
US Wants Do-Over on WTO DG Process

The United States is urging that the process to choose a new World Trade Organization Director General be reopened, US Trade Representative Robert Lighthizer said in an interview with the BBC.

The WTO needs “someone with real experience in trade,” Mr. Lighthizer was quoted as saying in the interview.

Former Nigerian Finance Minister Ngozi Okonjo-Iweala has widespread support among WTO members. But the United States blocked her selection from moving forward.

Washington continues to push for the appointment of South Korean Trade Minister Yoo Myung-hee – the only other remaining candidate – despite the fact that she failed to garner the same level of support as Ms. Okonjo-Iweala.

With the Trump Administration unwilling to back down from its opposition to Ms. Okonjo-Iweala in its final weeks, it appears it will be left to incoming President Joe Biden to end the stalemate.

In the meantime, the WTO remains without a Director General as the organization struggles to maintain its relevance during the global COVID-19 pandemic.

Little Support for US WTO Reform Plan

Geneva – The United States, Japan and Brazil yesterday failed to elicit support from many World Trade Organization developing countries members for their proposal to advance market-oriented conditions in the global trading system – that already had been rejected at a previous General Council meeting in October, WTD has learned.

During another daylong GC meeting, the WTO members remained sharply divided on all issues, as the mood in the meeting hall seemed to be sullen and downbeat, according to participants who spoke at the meeting.

At the meeting, outgoing US trade envoy Ambassador Dennis Shea introduced the proposal on the importance of the market-oriented conditions to the global trading system, saying that “market-oriented conditions are essential to solving the problems we face.”

Washington, he said, sees “the WTO is an appropriate place for Members to work to address these problems of non-market conditions that undermine fair trade.” “To say that the WTO is not the place to discuss these concerns is really to assert that the WTO is and should be irrelevant,” is disagreeable, Ambassador Shea said.

“The elements and criteria identified in our joint statement with Brazil and Japan are essential to ensuring that market-oriented conditions exist across sectors – not just in steel – so that all market participants compete on a level playing field,” he continued.

Relevance of WTO

Ambassador Shea cautioned that “the continued relevance of the WTO will depend on whether it can deliver on the promises of a world trading system based on open, market-oriented policies.” Further, “the success of our reform efforts will depend on our ability to ensure the fundamental premise of free, fair, and mutually advantageous trade remains intact,” he argued.

He said Washington would submit the joint proposal “for consideration during the upcoming Structured Discussions on Trade and Sustainability.” Moreover, “the draft Ministerial Conference Decision aims to reinforce our view that failure to adopt, maintain, implement and effectively enforce laws and regulations that ensure environmental protections at or above a threshold of fundamental standards constitutes an actionable subsidy under the Agreement on Subsidies and Countervailing

Measures.”

In a sharp response, China’s trade envoy Ambassador Zhang Xiangchen criticized the joint proposal, insisting that what needs to be discussed in today’s world are “1) who is actually going against this common sense? 2) Who is undermining the common rules of the international market, such as the “Most-Favored-Nation” principle? 3) who is artificially altering and impeding the international flow of production factors? and 4) And who is bringing WTO back to the ages of ‘might is right’?”

Commenting on the US trade envoy’s mention of recommendations contained in the Report of the Global Forum on Steel Excess Capacity, the Chinese envoy said “the question immediately comes to my mind is who is taking measures in the name of national security to distort normal trade in steel sector?”

Ambassador Zhang said “if we cannot have a clear answer to these questions, and if we, as WTO members, cannot take effective measures to undo the damages and prevent future disruptions to the system, empty talks about market orientation is nothing but a quixotic quest that leads us to nowhere.”

Casting doubts on Ambassador Shea’s remarks that Washington wants to ensure “fair competition and a level playing field; not interfering with the ability to govern,” the Chinese envoy said the US proposal is “an extension of the ‘non-market economy’ standard in countervailing investigations under the US domestic law.”

“These unilateral actions have made a lot of companies both from China and other developing members suffer from unjust duties, affecting millions of jobs,” the Chinese envoy maintained.

The US proposal was supported by the EU and the members of the Ottawa Group, while developing countries such as South Africa and India among others disagreed with the fundamental aspects of the proposal.

