

ACP Group Statements

General Council Meeting

22nd to 23rd November 2021

AGENDA ITEM 6 (C) and (D):TRIPS COUNCIL MATTERS

Chair thank you for giving me the floor.

This intervention is in relation to agenda items 6 C and D.

The ACP Group thanks the Chair of the TRIPS Council for the status report on the consideration by the Council on the revised “*Proposal from certain provisions of the TRIPS Agreement for the prevention , containment and treatment of Covid-19*” contained in IP/C/W/ 669/Rev.1. The Group appreciates the efforts of the Chair and his overall commitment to this file. The report submitted provides a factual update of the discussions on this agenda item to date and the Group notes that there is the intention to continue the discussion amongst members.

The ACP Group has always maintained that the WTO has a role to play in providing an effective response to the pandemic. As a group of developing countries and LDCs, we can all attest to the devastating impacts of the pandemic on lives and livelihoods. It is for this reason that the Group has constantly repeated its support for the general objectives of the waiver and encourage members of the WTO to ensure that the Organization is positioned to play a critical role in the global response to the pandemic.

Chair,

It remains unfortunate that the rate of vaccination for many of our members continue to be low which is quite worrying as there is a growing call among the scientific community that a booster shot will be required to further contain the spread of the virus. There are also reports of some countries currently experiencing an increase in the number of Covid-19 cases. This is a clear indication that we must continue our engagement on how to increase the availability and accessibility of vaccines, diagnostics and therapeutics as the pandemic has not yet come to an end.

The ACP Group is of the view that the robust discussions on specific elements of the proposals such as scope, duration and implementation as well as the small group consultations held by the Chair have been useful. Members were given the opportunity to ventilate concerns, seek clarifications and better understand the various positions. While there has been no consensus, it is noted that members committed to continue engaging in various configurations and have signalled that these consultations will continue leading up to the Ministerial Conference.

Chair,

As it relates to non-violation and situation complaints, the ACP Group welcomes the decision by members to extend the moratorium until the next Ministerial Conference and looks forward to future discussions in the TRIPS Council with a view to making the moratorium permanent.

I thank you Chair.

Agenda Item 7 A and B- Outcome Document and Response to the Pandemic

Thank you, Chair!

The ACP Group addresses both agenda sub-items in one statement.

We look forward to wrapping up our negotiations on the MC12 outcome document. This is a priority of the ACP Group. We have not had a Declaration since 2015 and so we believe the Organisation needs political guidance on the many issues that confront the Organisation. This is especially so given the unprecedented environment in which the multilateral trading system currently operates. Hence, the outcome document should seek to direct the WTO's operations to a focus on development and elevating the interests of developing countries and LDCs, especially in the context of building back better from the COVID-19 Pandemic.

We do hope that the document would be able to focus on the issues of relevance to the Organisation. We take note of the intention by members to include language on digitalisation in the document. We believe that if the issue of digitalisation is to be addressed in an outcome document, we must take the opportunity to make reference to the digital divide in our members, the lack of digital infrastructure and the role that the 1998 Work Programme can play in advancing the interest of developing countries and LDCs.

The issue of trade and environment is an issue of interest to our Group. In particular, natural disasters and climate change-induced events often affect our trade infrastructure and our ability to integrate in the global economy. Additionally, we constantly experience trade barriers imposed under the guise of environmental measures. This is an issue that must be treated with delicately in the outcome document.

We believe that the document must make reference to S&DT and treats it as a fundamental part of WTO rules. We anticipate that the document refers to paragraph 44 of the Doha Development agenda and the central role of the CTD-SS in this regard.

LDCs and LLDCs issues must be properly represented in the document. We also call for concessions from acceding developing countries to be commensurate with their capacity and development needs.

As the document seeks to address the issue of WTO Reform, this is a matter supported by the ACP Group but we are of the view that we should be minimalist in approach and should seek to avoid inclusion of sensitive issues. We have made a proposal on WTO Reform on screen, which we sanitized

for political sensitivities and ensured that it accomplishes our objectives. We stand ready to engage constructively on this proposal.

On the COVID Response document, we renew our support for the initiative and we will support the Facilitator. The outcome should not create rules nor alter members' rights and obligations. It should include issues of interest to all members. We therefore welcome the Facilitator's effort to take on the ideas of various members through a drafting group. This is commendable. We urge patience from the Facilitator and from members in this regard and call on the process to run its natural course without usurping the process. The process should be inclusive and transparent and all small group processes should be open to interested delegations.

