

**ACP Group Statements**

**General Council Meeting-**

**7<sup>th</sup> – 8<sup>th</sup> October 2021**

**Agenda Item 4(a)**- STATUS REPORT ON THE CONSIDERATIONS BY THE TRIPS COUNCIL ON THE REVISED "PROPOSAL FOR A WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19" (IP/C/W/669/REV.1) – STATEMENT BY THE CHAIR OF THE COUNCIL FOR TRIPS

Thank you Chair,

The ACP Group wishes to thank the Chair of the TRIPS Council for his report. The Group is happy to hear that engagements on the proposal are positive and that progress is being made on trying to find a landing zone for the TRIPS Waiver proposal. The ACP Group is particularly pleased that the proponents have been exercising flexibility and that non proponents are being constructive in the meetings. We call for the continuation of discussions on the issue in various formats deemed necessary by WTO Members. We believe that the proposal should continue to be prioritized in the Work Programme of the TRIPS Council.

We also believe that it is important for us to have an outcome on this matter by MC12. An agreement on a waiver that accommodates the interests and addresses the concerns of all WTO members is an important component of global efforts to address the pressing issue of inadequate and lack of access to vaccines and other items for the prevention, containment and treatment of COVID-19, particularly in developing countries and LDCs.

The ACP Group reiterates its endorsement of the genuine public health objectives of the proposal and will support proponents in their bid to contribute to international initiatives to ensure that our people have affordable access to medicines, vaccines and other items required to prevent, treat and contain the virus.

We believe that vaccination is the most durable solution to contain the virus and, therefore, facilitating access, especially by developing countries and LDCs, should be our priority. Our fiscal targets have been dislocated due to the impact of the pandemic and our health care and economies are facing unprecedented challenges with no light at the end of the tunnel. We continue to impress upon the WTO's membership that no member is safe until all members are, and COVID-induced economic and social challenges in one WTO member affect other members.

Chair,

The ACP Group again thanks the co-sponsors for their hard work and takes this opportunity to invite other members to continue their constructive engagements and in a collaborative manner with a view to finding a landing zone that works for all members.

The health and lives of people should always be our priority and the ACP Group is confident that WTO members are capable of delivering for and on behalf of our people in these most difficult times.

I thank you, Chair

**Agenda Item 5.** PREPARATIONS FOR THE TWELFTH SESSION OF THE MINISTERIAL CONFERENCE

A. MC12 OUTCOME DOCUMENT – REPORT BY THE CHAIR

B. WORK PROGRAMME ON ELECTRONIC COMMERCE – REPORT BY THE CHAIR

C. WTO RESPONSE TO THE PANDEMIC – REPORT BY THE FACILITATOR

Thank you, Chair

The ACP Group addressed the agenda sub-items in one statement

We look forward to having a declaration for MC12. This is a priority of the ACP Group. We have not had a Declaration since 2015. We believe that it is necessary to have political guidance for our work in Geneva, especially given the unprecedented environment in which the multilateral trading system currently operates.

A declaration should be comprehensive and addresses all areas of concerns to the members. The Group acknowledges that there are sensitivities but we believe that it is possible to accomplish this goal in a balanced and nuanced manner that attracts the buy-in of all members. We have confidence in your ability, Chair, to use your diplomatic drafting skills and your vast experience with the membership's dynamic approaches to the various issues on the table, to come up with a draft declaration for our deliberation. We have limited time left for MC12 and therefore we hope that we can make enough progress as soon as possible.

We also thank you for your report on the Work Programme on Electronic Commerce. This is of critical importance to our group, as we see it as a vital tool in addressing the digital divide within and among countries, as well as to ensure that our entrepreneurs, especially small businesses, can tap into the potential of global trade. We fully support the renewal of the Work Programme and we urge the membership to endorse its renewal.

We need to focus on how we can reinvigorate the Work Programme, given our specific interest on the development dimension of this longstanding area of work in the multilateral framework of the WTO. The Group believes that MC12 provides an avenue to pursue these objectives.

Chair,

The ACP Group thanks the Facilitator for updating us on his work regarding the WTO's response to the impact of the COVID-19 pandemic.