Developing Country Opposition

South Africa’s trade envoy Ambassador Xolelwa Mlumbi-Peter maintained that “While as a principle, we agree with the importance of promoting market-oriented policies, we reiterate that most if not all WTO Members have mixed economies and intervene in the economy to achieve a developmental mandate.”

She cited the regulatory failures that occurred in 2008 financial crisis, arguing that “whilst the role of the market is important, government policies are required not only to address market failures but to also achieve development objectives.”

The South African trade envoy pointed out that “in the context of COVID-19...many governments have stepped in to support businesses as well as give direction, incentives and subsidies regarding production decisions.”

“In some cases governments had to step in and direct companies to produce much needed equipment such as ventilators, and some governments also have laws that give them authority to control the allocation of supplies, as well as order manufacturers to boost production,” she said

The South African trade envoy said the WTO consists of diverse countries with different levels of development, national challenges and development priorities. She suggested “the WTO was never conceptualized as a forum that will define nor change economic models of Members.” Lastly, “In view of the peculiar challenges facing each country, the WTO should not attempt to define the economic model that countries should follow,” and “this is not its role nor an area it should venture into,” she argued.

Washington also faced intense opposition to its proposal on procedures to strengthen the negotiating function of the WTO by introducing differentiation for availing special and differential treatment among developing countries, which was already blocked more than three times successively at the General Council meeting, a participant said.

The United States, European Union and other developed countries raised questions on proposal from LDCs proposal that would give countries that graduate from LDC status an additional 12 years of LDC-specific support measures.

The LDC proposal, introduced by Chad yesterday, calls on members to approve the following measures:

- Support measures available to least developed countries shall be extended to a least developed country Member for a period of twelve years after the entry into force of a decision of the UN General Assembly to exclude the Member from the least developed country category.

- The support measures covered under this decision include all special and differential treatment measures and exemptions available to a least developed country under existing and future WTO Agreements, Understandings, Ministerial, General Council and other relevant Decisions;
- If a decision of the UN General Assembly to exclude a least developed country Member from the least developed country category enters into force during a transition period for LDCs provided under any existing or future WTO Agreements, Understandings, Ministerial, General Council or other relevant Decisions, the Member shall be entitled to utilize the remaining period of delay provided for LDCs.
- Developed and developing countries granting unilateral trade preferences to least developed countries shall establish procedures for extending and gradually phasing out their preferential market access scheme over a period of twelve years after the entry into force of a decision of the UN General Assembly to exclude a country from the least developed countries category.
- After the transition period provided under paragraph 1, a graduated LDC Member shall automatically benefit from the most favorable special and differential treatment granted to other developing countries Members.

US Questions LDC Proposal

Responding to the LDC proposal, US trade envoy Shea maintained that more clarity is needed from the LDC group about the “mechanics of the twelve-year extension in Paragraph 1.” Washington sought to know from the LDC group whether “the twelve-year period in Paragraph 1 of the draft Decision overlap with the nine-year graduation process at the UN, or would the twelve-year extension begin after the nine-year graduation process?”

Ambassador Shea said Washington “would like to better understand whether the LDC Group is pursuing changes to the graduation process that would address its goals.” Finally, he wanted to know whether “under the proposal, a newly graduated LDC could have similar or even higher development indicators than some non-LDC developing countries,” suggesting that the graduating LDC would receive more benefits at the WTO than the similarly situated non-LDC developing countries. “Has the LDC Group considered this scenario?”

The European Union and Switzerland among others raised several questions on the LDC proposal, seeking more consultations next year. However, many countries supported the proposal, according to participants present at the meeting.

China lent its support to the LDC proposal saying that the LDCs “are still facing tremendous challenges and high vulnerability even after graduation, and their economic and social development cannot be accomplished overnight.”

Chinese envoy Ambassador Zhang said Beijing “acknowledges the significant importance of the principle of smooth transition of graduated LDCs introduced by the UN General Assembly,” arguing that “the WTO has a central role to play in providing a sound policy environment and regulatory framework for the sustainable development of the vast number of developing countries, especially the least-developed ones.”

China, he said, “supports that more care and greater attention should be given to developing countries suffering difficulties in fostering development and economy transformation, including exploring a way forward to realize smooth transition of the graduated LDCs and further integrate into the multilateral trading system, as requested by the LDC group” in their proposal.

