difference in the levels of development between different Members of the WTO, and allows developing Members the space to formulate their domestic trade policy to reduce poverty, generate employment and integrate meaningfully into the global trading system. Over the past five decades, this has formed the basis for the concept of SDT and less than full reciprocity under the GATT and WTO. We need to firmly keep this in mind.
4. While developing Members have achieved progress in some economic indicators since the inception of the WTO, old gaps are far from being bridged or have even widened, while new divides have emerged, especially in the digital and technological spheres. In view of the gaping divide between our levels of development, it would be grossly unfair and iniquitous if developing countries were required to take the same obligations as developed countries. Against this backdrop, attempts by the United States paper, to cherry-pick and employ selective economic indicators to deny the persistent divide between developing and developed Members, are profoundly worrisome.
5. Further, as pointed out by the UNCTAD, most SDT provisions in the WTO covered agreements are imprecise, unenforceable and in the form of 'best endeavour clauses.' Therefore, the assertion that onerous SDT obligations are making the WTO irrelevant is untenable. Moreover, while Members can declare themselves as developing, their specific rights and obligations are still subject to negotiations.
6. Moreover, nothing could be farther from truth than the claims that WTO rules apply only to a few the developed countries. In fact, as pointed out earlier, there exist several 'reverse SDT provisions' in the covered agreements providing explicit carve-outs to developed Members benefiting them at the expense of developing Members. These include waiver from some of the key obligations especially in the area of agriculture and textiles, sectors of export interest for LDCs & developing countries, for almost 40 years.

7. It is also incorrect to blame the self-declaration of development status as the reason for the lack of progress in negotiations. In fact, negotiations are stalled in the WTO due to the inability of the developed Members to abide by the agreed negotiating mandates of the Doha Round and the progress made thereunder.
8. In view of the above, India cannot agree to the premise of US paper in W/757 Rev.1 or to the proposals made in W/764. We also agree with the South Africa that the GC is not the right forum for this debate and the mandate of the para 44 of the Doha Ministerial Declaration needs to be respected. We would also like to caution that efforts to raise such a divisive issue at a difficult time for the WTO, is not only going to be polarizing but also put us at a risk of a gigantic train wreck.

'Pursuing the development dimension in WTO rule-making efforts'

1. We thank Norway for the efforts in preparing their proposal.
2. India notes the assertion in the Norway's paper that negotiating criteria for designating Members' access to S&DT is unlikely to be productive.
3. At the same time, it is not clear to us as to what exactly are the fresh and creative approaches suggested by Norway on S&DT for developing countries. Is it suggesting 'no S&DT' or is it suggesting 'S&D on case by case basis' or is it proposing 'S&D as per the capacity of individual Members, including not availing of S&D by the concerned developing Member on voluntary basis'? Or something else. We will look forward Norway to elaborating on these aspects.