For us, the WTO has an important role to play in complementing the work of international organisations and other stakeholders in respect of responding to the impact of the pandemic from a health, stabilisation, recovery and sustainable rebuilding perspective.

We do anticipate that Ministers will be able to use MC12 to effectively guide the Organisation on how we carry out this task. For this to happen, however, the onus is on us, Ambassadors in Geneva, to make the necessary preparation so that solid, relevant and appropriate recommendations can be put to our Ministers to facilitate a decision. We expect that the facilitator process will not only stabilise, recover and rebuild, but also leaves us with a blue-print as it relates to how we respond to future international crises.

We agree that any outcome from the process must address the health dimension of the crisis, especially from a TRIPS and COVID perspective, taking into account work in the TRIPS Council.

I thank you, Chair.

AGENDA ITEM 8 (A) , (B) and (C) :WORK PROGRAMME ON ELECTRONIC COMMERCE

Chair,

Thank you for giving me the floor. This intervention will cover points A, B and C.

The ACP Group thanks you for your report on the Ecommerce Work Programme and wishes to commend you for your commitment to this file evidenced by the continued consultations and engagement with Member States on the matter.

The Covid -19 pandemic has highlighted the need for an even greater focus to be placed on electronic commerce. While the pandemic has expanded e-commerce transactions, there is evidence to suggest that such growth has not been equal across all WTO Members. It has also shown the deficits and shortcomings of many developing countries as it relates to having the necessary digital infrastructure to fully benefit from the opportunities to be derived from ecommerce. Many developing countries also lack the requisite domestic skills and technical competencies to harness the full potential of electronic commerce.

The ACP Group has been one of the main supporters for the reinvigoration of the 1998 Work Programme on Electronic Commerce and the structured discussions which were set out in the 2019 decision. We note positively the various discussions which have taken place throughout the year and would like to encourage even further structured, constructive and meaningful discussions. Some of the issue areas to be explored include data localisation, internal taxes, data flows, source code, digital divide and infrastructure development.

Chair,

We have taken note of the submission contained in WT/GC/W/831 /Rev.2 regarding a draft Ministerial decision as well as the submission from India and South Africa contained in WT /GC/W/833. The ACP is of the view that in our recommendation to Ministers, there should be a clear signal that the Work Programme should be reinvigorated. On matter of the moratorium, there is indeed a need for greater clarity on the scope and definition of electronic transmissions and the impact that the moratorium has had on developing countries, particularly from a revenue perspective. Given the limited time before the Ministerial Conference, there is urgency in resolving the question of the moratorium. The ACP therefore

stand ready to engage on this matter and supports ongoing efforts aimed at finding a landing zone amongst all WTO members.

I thank you Chair.

Agenda Item 9- A Smooth Transition package in favour of members graduating from the LDCs category

Thank you, Chair,

The ACP Group thanks the Ambassador of Chad for his comprehensive assessment and for clearly laying out the basis for the interim arrangement. The ACP Group continues to pledge its full and unwavering support for this important submission on behalf of the LDC Group.

We commend the pragmatism shown by the LDCs Group. The vulnerability of these countries to external shocks is real and should always be taken into account by the WTO.

The ACP Group continues to believe that graduation is never automatically accompanied by favourable conditions that warrant immediate relinquishing of LDCs flexibilities. A transition arrangement is of utmost importance to graduating LDCs and we believe the proposed transition period in the submission is reasonable to allow these members to face the significant trade and development challenges post-graduation.

As a Group of developing countries and LDCs, we can relate to the vulnerabilities of LDCs which the Covid-19 pandemic has exposed and exacerbated. Our systems are fragile and it only takes a global crisis of any magnitude to inflict irreparable damage to our economies, lives and livelihood.

Chair,

The ACP Group supports the LDCs Group's submission. We look forward to further productive engagement on the matter in order to support LDCs, including graduating LDCs, in their developmental aspirations and their efforts to integrate into the multilateral trading system. We urge the WTO's membership to give favourable consideration to the submission

MC12 can make this happen.

I thank you, Chair.

Agenda Item 12- Draft Decision on improving transparency

Mr. Chairman, thank you for the floor. I make this intervention on behalf of the ACP Group. At the outset, we thank co-sponsors for their submission which we have had the benefit of responding to on previous occasions.

The ACP Group attaches great importance to transparency and notification in the WTO. We believe that all WTO Members recognize the importance of their notification obligations, including submitting them in a timely manner. We also see value in Technical Assistance and Capacity Building for Members which are encountering difficulties in fulfilling their notification obligations.