US Shoots Down Trade & Health Initiative

Geneva – Members of the Ottawa Group of countries yesterday suffered a major setback on their trade and health initiative, after the United States, South Africa, Pakistan, India and Fiji shot down the proposal on various grounds, WTD has learned.

While the proposal failed to gain support, Ottawa Group members intend to continue pursuing it, participants at the meeting said.

European Union trade envoy Ambassador Machado made a strong pitch for the specific actions proposed in the proposal covering “export restrictions, trade facilitation, technical regulations, tariffs, transparency and review, and call for the WTO to enhance its cooperation with other relevant international organizations, such as WHO, WCO, OECD as well as G20, given the context of the

on-going evaluations of the global response to COVID-19.”

The EU trade envoy insisted that the proposed “actions are not intended to be prescriptive and do not cover the universe of possible measures that could support trade in essential medical goods,” suggesting that they “reflect emerging best practices and should provide sufficient flexibility to be adapted to differing national circumstances.”

Emphasizing that “multilateral outcomes generate the greatest possible common good,” the EU proposed two-step” process in the form of joint statement of all members to be adopted in early 2021, and the second step being starting negotiations on “new WTO commitments, which, ideally, could be concluded at the 12th Ministerial Conference”

The EU said, some of the signatories to its proposal have “signaled an interest in exploring commitments relating to tariffs in the healthcare sector and liberalization of relevant logistics, distribution and transport services, among others.”

US Challenge

But the US challenged the proponents, saying the latest Trade Monitoring Report by the Secretariat, which was discussed in the TPRB last week, included these assessments:

- “Members have generally expressed and followed a commitment to ensure that trade could flow freely during the pandemic.”
- “Most of the COVID-19 related measures taken on goods since the outbreak of the pandemic were trade-facilitating.”
- “In the services sectors heavily impacted by the pandemic, most of the 124 COVID-19 related measures adopted by WTO Members appeared to be trade facilitating.”

Against this backdrop, US trade envoy Dennis Shea said “ it’s not clear what problem the cosponsors aim to solve, nor how the proposed measures would solve that problem.” He called for “deeper reflection,” suggesting that “supply chain resiliency doesn’t seem to be about lowering tariffs, or increasing Secretariat monitoring, or encouraging vague cooperation between the WTO and other IOs (international organizations).”

Against the backdrop of the worsening pandemic, the US envoy questioned “the prudence of asking Members to put new constraints on their rights under the WTO Agreement – not to mention on their duty – to undertake measures to protect human health and life.”

The US asserted that “WTO rules may not have been drafted with a pandemic at front of mind, but our initial observation is that the WTO Agreement seems fit for purpose, arguing that “Its (WTO rules) balance of rights and obligations, if adhered to by Members, will continue to provide stability and predictability as we navigate this very difficult period and, finally, recover.”

TRIPS

In a sharp response to the Ottawa Group’s proposal, India suggested that the “co-sponsors take concrete steps in ensuring that pharmaceutical companies who own the IP rights and related knowhow in C-TAP (COVID-19 technology access pool) to share without any hurdles.”

India’s trade envoy Ambassador Brajendra Navnit said while India encourages the use of TRIPS flexibilities and voluntary license initiatives, members need to recognize that they fall short of addressing the massive demand for therapeutics and vaccines. Commenting on eliminating export restrictions, India said it ensured equitable access for access to medicines during the COVID-19 pandemic.

Responding to the EU’s joint proposal, South Africa’s deputy trade envoy Mustaqeem Da Gama cited the analysis of the WTO Secretariat that shows “Germany, the United States (US), and Switzerland supply 35 percent of medical products,” while “China, Germany and the US export 40 percent of personal protective products.”

Further, “breathing apparatus, including respirators and ventilators, are supplied by a small number of Members notably, Singapore which has 18 percent market share, followed by the US with 16 percent, Netherlands 10 percent and China 10percent,” Mr. Mustaqeem said, suggesting that “trade in the products to be liberalized is concentrated among a few players.”

While agreeing with the proponents that a global health crisis requires a coordinated global response for the common good, the South African trade negotiator argued that “the actions advanced by the proponents will not result in equitable outcomes in the long run.” He maintained that “the effective global cooperation that will promote a common good is one that ensures that the treatment for COVID-19 is accessible and affordable to the world as a public good.” He said “the WTO can start by

ensuring that IP is not a barrier to this objective, arguing that “over dependence of Africa on imports of medicinal and pharmaceutical products subject African healthcare systems to serious vulnerabilities, which is further exacerbated by overwhelming social and economic consequences of COVID-19.”