The ACP Group will continue to support his process. His reporting suggests that we are making progress with our work, and the Group wishes to commend delegations on their collaborative spirit.

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 believe that as an outcome, this process should assist with, from a trade-policy perspective:

1. the availability of vaccines, diagnostics and other medical supplies to prevent, treat and contain the spread of the virus, and this is where we believe a consensual outcome on a TRIPS Waiver is critical;
2. fostering the WTO's collaboration with other international stakeholders;
3. monitoring pandemic-related trade measures;
4. preserving global supply chains and trade logistics and smoothing the flow of goods and services;
5. addressing the issue of pandemic-induced food and livelihood security, including rising costs of food globally;
6. streamlining the WTO's response into the work programme of WTO Committees, Working Group and Councils;

7. ensuring that debt and limited access to finance do not occasion a contraction of global trade;  
and
8. ensuring that the WTO's experience with the management around the pandemic allows for the creation of a blueprint to respond to future crises with similar impacts.

The ACP Group will continue to work with the Facilitator to get to a Decision by MC12.

I thank you, Chair

**Agenda Item 6-** WORK PROGRAMME ON ELECTRONIC COMMERCE AND MORATORIUM ON IMPOSING CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS – REQUEST FROM INDIA AND SOUTH AFRICA

Thank you, Chair!

The ACP Group wishes to thank India and South Africa for placing this item on the agenda of this meeting. We also wish to thank both Ambassadors for their statements.

Chair,

As indicated in previous General Council Statements, the 1998 E-commerce Work Programme is a critical aspect of the WTO's regular work and an essential fixture on the General Council's agenda. This view is shared by most WTO members.

We re-iterate that the WTO must deepen its engagement and understanding of the question of the customs duties moratorium, and we continue to believe that these discussions must go beyond the moratorium, to include other pertinent issues, such as, the extent of coverage of digital or internal taxes.

We repeat our concern that by MC12, we will again face the expiry of the moratorium should we fail to make sufficient progress in our discussions on the scope, definition and impact of the moratorium on customs duties on electronic transmissions.

Again, significant strides have been made in advancing ICT infrastructure and services and we have seen the benefits in many respects during the still evolving COVID-19 crisis. It is important, however, that we emphasise that the significant digital divide that continues to exist within and among countries must be

addressed with utmost urgency. This brings us back to the need for the structured discussions on the Ecommerce Work Programme and its renewal at MC12.

Some of the other areas of interest to our countries include the costs to developing country and LDC consumers and businesses, discrepancies between traditional goods or products and electronic equivalents, and the application of internal taxes on electronic transmission.

A number of issues which were raised in the work programme are under negotiation in the JSI. It is important that the work programme is prioritized, as it encompasses an agreed workstream which will result in balanced outcomes in the context of e-commerce.

A pragmatic discussion is needed, within the context of the existing 1998 work programme, on the issues of source code, localization and the impact on data flows, as well as consumer protection.

Our Group will continue to play our part in ensuring that the Work Programme continues to remain relevant and addresses issues of socio-economic interest to members of the Group. The General Council, in various formats, can play a pivotal role in discussions on a series of issues that are of a crosscutting nature, for example source code, localization and data protection, along with the question of the moratorium and its impact on both consumers and businesses.

We will continue to support your leadership on these issues as we seek to find a landing zone for MC12.

I thank you, Chair!

**Agenda Item 7**- TRADE RELATED CHALLENGES OF THE LEAST DEVELOPED COUNTRIES AND WAY FORWARD: A DRAFT FOR MC DECISION – COMMUNICATIONS FROM CHAD ON BEHALF OF THE LDC GROUP (WT/GC/W/806/REV.1, WT/GC/W/807)

Thank you, Chair,

The ACP Group thanks the Ambassador of Chad for his comprehensive and thought provoking statement. The Group continues to pledge its full support for this important submission on behalf of the LDC Group.

We commend the approach which is being taken to further the interests of LDCs and graduated LDCs within the WTO and in the global trading system, especially in light of the impact of the COVID-19 pandemic which will have a lasting impact on these members. 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 period 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. LDCs were already grappling to be fully integrated into the global trade system and the pandemic is unravelling all the strides that have been made over decades of work.

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.

MC12 can make this happen.

