

**General Council Meeting
25-26 July 2022**

Statements Delivered by India

**Agenda Item 1 REPORT BY THE CHAIR OF THE TRADE
NEGOTIATIONS COMMITTEE AND REPORT BY THE
DIRECTOR GENERAL**

**Agenda Item 2: IMPLEMENTATION MATTERS FROM MC12
MANDATE**

1. Thank you, good morning, Chair, Director General and good morning colleagues. First, let me take this opportunity to acknowledge and congratulate incoming Ambassadors and give my best wishes to outgoing PRs and Ambassadors to WTO. Chair particularly, if I recall, Stephen is known for his generosity and is a benchmark for a good host. So certainly, all, or maybe some of us may miss the breakfast meeting, lunches and dinners which Stephen used to host. Harald and I had a long conversation during our Trade Policy Review meeting back in January 2021. And recently just prior to Ministerial Conference, you had given me an opportunity to discuss with you gender and trade related issues, particularly with respect to the Outcome Document. I can just give you one news which may be of interest and you may like to write about it. This morning India has been privileged to have a newly elected President. A couple of hours back, Madam Droupadi Murmu has taken over as the 15th Indian President. In our Prime Minister's word "It's a watershed moment, particularly for the poor, downtrodden and marginalized sections of society".
2. The departing Ambassadors, I do know, they are from non-cricket playing nations, but most of them will be now familiar with a few words or phrases relating to cricket because we have had good discussion on cricket in this august house. So, if I recollect, I would say that for you, the tenure was like test match, for over five or six days, because some of you are here for four, five or six years. You might have felt disappointed in 2017 when similar to the same days of a test match, when there was no result and it feels like a boring, dull long drawn test match. Then you had maybe four years of rainy season similar to a washout because of the pandemic and the

play was not allowed .i.e. MC12 got repeatedly postponed. But I can tell you that you must be going back with a sense of pride and accomplishment after the final day of the play that was MC 12, and you are going back to your country as part of a winning team because of all of your efforts. Finally, the test match concluded in a result, which was a win-win for all the countries.

3. Now coming back to the agenda Chair as you have instructed. Let me keep on record my statement delivered on the 07 July. Since this is the first General Council meeting after the Ministerial, let me take this opportunity to thank Government of Kazakhstan and Switzerland and the WTO Secretariat for hosting a successful Ministerial. I also take this opportunity to once again commend all members and the Director General for the successful outcomes at the Ministerial Conference. Chair, it is important for us to take forward the mandates from the 12th Ministerial Conference. We must also not lose sight of the negotiating pillars where we could not deliver during Ministerial, as well as outstanding issues and mandates from previous Ministerials. So let me very briefly highlight the key priorities for India for the post-MC 12 work, a Permanent Solution to the Public Stock Holding (PSH) for food security purposes, a solution to SSM in agriculture. These two things remain our top priority and we need to restore the momentum that had been built on PSH in the run up to the Ministerial Conference.
4. On fishery subsidies, India looks forward to a quick legal scrubbing of the text of the agreement, maybe before the end of July or taking some time during the summer break and trying to do that. So that when we resume the formal work in the month of September, we actually get into the further negotiations for the comprehensive agreement and the process of ratification.
5. Chair, delegations could emphasize the need or the relevance of effective Special and Differential Treatment, based on their own priorities. However, India would like to emphasise that appropriate special and differential treatment, including adequate policy space for developing country members, including LDCs to be an integral part of all these negotiations particularly in fisheries negotiations. When we resume our work we therefore, keep the common but differentiated responsibilities and polluter pays principle as the guiding principle for further negotiations. Chair, I hope that after

the summer break, the TNC will expedite the work across the negotiating pillars and work towards early outcomes.