Indonesia’s trade envoy Ambassador Symsul Bahri Siregar lamented that the substantial problems governments faced during these challenging times is the lack of global solidarity in ensuring “equitable, affordable, and timely access” to essential medicines. Ambassador Siregar said the joint proposal improperly discusses access to health under the purview of the TRIPS agreement, the draft elements in the joint proposal fall short in providing action-oriented initiatives that are related to TRIPS.

Pakistan and Fiji opposed the joint proposal saying it simply fails to address the central problems arising from the pandemic. Pakistan, which is co-sponsor of the TRIPS waiver proposal, said that the waiver could address the main problems arising from the COVID-19 pandemic.

India Questions WFP Exemption

Geneva – India has sought clarity on some fundamental issues concerning the draft World Trade Organization General Council decision on the exemption from export restrictions on foodstuffs purchased by the World Food Program and issues concerning the amended Bali peace clause, a move that would require serious negotiations before taking any decision at this juncture, WTD has learned.

Members of the Ottawa Group led by Canada and many developing countries have stepped up their efforts for a GC decision on export prohibitions as a confidence-building measure to demonstrate that the WTO is cable of delivering outcomes.

India, Pakistan and several other countries had earlier raised serious concerns that the draft decision could adversely affect their food security programs.

India asked the proponents two questions late Tuesday. The questions are:

- Since the objective of this draft decision is to make food aid available to the most vulnerable people in times of a crisis, will this decision also encompass the provision of exports to the WFP (World Food Program) from the PSH (public stock holding) stocks of a supplying Member can part with some of their PSH stock for humanitarian procurement by the WFP jeopardizing their own domestic food security. After all food is food, and it should not matter which stock it is coming out of as long as the exports are for a non-commercial, humanitarian purpose.

- Given the food security objective of the draft decision, we would like to understand if this Decision includes bilateral, non-commercial, humanitarian food assistance provided by a supplying country to its neighboring countries/region out of PSH stocks?

Food Security

India said that a strong meaningful and balanced outcome on food security as part of the draft Decision must include the following two essential elements:

- 1) necessary safeguards that provide comfort to supplying Members that their own food security will not be jeopardized as a result of this Decision and

- 2) widening the scope of food aid in the Decision to include bilateral food aid for humanitarian purposes from PSH stocks, along with food aid channeled through the WFP.

Earlier, in their proposal (Job/Ag/125) before the Buenos Aires meeting, Singapore and Norway proposed that “any developing Member seeking coverage of programmes shall ensure that stocks procured under such programmes do not distort trade or adversely affect the food security of other Members.”

Singapore and Norway also included a footnote to their proposal saying that “this provision shall not apply for food purchases by the World Food Programme for non-commercial humanitarian purposes.”

Therefore, the proponents of the WFP proposal – particularly Norway and Singapore – need to provide an assurance to the developing countries with regard to their access to the Bali peace clause when they facilitate WFP purchases through their food stocks, said a negotiator who preferred not to be quoted.

Apparently when some developing countries sought to include their food security-related aspects in the draft WFP decision, Canada and Singapore indicated that their view will be incorporated in the preamble, but not in the operating part of the decision, the negotiator said.

In the draft revised decision, the proponents led by Canada and Singapore claimed the decision will ostensibly help the WFP during the COVID-19 pandemic, said a negotiator who asked not to be quoted.

The draft decision says that 1) “members shall not impose export prohibitions and restrictions on foodstuffs purchased for non-commercial humanitarian purposes by the World Food Program,” and 2) “it is understood that Members’ food security shall not be jeopardized as a result of these purchases.”

Rep. Plaskett to Join Ways & Means

Rep. Stacey Plaskett (D-VI) will be joining the House Ways and Means Committee in the 117th Congress, committee chairman Richard Neal (D-Mass) announced yesterday.

Rep. Plaskett will be the first representative of a US territory to sit on Ways and Means.

“Stacey Plaskett is an excellent addition to the Ways and Means Committee who will bring a strong voice for the US territories to our work, ensuring those Americans have a key seat at the table on some of the most important issues Congress undertakes,” Rep. Neal said.

