

“Development in Place of Discord: Could a New Path Emerge for the WTO?”

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Last week, the World Trade Organization (WTO) concluded its 11th Ministerial Conference in Buenos Aires, Argentina, amid divergent expectations and goals. Significant issues remain unresolved, and WTO members continue to differ on how countries should approach WTO commitments in light of varying levels of economic development. As reports emerged that the Ministerial had failed to deliver, a number of developed and developing market nations reaffirmed their support for the multilateral system.² U.S. Trade Representative (USTR) Robert Lighthizer stressed that the Ministerial will be “remembered as the moment when the impasse at the WTO was broken.”³ For the system to continue working, however, new paths will need to be forged on a number of issues.

Setting a new course for the WTO is increasingly critical as markets (and the legal systems governing them) become more integrated. Global value chains make it possible for trade to fulfill its potential to lift hundreds of million people out of poverty, highlighting the need for a stronger connection between trade and economic development. Preserving the WTO’s legal and institutional framework will be necessary but not enough. Improving transparency in the rules of trade, a powerful means for reducing inequalities among countries, will also depend upon the actions of individual countries to strengthen laws and institutions.⁴ Amplifying the voices of a more diverse set of market stakeholders, including emerging enterprises and women, will be important in developed and developing markets alike.

Some signals from the Ministerial point cautiously but hopefully toward a new way to use trade as a tool for broad-based global economic development with links to the Sustainable Development Goals (SDGs). The UK, for example, pledged over US \$20 million for innovative trade programs for least developed countries (LDCs).⁵ There was also a greater focus on women in the global trading system, which marks a new – and desperately needed – shift for the WTO. The World Economic Forum notes that, although 54 percent of

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² Joint Ministerial Declaration by Argentina; Australia; Benin; Canada; Chile; Colombia; Costa Rica; Côte D’Ivoire; Dominican Republic; El Salvador; Guatemala; Hong Kong, China; Iceland; Israel; Kazakhstan; The State of Kuwait; Republic of Korea; Lao People’s Democratic Republic; Liberia; Liechtenstein; Mauritania; Mexico; Montenegro; Myanmar; Republic of Moldova; New Zealand; Nigeria; Norway; Pakistan; Panama; Paraguay; Peru; Qatar; Russian Federation; Senegal; Singapore; Switzerland; Chinese Taipei; Thailand; The Former Yugoslav Republic of Macedonia; Turkey; Ukraine; Uruguay and Viet Nam, WT/MIN(17)/55, December 12, 2017.

³ “USTR Robert Lighthizer Statement on the Conclusion of the WTO Ministerial Conference,” *USTR*, December 2017, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/december/ustr-robertlighthizer-statement>.

⁴ Petros C. Mavroidis and Robert Wolfe, “From Sunshine to a Common Agent: The Evolving Understanding of Transparency in the WTO,” *Brown Journal of World Affairs*, vol. 21:2 (Spring/Summer 2015): 128.

⁵ “UK Pledges US\$ 21.3 Million to Innovative Trade Programme for Least-Developed Countries,” *WTO*, December 12, 2017, https://www.wto.org/english/news_e/news17_e/if_12dec17_e.htm.

working-age women participate in the global economy, the gender gap between men and women remains high.⁶ The Buenos Aires Declaration on Women and Trade, supported by 118 WTO members and observers, is an important commitment toward narrowing this gap and achieving SDG Goal 5 on gender equality.⁷

Another promising development is the commitment to craft a workplan on e-commerce,⁸ which is emerging as one of the most significant next-generation trade issues. Cross-border e-commerce is expected to grow to US\$ 1 trillion by 2020,⁹ and establishing a framework of rules that reflects countries' development objectives will be critical.¹⁰ The details of a framework will need to be worked through, and WTO Members agreed not to impose customs duties on electronic transmissions until the 2019 session.¹¹ A public-private dialogue was also launched by the WTO, World Economic Forum, and electronic World Trade Platform (eWTP) to enable micro, small, and medium enterprises (MSMEs) to participate in e-commerce and more actively engage in the global trading system.¹² The success of the platform will depend upon its ability to reach a diverse set of stakeholders, although its launch alone highlights a new type of collaboration between the WTO and civil society.¹³

WTO members also agreed to forge ahead with regulating illegal, unregulated, and unreported fishing (in support of SDG goal 14.6). While WTO members committed to improve transparency and provide more information on subsidies programs going forward,¹⁴ much work remains. This has historically been a challenging issue, as many countries depend upon fisheries as an economic staple, while others are concerned with preserving fish stocks and sustainability. Reaching agreement is becoming more urgent, and the 2020 deadline for a solution is fast approaching.¹⁵

⁶ "The Global Gender Gap Report 2017," (World Economic Forum, 2017), 8, http://www3.weforum.org/docs/WEF_GGGR_2017.pdf.

