



SUMMARY RECORD

1 October 2018

Geneva

1. OPENING REMARKS BY THE CHAIR

Commission Vice Chair Ulf Pehrsson opened the meeting by welcoming returning and new members to the meeting. The Vice Chair then invited all participants to briefly introduce themselves.

Final list of participants is attached.

2. ROUNDTABLE DISCUSSION WITH SELECTED PERMANENT REPRESENTATIVES TO THE WTO

The Chair opened the item by inviting Ambassador Marc Vanheukelen, Permanent representative of the European Union to the WTO, to give an update on the current state of play of EU negotiations.

Mr Vanheukelen began by stating that the WTO was in a state of grave danger due to a number of reasons:

- First, major trade escalations were occurring with increased use of unilateral protectionist measures, including voluntary export restrictions, which were explicitly banned in the Uruguay Round.
- Second, the WTO's crown jewel, the Appellate Body, would cease to function once the minimum number of members fell below three. In December 2019, the number would be only one. Therefore, on 1 december 2019, the situation would revert back to the GATT.
- Third, it had proved extremely difficult to update rule book apart from the Trade Facilitation Agreement in Bali 2013 and agricultural subsidies in Nairobi in 2015.

On 18 September 2018, the EU publicly released its reform proposal under the rationale that enforceable, rules-based trade regimes were the best. To avoid the gradual marginalization of WTO, the EU proposal focused on 3 reform areas – with no single undertaking:

1. Unblock the Appellate Body: Cannot have rules without an enforcement mechanism. EU felt it to be an adequately response to stated concerns of the US
2. Greater transparency: Need for increased notification and reporting of subsidies (industrial/ agriculture), SPS/TBT, and standards. New rules needed to tighten the game. Same question, same reply for trade irritants before being sent to DSB.

3. Close gaps in rule book where exploitation: There is a rationale behind current trade escalation. Notably in area of subsidies and the role of SOEs, with the current system allowing for subsidies through a SOE, due to the narrow interpretation of what constitutes a public body. Another area to be addressed would be the current rules on intellectual property.

In addressing horizontal issues, Mr Vanheukelen stated that there may be no need for multilateral deals for the entire 164 members as more than 100 members in WTO make up less than 2% of global trade. He further noted that of global trade, the US accounted for 12-13%, EU 12-13 %, China 12-13%, respectively. In advocating for open plurilaterals, he noted that the balance of trade has shifted since 1996, with GDP per capita of certain developing countries having risen 2-3 times over the poorest EU member, thus further complicating the issue of self-designation. Finally, the next twelve months would be focused on disciplining fisheries subsidies.

The Vice Chair thanked the Ambassador for his comments and opened the floor for comments from members. Main issues included:

- Any reaction on the reform proposal from other members? Still in early days, but some members were now saying yes, reform was needed.
- The EU would attempt to triangulate but only time would tell if such efforts would bear fruit. The next major meeting would be in the Group of 13 countries meeting in Ottawa.
- An increased interest by business in the WTO had been noted. The private sector would need to respond soon on the reform proposals.
- The main priorities in the near future would be the unblocking the impasse over the WTO Appellate Body, increasing transparency and ensuring a level playing field through a new deal between major players.

The Vice Chair thanked the Ambassador and brought this item to a close.

3. **ROUNDTABLE DISCUSSION ON INVESTMENT POLICY TRENDS**

The Chair opened the item by inviting Director of the Division on Investment and Enterprise at UNCTAD, James Zhan, to share his views on emerging trends in the international investment agreement environment with Commission members.

Mr Zhan made the following main points:

- Noted that there may be a turning point for investment flows and investment trends.
- Global foreign direct investment (FDI) flows fell by 23% to \$1.43 trillion, well below 2007 peak.
- Tax reforms in US could trigger competition among jurisdictions.
- GVC growth analysis over last 3 decades had been very steady. Share of foreign imports within global exports: 31 %

Within investment policymaking trends, Mr Zhan noted 4 Ds:

1. Dynamics
 - i. Largest number of policy changes in decades (65 countries), evidencing a further proliferation of soft instruments of investment codes.
 - ii. Growing trend of increasing investment regulation (increasing portion of restrictive policies – now 27 - 30 % are investment restrictive).
 - iii. Developed countries regulatory framework is fairly liberal and now putting in place more national security concerns.
2. Dichotomy
 - i. Increased proliferation of industrial policies, with 101 countries having industrial policy packages (accounting for 90 % of GDP).
 - ii. Over 80 % of these industrial policies introduced in the last 5 years.
 - iii. Over 70% of these industrial policies include investment policies. (industrial and investment policies were getting closer and closer)
 - iv. Main types of investment instruments included in industrial policy packages
 1. Performance requirements (and incentives)
 2. SEZ – special economic zones (at least 4800 at national level worldwide)
 3. Investment screening (on basis of national security)
3. Divergence
 - i. Some countries increasingly negotiating investment in sustainable development.
 - ii. Some are terminating unilaterally; for the first time last year, more countries terminated than those that negotiated new ones.
 - iii. Some are going for megadeals, while other are reviewing existing treaties.
4. Dilemma
 - i. SDGs in health, education, infrastructure, etc; however, these are the most FDI restrictive areas.

In concluding his remarks, Mr Zhan stated that investment trends would be driven by three major factors: 1) paradigm shift towards sustainable development; 2) 4th Industrial revolution – shift to digital; and 3) political factors.

The Vice-Chair thanked Mr Zhan and brought this item to a close.

4. **ROUNDTABLE DISCUSSION WITH THE WTO SECRETARIAT**

The Chair opened the item by inviting Bernard Kuiten, Head of External Relations at the World Trade Organization Secretariat, to share the current state of play within ongoing negotiations.

Mr Kuiten made the following main points:

- From perspective of WTO Secretariat, Glass is half full or half empty for the short to mid-term issues. Down from 4.4%. Strong risk due to trade tensions as stated in the WTO Report with IMF and WB on trade reform.

- Alarm bells were ringing everywhere. System built over 70 years ago was very much under threat. There was a need all members on board to change it. Members only move when pushed into a corner.
- Joint initiatives were moving forward but at some point, members would have to bring them back into the system.
- If trade war continued, it would undermine relationships and members would no longer talk to each other in confidence.
- With respect to the Appellate Body, now down to 3 members and already evidencing a lower level of quality. Everyone has assumed that by the end of 2019, AB will be down to one member. However, a member could become ill before December 2019, and then AB institutionally unable to fulfil its function before that date. The entire system would grind to a halt.
- Involvement of private sector was critical. However, the role of WTO Secretariat was to move towards acting as a facilitator because involving external views proved to be very sensitive.
- The next ministerial conference would take place in Kazakstan in 2020.

The Vice-Chair thanked Mr Kuiten and brought this item to a close.

5. ICC SWITZERLAND BUSINESS ROUNDTABLE ON EXTRATERRITORIALITY

Immediately following the Commission meeting, ICC Switzerland hosted its 3rd Geneva Business Dialogue Roundtable on Extraterritoriality at Forum Genève from 18:00 to 20:30.

6. ICC STRATEGY

Due to scheduling conflicts, this item was not covered.

7. ANY OTHER BUSINESS

No other items were raised under this item.

8. DATE OF NEXT MEETING

The Commission discussed the possibility of holding its next meeting in the first half of 2019.

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