Around the Globe

- The UK and the United States are hoping to reach an agreement on reducing trade tariffs, according to Robert Lighthizer, the US trade representative in Donald Trump’s outgoing administration. In an interview with the BBC, Lighthizer said he was in talks with the UK’s international trade secretary, Liz Truss, which could remove hefty tariffs imposed by the US on goods including Scotch whisky.

“I’m hopeful we can get some kind of an agreement out you know, we don’t have a lot of time left,” Lighthizer said. His comments come just days after the UK dropped EU tariffs on plane manufacturer Boeing, setting it at odds with the rest of the bloc, in the hope of securing a quick post-Brexit trade deal with Washington. The US and EU have been locked in a long-running trade dispute over subsidies to Airbus, Boeing’s bitter European rival, and the US planemaker.

However, the US trade representative suggested the UK’s decision to abandon tariffs on Boeing did not go far enough, and was not considered to be a concession, because after leaving the EU, Britain would not have the right to impose retaliatory tariffs on the US.

Discussions surrounding a UK-US trade deal range much wider than aerospace or the provision of subsidies. The US has long targeted better access to UK agriculture, although the UK government announced in November that it would not allow chlorinated chicken from the US, or hormone-fed beef, on to UK supermarket shelves. This was seen as a refusal of US demand for animal welfare standards to be lowered as part of a trade deal. “The US needs to get additional access to the agricultural market in the UK – that’s an important part of it; each side has to get something out of it,” Lighthizer said. He added “These are complicated technical issues. And they’re the kinds of things that will be worked out, I think, in the final stages of negotiation.”

Despite various potential obstacles, Lighthizer said he believed they could be “sorted out here probably in the next two or three weeks or so ... ”

- There are still “big differences” preventing a trade deal between the EU and UK, the European Commission president has said following talks with Boris Johnson. Ursula von der Leyen spoke with the prime minister over the phone on Thursday evening, when the pair “took stock” of negotiations, which have been continuing throughout the week up against a new deadline.

But there was no sign of a breakthrough as she warned that bringing the divide, particularly on fishing, would be “very challenging”. A Downing Street spokesperson said the prime minister had underlined during the conversation that talks were “now in a serious situation” and that it “now looked very likely that agreement would not be reached unless the EU position changed substantially”. Mr Johnson was said to have branded the EU position on fisheries in particular as “simply not reasonable” and said the UK had moved to accommodate the bloc on the level playing field, even though “some fundamental areas remained difficult”.

On Thursday morning, EU chief negotiator Michel Barnier told senior MEPs that a deal was

possible over the next few days, though UK sources have been consistently less upbeat and say there are still key differences in major areas. The latest top-level conversation took place via telephone, in contrast to an in-person visit by the prime minister to Brussels last week. Negotiations between the two teams of officials are however continuing in person in the Belgian capital.

- Nikkei reported that initially a small trade agreement signed by four Pacific Rim countries – Brunei, Chile, Singapore and New Zealand – the TPP-11 has suddenly turned into something of an exclusive club that nations are clamoring to get in. But next year's chair of the trade pact, Japan, will be the gatekeeper upholding the strictest standards. Formally known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, the TPP-11 has recently attracted interest from a wide range of countries from the U.K., which has expressed its interest in joining next year, to Thailand and even global trade powerhouse China.

Beijing's interest in particular has raised flags, given its growing influence over trade in the Asia-Pacific, as well as its stance on state-owned businesses and intellectual property. “There are 11 members to the TPP, and new countries cannot just join without their approval,” Japanese Prime Minister Yoshihide Suga said last week. “There's a big hurdle” for new membership, he said. “We'll think about it strategically as we respond.”

Japanese Foreign Minister Toshimitsu Motegi on Tuesday stressed that the TPP-11 sets high standards for regulations on e-commerce, intellectual property and state-owned enterprises. “We need to ensure that any new member is prepared to meet these standards,” he said.

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On the Web.....

Agriculture

Mexico. Agriculture Department Foreign Agricultural Service Global Agricultural Information Network report on decline in US agricultural exports to Mexico because of COVID-19. (Available at: <http://www.gain.fas.usda.gov>) issued: 12/17/20.

Latin America

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US Export-Import Bank

G7. US Export-Import Bank statement on G7 heads of export credit agencies meeting. (Available at: <http://www.exim.gov>) issued: 12/17/20.

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