6. **On agenda 02:** I will touch upon TRIPS, when I will make a statement under the agenda item 06. On World Food Programme Ministerial Decision, Chair, I will request and call upon the World Food Programme to submit periodically its procurement details to the General Council for better understanding of the effectiveness of the Ministerial Declaration. This information will help us in monitoring the effectiveness of the decision and also for identifying the food insecure regions. We should work in a time bound manner to fulfil the mandate given on the basis of proposals from Egypt and Sri Lanka for net food importing developing countries so that the problems and challenges of these countries including LDCs are taken care of.
7. On E-commerce work programme and moratorium on customs duty on electronic transmissions, the process to understand the scope and the impact of moratorium needs to begin quickly, for which members need to work in a concerted and time bound manner in the General Council and other regular WTO bodies to arrive at a common understanding. We have also underscored the importance of reinvigorating of the Work Programme, particularly in line with its development dimension and as you have noted also in your report, in all mandated Councils and Committees. India along with South Africa has already submitted in the Council for Trade and Development a paper for discussion in November 2021 to take the discussion forward. Finally, many members at the last HoDs meeting of 7th July had expressed their concerns on the process issues faced by members during the Ministerial Conference and have made some useful suggestions. India has also given some suggestions and will provide further suggestions on this, and I hope that this will be taken note of. Thank you Chair.

Agenda Item 3: IMPLEMENTATION OF THE BALI, NAIROBI, AND BUENOS AIRES OUTCOMES – STATEMENT BY THE CHAIR

1. Thank you Chair and good afternoon colleagues. Chair, we would like this agenda to remain on the table for the discussions in the General Council because at least it reminds us of the things that are

pending from the previous Ministerial mandates or decisions. Otherwise, whatever we are talking about MC 12, and at MC 13, if we are silent on some of those decisions of MC 12, and these are ongoing works, we may end up starting with a clean slate, again wiping off all the decisions of MC12 from memory.

2. As we have stated before, Chair, and we reiterate that Public Stock Holding had a clear Ministerial mandate and PSH negotiations for a permanent solution must be on an accelerated separate track. Any effort to link these discussions with other pillars, which we saw prior to MC 12, undermines the Ministerial mandate. Unfortunately, this was tried, and we failed to find a permanent solution to the PSH at the MC 12. Chair, no outcome on this subject at MC 12 was a failure of a colossal order, at least for India. It is indeed backsliding. The delay since the decision was taken at Bali, and further decisions in General Council in 2014 and in Nairobi Ministerial in 2015 is a long delay even by WTO standards.
3. Sometimes, few members say that PSH is one of the solutions to ensure food security and it's not the only solution. Let me again clarify we had never said that it is the only solution. Just like what we have witnessed in last two years, free trade being a solution, not the only solution for food security of so many countries and vulnerable people.
4. Chair, some members have sought for consultation under para 6 of the Bali decision with India the design and implementation of PSH, in itself is evidence for other countries to look at. Because as we say that proof of the pudding is in the eating, this program in India actually has helped us to provide food security for 1.4 billion people in our country, even during a crisis period of the last two years. And it has also helped us to help countries in need who have approached India for bilateral support for food security in their country where they felt that the free trade has not helped them in ensuring food security for their people.
5. Chair, while I speak still more than 800 million people in India get additional quantity of guaranteed basic food needs delivered at their doorstep without any cost for them. Thanks to the PSH program that we are running. Therefore, Chair I would request rather than doing a theoretical debate, we may acknowledge a

successful model which is the PSH model of India and help countries in implementing their own respective successful models without creating unnecessary barriers and pushing them into lengthy debates, including the debates here in the General Council.

6. The failure of agriculture in MC 12 also has lessons for all of us. I don't have to articulate it. And I'm sure they are very apparent, and everyone understands this. Still, let me touch upon four or five of them. There will be no meaningful progress on the agriculture negotiations, unless the mandated issues are delivered. Chair, times have changed since 1994; international trade had changed. Members' understanding of WTO has improved and developing country members now understand their rights better. Developing country members may not have the wherewithal to pursue their interests but are wise enough to at least protect their interests.
7. Chair, also I hear in the room that we cannot solve the problems with the same set of failed solutions. But surprisingly the same members, are advocating the same solutions that they have been propagating for 25 years. This gives one a feeling of false sense of entitlement that they know better and they preach better.
8. I can only say selective quoting of mandates in WTO has not helped in the past and will not help in future. Mandates given by our Ministers in Bali and Nairobi and under delegated power by this General Council in December 2014 cannot be forgotten. That may not help in taking forward the credibility of the WTO. Silence on mandates of MC 12 during MC 13 will not result in a clean slate post MC 13 with respect to MC12 decisions. With this reminder, I will close my statement.