Where the ACP Group has major concerns is with respect to the proposed administrative measures contained in the submission from cosponsors. We do note that financial penalties are not contemplated in the current and more recent submissions. Nonetheless, we do have specific and systemic concerns about the use of punitive measures, especially in a context where developing countries which fail to make timely notifications, are not wilfully or strategically doing so, but have formidable capacity constraints. As we have stated on previous occasions, a punitive approach will serve only to further alienate many developing countries and may even undermine the already faltering capacity of Members to agree on future binding commitments.

In closing, the ACP Group sees discussions on transparency and notifications as part of broader conversations on WTO reform. As we have said in previous statements to co-sponsors, reform should be handled in a holistic manner that allows the participation of all Members. It is possible that at MC12, our Ministers may agree to a mechanism to advance discussions on WTO reform. The ACP Group looks forward to engaging cosponsors on their ideas in such a context. We will remain open for dialogue and constructive.

Mr. Chairman, thank you.

Agenda Item 13- Proposed Ministerial Decision on strengthening resiliency and preparedness through trade facilitation

Thank you, Chair.

The ACP Group thanks the co-sponsors for their submission.

The Group takes note of the draft Ministerial Decision which puts forward several proposals which are geared towards having certain activities taken up by the Committee on Trade Facilitation in light of the impact of the pandemic.

The Trade Facilitation Agreement remains a significant milestone/achievement in the history of the multilateral trading system, particularly for developing and least developed countries. ACP Group, therefore, remains a strong advocate for the continued implementation of the Trade Facilitation Agreement and related commitments, by all WTO Members.

The COVID-19 pandemic with its multidimensional impacts, including on trade, continues to pose significant challenges for the development goals and aspirations of all countries, particularly developing and least developed countries. In some cases, it has had the effect of reversing significant progress made in the implementation efforts of Members, which had to divert attention and critical resources to responding to the immediate health threats posed by the pandemic.

We, however, acknowledge that while there continues to be challenges associated with the ongoing pandemic, there have been significant opportunities. In fact, we commend those members, including those within the Group, that continued their efforts to meet their various obligations under the Agreement. These measures had the effect of enhancing trade for these Members, and fostering their relatively quick recovery from the pandemic. It also allowed for much needed medical equipment to be acquired.

The Group believes there are some good elements within the proposed Ministerial Decision put forward by these delegations. We do believe that the implementation of the Trade Facilitation Agreement can complement Members' and the international community's ongoing efforts to respond to and mitigate the impacts of the pandemic. Indeed, the Group is encouraged by these actions, and notes that there may be

important lessons and best practices that can be shared among all WTO members, to strengthen resiliency and build capacity to respond to future crises/events.

The Group, however, believes that the proposed draft Ministerial decision requires more in-depth discussion and consideration by the membership to better understand what implications this may have for developing countries and LDCs, which are allowed to implement the Agreement in keeping with their capacity to do so. It is further recognized that some Members still require external assistance in order to implement the agreement.

In addition, the ACP Group notes that a separate process is currently underway to treat with the WTO's response to the COVID-19 pandemic. We, therefore, are cautious about seemingly outlining/agreeing to a work programme for the Trade Facilitation Committee ahead of the completion of the work being done in that area. We believe the Committee should be given the flexibility to determine how its modalities are developed to give effect to aspects of its work related to the WTO's response to the pandemic.

I thank you, Chair.

Agenda Item 14

Thank you, Chair,

Chair, we join other members in acknowledging that this Ministerial Conference follows the 25th (Silver) anniversary of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

Chair, the successes achieved within this time indicate that the WTO has the capacity to create policies that positively impact international trade in food, animals and plants and address new and emerging challenges within this discipline. The ACP Group renews its commitment to this endeavour and is

pleased to co-sponsor the SPS Declaration for the Twelfth Ministerial Conference
G/SPS/GEN/1758/Rev.9.

Chair, as a co-sponsor of the text, the ACP Group believes that it sufficiently reflects a sensitivity to some of the most critical concerns for Developing and Least Developed countries, particularly in its reference to collaborations with standard setting bodies for technical exchanges and capacity building as well as a market access perspective. Non-tariff barriers have always been an issue for the ACP Group and so we believe this document would bring into focus how developing countries and LDCs are better prepared to deal with this issue.

Chair, in concluding, the ACP Group acknowledges the work invested in preparing this text and encourages other member states to constructively consider its adoption as a part of the MC12 package.

Thank you, Chair.