

**General Council Meeting**  
**22-23 November 2021**

**Statement by India – Delivered by Ambassador & PR to the WTO**

**Agenda item 11: ‘THE LEGAL STATUS OF ‘JOINT STATEMENT INITIATIVES’ AND THEIR NEGOTIATED OUTCOMES ‘BY INDIA, SOUTH AFRICA AND NAMBIA (WT/GC/W/819/REV.1)**

Thank you Chair for giving me the floor.

2. Chair, the Tokyo Round plurilateral codes created a fragmented system of rules. While in respect of some contracting parties, the GATT rules were applicable in respect of others rules of plurilateral codes were applicable. This created considerable complexity in determining what obligations were applicable in respect of which contracting party.

3. Recognizing problems created by the fragmented system of trade rules, WTO Members sought an end to this problem. This has been clearly articulated in the following recitals of the Preamble to the Marrakesh Agreement – “Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system ....” and “Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system.”

4. Chair, on this issue, the Appellate Body in one of the earliest disputes under the WTO, Brazil – Desiccated Coconut, had observed "The authors of the new WTO regime intended to put an end to the fragmentation (emphasis added) that had characterized the previous system. This can be seen from the preamble to the WTO Agreement which states, in pertinent part: Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations."

5. Going back to plurilateral agreements would, therefore, be a step in the wrong direction, and would be contrary to such clear resolve and determination enshrined in the Preamble of the Marrakesh Agreement.

6. Chair, as co-sponsor to this paper, my delegation would like to reiterate again that we are not questioning the right of Members to meet and discuss any issue. What we are saying is that when such discussions turn into negotiations and their outcomes are to be brought into the WTO rule book, fundamental rules of the WTO must be followed.

7. More importantly, any attempt to introduce new rules, resulting from JSI negotiations, into the WTO rule book without fulfilling the requirements of Articles IX and X of the Marrakesh Agreement will create a precedent for any group of Members to bring any issue into the WTO without the required consensus; bypass the collective oversight of Members for bringing in any new rules or for carrying out amendments to existing rules; usurp limited WTO resources available for multilateral negotiations; undermine balance in agenda setting; and most importantly result in Members disregarding existing multilateral mandates arrived at through consensus, leading to marginalization or exclusion of issues which are

difficult but critical to Membership at large, such as agriculture. We have seen in the last one month that Negotiating Groups are not getting rooms but JSI meetings are taking place in Council Room. Meetings of WTO Response to Pandemic facilitation process were taking place on Zoom platform because of non-availability of Interprefy or this being very costly but at the same time, Interprefy was used for JSI meetings.

8. Chair, our paper only states that basic fundamental principles and rules, of rule based multilateral trading system, as enshrined in the Marrakesh Agreement, should be followed by all Members, including the participants of various JSIs.

I thank you Chair.

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## **Statement at the End of Discussion on this Agenda Item:**

Thank you Chair for giving me the floor again.

2. Chair, my delegation would also like to thank Members for their engagement today on this agenda item. During discussions today we again heard a number of delegations stating that they do not agree with the contents of the paper. However, we are yet to hear any legal basis for their disagreement. We would urge these Members to express their views more explicitly on various elements of our paper
3. Chair, at the cost of repetition our paper only states that Members need to follow the foundational rules of the rule based multilateral system, as enshrined in the Marrakesh Agreement.
4. Thanks for explicitly stating that purpose of bringing reform paragraph in outcome document is to streamline JSI into WTO framework. Blocking text based negotiation in TRIPS Council - is it re-vitalizing negotiating function ? Blocking G90 proposal in CTD-SS - is it re-invigorating negotiating function ? Blocking PSH – permanent solution discussion in CoASS – is it towards money ?
5. It is not political, it is a legal paper. It is not that mandated issues will be buried as it is not liked by certain Members, and new issues will be brought in.

Thank you Chair.

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