Agenda Item 6: Paragraph 8 of the Ministerial Decision on the TRIPS Agreement Adopted On 17 June 2022 - Document WT/MIN (22)/30 (Ministerial Decision on the TRIPS Agreement Of 17 June 2022)

1. Thank you Chair. And on behalf of co-sponsors of IP/C/W/669/Rev.1, I would like to thank all the participants in this debate. And let me congratulate madam DG and all members for achieving this significant outcome at the Ministerial

Conference. The much-delayed outcome is by no means perfect and falls short of what the co-sponsors of the 669-waiver proposal had expected. Nevertheless, it is by no means a small feat. It signifies that the WTO membership, despite deep divergences can deliver. The decision provides yet another opportunity for the organization to further deliver upon the mandate as provided in paragraph eight of the Ministerial Decision and to decide to extend the scope of the decision to COVID-19 therapeutics and diagnostics.

2. Chair, the co-sponsors had circulated room document, I am referring to RD/IP/49, which was circulated on the 6th July to put forth a timeline to assist ourselves in scheduling and prioritizing our work in the TRIPS Council to fulfil the mandate in paragraph 08 within the stipulated time of six months. And we were happy to note during that discussion on 06 – 07 July that it was well received by the members in the last TRIPS Council meeting. But somehow, we are surprised to see this hesitation from the institution. We are not able to continue discussion in TRIPS Council and we are waiting for summer break and the things to resume maybe in the month of September.
3. But that would mean that out of targeted time period of 6 months, 3 months would be over by the time TRIPS Council meeting will be convened in the month of September. So, I again urge the Secretariat to convene TRIPS Council meeting and we will continue to work during summer break with domestic stakeholders as well as those delegates who are present in Geneva or who can attend through video conferencing.
4. I would like to remind that ramping up production for therapeutics and diagnostics have been thoroughly discussed in various formats on several occasions for the past two years. So, for the matter of evidence-based discussions, proponents have already submitted numerous documents while giving the proposal in IP/C/W/669 Rev 1, which was followed by 3-4 very elaborated documents. So, I will request members who are asking for new evidences to please go through those documents and also go through the documents released by WHO, which has well recognized that therapeutics and diagnostics as integral components of a comprehensive prevent, test and treat strategy to combat the pandemic.

5. Chair let us not forget that the pandemic is not over yet. I'm not repeating the numbers mentioned by people here on the new cases and the new hospitalizations and death. It still remains a public health emergency of international concern. It is well recognized now that the testing and treatment are essential aspects of controlling and managing COVID-19. Therefore, in order to follow test and treatment model, we need to make therapeutics and diagnostics not only available but also affordable and accessible. I, therefore, call upon our members to get to work. Let us target the next General Council in October to deliver on this mandate and not wait until the last General Council of the year. And even while working towards the October General Council, if we are unable to finalize this, we can have a special General Council prior to the December General Council to fulfil this mandate. And we are willing to work in TRIPS Council and in various configuration to bring this agenda in the month of October General Council to deliver. Let us all collectively strive to achieve this. Thank you Chair.

Agenda Item 7: TRADE RELATED CHALLENGES OF THE LEAST DEVELOPED COUNTRIES AND WAY FORWARD: A DRAFT FOR MC DECISION – COMMUNICATION FROM DJIBOUTI ON BEHALF OF THE LDC GROUP (WT/GC/W/807)

1. Thank you, Chair and good morning, colleagues. Chair, it was disappointing that outcome on LDCs related matters were not achieved during 12th Ministerial Conference. While we all acknowledge that the LDCs have been disproportionately affected by the pandemic and most recently by the food crisis. Therefore, their concerns need to be heard and addressed by this organisation. India thanks, Djibouti as coordinator of LDCs and Bangladesh as the focal point on this subject for the LDC group for bringing this agenda back on the table for us to deliberate and deliver. Chair, India remains committed to working towards meaningful integration of the LDCs in the multilateral trading system as a trusted and reliable partner. I reiterate India's unequivocal support for a reasonable period of transition and urge members to engage constructively and work expeditiously towards an outcome. Thank you Chair.