⁷ Resolution adopted by the General Assembly on 25 September 2015: Transforming Our World: The 2013 Agenda for Sustainable Development, A/RES/70/1, October 21, 2015.

⁸ Joint Statement on Electronic Commerce, WT/MIN(17)/60, December 13, 2017.

⁹ Mitch Barns, "Global E-Commerce Becoming the Great Equalizer," *Forbes*, January 20, 2016, <https://www.forbes.com/sites/greatspeculations/2016/01/20/global-e-commerce-becoming-the-great-equalizer/#789e2f685773>.

¹⁰ The Joint Statement on Electronic Commerce acknowledged that "open, transparent, non-discriminatory and predictable regulatory environments" facilitate e-commerce. Joint Statement on Electronic Commerce, WT/MIN(17)/60, December 13, 2017.

¹¹ Work Program on Electronic Commerce: Draft Ministerial Decision of 13 December 2017, WT/MIN(17)/W-6.

¹² "WTO, World Economic Forum, and eWTP Launch Joint Public-Private Dialogue to Open Up E-commerce for Small Business," *WTO*, December 11, 2017, https://www.wto.org/english/news_e/news17_e/ecom_11dec17_e.htm.

¹³ Rob Howse, "Is it Legal for the WTO to Team Up with Alibaba and the World Economic Forum to 'Enable E-Commerce? Probably Not Yet,'" *International Economic Law and Policy Blog (IELP)*, December 13, 2017, <http://worldtradelaw.typepad.com/ielpblog/2017/12/is-it-legal-for-the-wto-to-team-up-with-ali-baba-and-the-world-economic-forum-to-enable-e-commerce-p.html>.

¹⁴ "MC11 Closing Ceremony: Remarks by DG Roberto Azevedo," *WTO*, December 13, 2017, https://www.wto.org/english/news_e/spra_e/spra209_e.htm.

¹⁵ See Arthur E. Appleton, "Options for Improving the Transparency of Fisheries Subsidies," (Geneva: International Centre for Trade and Sustainable Development (ICTSD), 2017).

Other difficult and significant issues remain. The WTO's dispute settlement arm, the Appellate Body, is already understaffed, and another seat will become vacant at the end of the year. The institutional debate surrounding the Appellate Body may have different implications for developed and developing countries; the latter account for complainants in only a third of total disputes (notably, LDCs have not yet served as either complainants or respondents in disputes).¹⁶ Regardless, this discord threatens the WTO as an institution and undermines its important role in enforcing international law now and in the future.

Not surprisingly, agricultural trade issues remain on the table as well, with a significant impact on economic development. These include domestic support levels, transparency in agricultural standards, cotton, export restrictions, and stockpiling for food security purposes. Stockpiling has been a particular issue for India, which has a relatively more significant food stockpiling program than most smaller developing nations can afford, and a permanent solution is needed.¹⁷ Since many WTO members are impacted by food security challenges, a broader discussion on food security and trade is warranted.

Moving forward, food security should join e-commerce and women in trade as an area of heightened importance for the WTO.¹⁸ Overall, a greater emphasis on how to expand trade's benefits to a more diverse group of countries in a new, more integrated era will be needed, as will developing a rule of law that works for all countries and stakeholders. Contrary to some critiques of the system, WTO rules do allow for flexibility in implementation, as highlighted by the recent WTO Trade Facilitation Agreement.

It is time for a new, practical approach to trade and development that allows all members of the WTO to benefit from global trade. Hopefully, there will be an opportunity to explore these issues further and fulfill some of the promise of trade. If trade is to be a tool for economic development, breaking the impasse is not a choice.

¹⁶ "Developing Countries in WTO Dispute Settlement," *WTO*, https://www.wto.org/english/tratop_e/dispu_e/disp_settlement_cbt_e/c11s1p1_e.htm

¹⁷ ICTSD, "WTO Members Eye Post-Buenos Aires Work As Ministerial Talks Hit Hurdles," *Bridges*, December 13, 2017, <https://www.ictsd.org/bridges-news/bridges/news/wto-members-eye-post-buenos-aires-work-as-ministerial-talks-hit-hurdles>. See also Noor Mohammad, "WTO Meet Likely to Be a Washout as India and US Clash Over Food Security," *The Wire*, December 13, 2017, <https://thewire.in/204687/wto-meet-likely-washout-india-us-clash-food-security/>; V. Arun Kumar, "WTO Ministerial Conference Ends in Stalemate Amid US 'Sabotage,'" *NewsClick*, December 14, 2017, <https://newsclick.in/wto-ministerial-conference-ends-stalemate-amid-us-sabotage>.

¹⁸ Katrin Kuhlmann, "The Human Face of Trade and Food Security: Lessons on the Enabling Environment from Kenya and India," *Center for Strategic & International Studies (CSIS)*, December 11, 2017, <https://www.csis.org/analysis/human-face-trade-and-food-security>.