I thank you, Chair.

**Agenda Item 8-** SUPPORTING THE CONCLUSION OF FISHERIES SUBSIDIES NEGOTIATIONS FOR THE SUSTAINABILITY OF THE OCEAN AND FISHING COMMUNITIES - DRAFT MINISTERIAL DECISION - COMMUNICATION FROM BRAZIL (WT/GC/W/815)

Thank you, Chair,

The ACP Group wishes to recall its previous statements on this agenda item.

The ACP Group thanks the Brazilian Ambassador for his statement in support of the submission in document WT/GC/W/815, which has been on the agenda for some time now.

The ACP Group prioritises the sustainability of our oceans. We believe that an outcome on fisheries subsidies should be an effective policy tool in the global fight against IUU fishing and global fish stock depletion.

As WTO members, we impress on the WTO's membership to always be mindful that the WTO's competence in this area is limited to subsidies and, to the extent possible, collaboration with other international organizations that have mandates in oceans and fisheries management.

Our focus and priority should be to conclude the negotiations through the NGR process. We also want to remind members that we do already have a Ministerial mandate which we believe is sufficient to guide our work in the negotiations. Our Ministerial mandate is also in line with SDG 14.6, as agreed by Heads of states and governments.

The ACP Group reaffirms its commitment to the implementation of SDG14.6 and the MC11 mandate. We believe that the focus of our engagements should be on major subsidizers and large-scale industrial fishing. We must ensure that the outcome provides adequate policy space for developing countries and LDCs to develop their fisheries sector, that goes beyond transition periods with technical assistance and capacity building.

We will also reemphasize that an outcome must ensure that sovereign rights of members are respected, national judicial processes are unfettered, implementation is not more burdensome than necessary to achieve our sustainability objective, the provisions remain within the competence of the WTO, and there is policy space for small scale and artisanal fishing.

We are fully committed to concluding the negotiations by MC12 and our engagements in the NGR is reflective of this goal. For this to happen, flexibility, empathy and compromise from all parties are key ingredients to getting this done.

I thank you, chair.

**Agenda Item 10-** PROPOSED GENERAL COUNCIL DECISION ON PROCEDURES TO ENHANCE TRANSPARENCY AND IMPROVE COMPLIANCE WITH NOTIFICATION REQUIREMENTS UNDER WTO AGREEMENTS – ARGENTINA; AUSTRALIA; CANADA; CHILE; COSTA RICA; THE EUROPEAN UNION; ISRAEL; JAPAN; REPUBLIC OF KOREA; MEXICO; NEW ZEALAND; NORWAY; THE PHILIPPINES; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; UNITED KINGDOM; AND THE UNITED STATES (JOB/GC/204/REV.7 - JOB/CTG/14/REV.7)

Thank you, Chair

The ACP Group reaffirms its previous statements on this issue, which has been on the GC agenda for a very long time.

We will, again, stress the importance of transparency to the optimal functioning of the WTO. Members' adherence to their transparency obligations is critical for our businesses' participation in global trade and to our discussions on the WTO. We fully support adherence to obligations, as it is the nature of a well-functioning rules-based multilateral trading system.

At the same time, we must be cognisant of the severe capacity constraints of developing countries and LDCs, even made worst by the impact of the COVID-19 pandemic. We are in sympathy with elements of the proposal that look at capacity constraints and options for dealing with them. We think those are good ideas that can assist in finding a way forward. A way forward is in the interest of all WTO members.

Chair, we believe that to resolve the problem, we have to address the root causes.

For ACP Group members with outstanding notifications, our root cause is not wilful neglect nor negligence. It has never been that and will never be because we are supports for a rules-based multilateral trading system.

The root cause of the problem, for our members, is capacity constraints. The proposal is, therefore, sending an unfortunate message that members should be sanctioned for their limited capacity. This is not the approach required to address this very important issue.

We cannot and will never accept a punitive approach to resolving what is essentially a capacity constraints issue. It must be addressed by way of dialogue, cooperation, technical assistance and capacity building.

It is for this reason, Chair, that the ACP Group cannot accept this proposal.

We stand ready, however, to engage constructively in respect of finding a durable solution to the issue of adherence to notification obligations.

I thank you, Chair.