**Agenda Item 8: PROPOSED GENERAL COUNCIL DECISION
ON PROCEDURES TO ENHANCE TRANSPARENCY AND
IMPROVE COMPLIANCE WITH NOTIFICATION
REQUIREMENTS UNDER WTO AGREEMENTS**

1. Thank you Chair. India would like to thank the co-sponsors for bringing this agenda item to the General Council and particularly thanks to the delegation of the United States for their engagement on this subject. We acknowledge Chair that the current draft takes into account a lot of our feedback that had been given in the previous General Council meetings. We also note that this proposal builds on the Working Group on notification obligations and procedures, the last report of which was presented in 1996 in the document G/NOP/W/16/Rev.1, the Working Group on Notification Obligations and Procedures had a specific mandate, which this September 1996 document captured in paragraph 04.

“At its first meeting the Working Group noted that it was being called upon to thoroughly review all existing notification obligations in the 12 Agreements listed in Annex 1A of the WTO Agreement, as well as the GATT 1994, including the six Understandings interpreting certain articles thereof. The mandate did not include the Agreements on Services, TRIPs, DSU, TPRM or the Plurilateral Trade Agreements.”

2. Chair, by the time Working Group completed its work it did reflect on the mandate and the need to take a holistic look at the WTO notification obligations and procedures. Even then, a need was felt not to stay limited to the goods vertical of GATT. Paragraph 81 of the Secretariat report on this Working Group also reflected this view.

“However, the Group also saw benefit in conducting periodic reviews of the operation of the entire notification process from a more detached and global perspective under a mandate along the lines of the present Working Group. It was considered that this could be achieved: (a) through the extension of the mandate of the current Working Group; (b) through the establishment by the CTG of a new working group, at an appropriate time, to address Annex 1A agreements; or (c) through the establishment, at an appropriate time, of a new working group under the General

Council to address notification obligations in Annexes 1A, B and C.”

3. Chair, at the time of the original conception there was a recognition that any discussion on transparency should not be limited only to the Annex 1 A Agreements. Notwithstanding the enabling provision now given by the co-sponsors in paragraph 11 in the present proposal regarding future work, introduced after our comments, my delegation will still prefer a proposal that is comprehensive and covers all WTO agreements, including TRIPS Agreement and GATS. Chair, we would request that let us strive not just for better compliance, but also for better efficiency, agility and to reimagine a WTO that is in tune with the needs of a rapidly changing world, particularly for the developing world. I would request co-sponsors to take note of para 6 of the document WT/GC/W/ 778 Rev 5, which is coming up as agenda 9 in today's GC meeting, and it has very specific and concrete suggestions on transparency pillar. Our worry on the present proposal is that the recommendations mentioned should not be giving a foot in the door or the pathway for new obligations. We request that the recommendations whatever has been envisaged in the present proposal should be confined to the existing notification obligations. Similarly, the mention of reviewing document G/L/223 and therefore recommending enhancements to reporting should not create a pathway for new obligations. The para 10 of the proposal which allows the General Council to direct the Working Group to develop further recommendations, again should not create a pathway for new obligations.
4. India has held a view that in the area of transparency, fulfilment of existing obligations is necessary without further adding the onerous obligations in the name of transparency in view of the limited resources. Further, members' notification must not be undermined, in the name of adding to transparency by other members or the Secretariat. And in this aspect, there is a popular belief back home, and I am sure it may be there in other countries also, that if you don't submit a notification, one question will be asked "When are you submitting that notification?" In case you submit that notification after going through the entire process of collecting data and coordinating with multiple agencies, then 100 questions will be asked for the sake of asking question. So back home, the agencies have this decision to make. That are you fine

with one question, or are you willing to take up 100 questions? So therefore, I would again request that this tendency of asking further questions, on the notification is coming in the way of improving compliance and countries who are even willing to provide notifications in a time bound manner in a resource constrained environment feel that it is very difficult to handle the situation with 100 subsequent questions and here I am referring to some of the Committee's meetings, which have been conducted in the recent past, where a particular country was targeted. Thank you, Chair.

Agenda Item 9: STRENGTHENING THE WTO TO PROMOTE DEVELOPMENT AND INCLUSIVITY - COMMUNICATION FROM THE AFRICAN GROUP, CUBA, INDIA AND PAKISTAN (WT/GC/W/778/REV.5)

1. Thank you Chair. First of all, I would like to welcome the new co-sponsor, and would like to thank Cameroon for introducing this proposal on behalf of Africa group and other co-sponsors. Chair, at MC 12 the Ministers have given us a clear mandate on reforms, WTO reforms, and we all need to work together to address the challenges that the WTO is facing. All of us are very well aware of these challenges and the need for reforms and Ministers' reaffirmation of the foundational principles of the WTO in the context of reform is a clear indication that the reforms should be consistent with the core principles of the WTO and should address interests of all members and also pay attention to the development issues. The unprecedented outcomes that MC 12 has achieved has rebutted successfully, the false narrative that WTO's negotiating function is broken. MC12 has shown that if we are willing to understand each other's concerns, work to narrow the differences and accept compromises, we can succeed in delivering results. Despite the success of WTO's negotiating function at MC 12 there are still challenges on other functions that we need to address and address them quickly. The mandate for restoration of the Appellate Body by 2024 is perhaps the most significant decision that the ministers have taken in the context of WTO reforms. We look forward to closely engaging in this process in the coming weeks and months.

2. Chair, consistent with the mandate provided by the Ministers on WTO reforms, our joint submission highlights the issues that are important to the developing countries and addresses the core issues that concern development and inclusivity. In this regard, India would also like to draw attention of members to the similar submission made by the LDC group during the May 2022 General Council meeting, vide JOB/GC/223/Rev.1 which also echoes the same issues that have been identified by our reform paper. Chair, since we had full discussions on the elements contained in our present proposal in earlier GC meetings. I was not planning to repeat those elements once again. However, since transparency is the flavour of the day, and going by the discussion on Agenda 8 today, let me take this opportunity to highlight some of the transparency provisions in our reform proposal. And these are what we have said in our proposal that developed members themselves should lead by example, in submitting comprehensive, timely and accurate notifications. However, we have seen that this has not always been done and given this, surely the resource constraints of developing countries should be appreciated.
3. Let me give some examples. In the area of agriculture, developed members those have final bound Aggregate Measure of Support (AMS) entitlements should submit their notification within 3 months at the end of each year. That is certainly one transparency provision, which has not been followed by most of the developed countries. They have taken in fact up to two years or more to do so. The second example is in the area of Services, i.e., GATS article III.3. It requires members to promptly and at least annually inform the Council for Trade in Services of the introduction of any new, or any changes to existing laws, regulations or administrative guidelines, which significantly affect trade in services governed by its specific commitments under this agreement. The Secretariat report presented in 2020 vide JOB (09)/10/Rev. 10, very clearly indicates how members have failed in doing so, particularly developed countries before the pandemic, and this has further got aggravated during the pandemic. I am happy to note that in the proposal for transparency under Agenda 8, paras 5 and 6 does not distinguish between developed and developing countries. And therefore, I would request that the developed countries should start getting access to support and capacity building from Secretariat for timely notification in these matters. Chair, we have also seen that some of the members particularly from the developed countries, have not been fully complying with WTO

commitments on transparency and therefore the reform should also take care of these undermining of commitments. Let me give four examples on that.

- i. The regular notification of entry-related measures affecting existing mode 4 commitments of members have not been transparently notified.
 - ii. Article 66.2 of the TRIPS Agreement, developed countries have a legal obligation in the area of technology transfer towards LDCs. More transparency would be supportive of LDCs efforts to build a viable technological base.
 - iii. Disclosure of origin of traditional knowledge and genetic resources in patent applications.
 - iv. Transparency in tariffs–Nonad-valorem tariffs should be notified in ad valorem terms or converted to ad valorem tariffs.
4. Chair, I was not intending to take up such a long list of examples where the reforms should actually go forward in the transparency part, but I was forced, based on the discussion in the previous Agenda 8, which was again giving a false narrative of ‘we’ versus ‘they’. So, I’m saying all of us are lacking in transparency and in notifications. Let us work together towards WTO reform on working closely and jointly without making it ‘we’ versus ‘they’, at least for the purpose of transparency. Thank you, Chair.
