

# Note

# Taking Advantage of WTO Regular Work: Learning Lessons from Four Key WTO Bodies

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**Summary** 

This note looks at the functioning of four regular bodies of the WTO, i.e. the Committee on Agriculture, the Committee on Trade and Development, the Council for Trade in Services and the Committee on Trade and Environment. Together these bodies deal with the important areas of agricultural practices, development, climate change and man-environment interaction and services within the context of global trade practices.



KEEPING PACE WITH TRADE DEVELOPMENTS The "Keeping Pace with Trade Developments" project aims to enable LDC and Smaller Developing Country WTO delegates to better take advantage of international trade for their development.



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### Introduction

An important pillar of the World Trade Organisation (WTO) work relates to the monitoring of the implementation of its existing agreements and commitments<sup>1</sup> and providing opportunities for discussion among its Members on related issues. Known as the the "regular work" in WTO jargon, this work takes place in a number of sectoral Councils and Committees that have been established for this purpose.<sup>2</sup> However, this work has not attracted the deserved attention unlike the other pillars of WTO work, e.g. those related to negotiations for new agreements/obligations and dispute settlement. Not only the general public remains unaware of it, many smaller developing countries and least-developed countries (LDCs) also do not fully participate in the WTO regular work mainly due to capacity constraints.

The regular work of the WTO is an important aspect of the multilateral trading system (MTS) with smaller developing and least-developed countries standing to derive benefits from the MTS by improving their participation in it. Such participation will allow them to: i) monitor the implementation of existing commitments across many areas (e.g. trade in goods, trade in services, intellectual property rights, etc) by their trading partners; (ii) share their own implementation experience and any difficulties encountered therein; (iii) raise any concerns they may have (e.g. those related to sanitary and phyto-sanitary, and technical standards, etc.) for possible resolution; (iv) participate in the peer review of trade-related policies of WTO Members (through the Trade Policy Review Body – TPRB); and (v) deliberate upon important issues (e.g. related to development, environment, e-commerce, etc.).

The participation in the regular work will also help in linking the WTO deliberations in Geneva with the relevant stakeholders, particularly the private sector in developing countries and LDCS. Several sectoral committees (e.g. Committees on SPS and TBT, and the TPRB) are particularly suited to bringing the issues of interest and concern of the private sector (including the MSMEs) to the attention of relevant trading partners and to initiate discussion for possible solutions. Finally, the active and constructive functioning of regular WTO bodies will send a strong and positive signal about the relevance, utility and resilience of the MTS. It will demonstrate that the WTO is not only about new agreements for additional commitments or trade disputes: rather it is a forum where developing countries and LDCs can equally participate to take advantage of the existing rules and opportunities.

This note looks at the functioning of four regular bodies of the WTO, i.e. the Committee on Agriculture, the Committee on Trade and Development, the Council for Trade in Services and the Committee on Trade and Environment.<sup>3</sup> Together these bodies deal with the important areas of agricultural practices, development, climate change and man-environment interaction and services within the context of global trade practices. Some of the specific issues discussed in these bodies

geneva.org/pdf/1901-Note-

WTO Committee on Trade and Environment.pdf,

<sup>&</sup>lt;sup>1</sup> There are more than 30 agreements and separate

commitments (called schedules), most of which were

negotiated during the Uruguay Round and have provided for the rights and obligations of WTO Members.

<sup>&</sup>lt;sup>2</sup> For more information regarding the organisation of the WTO and its work, please consult

https://www.wto.org/english/thewto e/whatis e/inbrief e/inbr e. htm#how the wto is organized

<sup>&</sup>lt;sup>3</sup> For more detailed information on each of these kindly see the Notes at <u>http://www.cuts-geneva.org/pdf/1809-Note-</u>

WTO Committee on Agriculture.pdf, http://www.cuts-

http://www.cuts-geneva.org/pdf/1901-Note-

WTO Committee on Trade and Development.pdf, and

http://www.cuts-geneva.org/pdf/1901-Note-

WTO Committee on Trade and Services.pdf.



as part of the regular work of the WTO include *inter alia*: examination of members' compliance with their commitments to reduce subsidies to their agriculture, food security, regional tarde agreements among developing countries, preferential trading arrangements in favour of developing countries and LDCs, trade-related technical assistance and capacity building, environmental degradation and climate change, and e-commerce. All these have strong implications for the socio-economic development.

# **Committee on Agriculture**

The Committee of Agriculture (CoA) is responsible for overseeing the implementation of the WTO Agreement on Agriculture (AoA) which came into force in 1995 to reform agricultural trade by making it more fair and competitive. It covers the three areas of Market Access (reduction of tariffs etc), Domestic Support (reduction and disciplining of various domestic subsidies) and Export Competition (reduction and disciplining of export subsidies and other programmes with similar effect). The Committee has regular meetings in March, September and November each year to review progress in the implementation of specific reform programmes and also carry out other tasks which have been defined for their monitoring in the Agreement.

The works of the Committee can be divided into Part I (Review Process of Members' notifications) and Part II (Other Matters relating to reports of the Committee and Monitoring Activities). Part II deals with the monitoring of information on food security, implementation of the Bali Decision on Tariff Rate Quota Administration, monitoring the possible negative effects of agricultural reform on LDCs and Net Food-Importing Developing Countries (NFIDCs), etc.

Some of the issues discussed in the recent past (2017-2018) under Part II are regarding the challenges faced by the NFIDCs, Export Competition and Export Subsidies, Bali TRQ Administration and Cotton provisions. Below table provides a summary of these discussions.

Issues	Brief Summary of Discussions in 2017-2018
Challenges faced by the NFIDCs	<ul> <li>Egypt requested that this item remain a standing agenda item for the CoA.</li> <li>Members had agreed to review the provisions on international food aid within the Committee on Agriculture monitoring of the implementation of the Marrakesh Ministerial Decision for LDCs and NFIDCs of April 1994.</li> <li>It had been noted that the implementation of the Marrakesh Ministerial Decision to counter the state of the table of the table.</li> </ul>
	<ul><li>the negative impacts of the AoA on the LDCs and NFIDCs had not been satisfactory.</li><li>Pakistan expressed its concern over the lack of notifications and how this affected the review foreseen in the Marrakesh Ministerial Decision.</li></ul>
Nairobi Ministerial Decision or Export Competition and Expor Subsidies	• It was noted that the June dedicated discussions on post-Nairobi export competition had provided Members the opportunity to have a focused exchange on issues related to the implementation of the Nairobi Ministerial Decision on export competition. It was highlighted that comprehensive and updated information from Members was a critical element of the annual dedicated discussion on export competition.
	• Fewer agricultural exporting STEs had been reported than in previous years.
	• The Chairman recalled that Article <b>18:5</b> called on Members to consult annually with respect to their participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies. This annual consultation was to be undertaken at the regular November meetings of the Committee.



	• Several members talked about the importance of the implementation of the commitments made in Nairobi more than two years ago to eliminate the remaining scheduled export subsidies entitlements.
Bali Ministerial Decision TRQ Administration	<ul> <li>Many Members had emphasized the importance of enhanced transparency of TRQ administration including through complete and timely notifications.</li> <li>A number of Members had suggested that the Committee examine the reasons the underfill mechanism had not yet been invoked.</li> </ul>
	• According to the Bali TRQ Decision, the General Council would take a decision on the recommendations arising from the review in the CoA of the Decision no later than 31 December 2019. In view of that deadline, the Committee would finalize the review discussions, if possible, by June 2019.
Cotton Provisions	• New Zealand called on Members to accelerate their processes to eliminate export subsidy entitlements related to cotton.
	• The United States noted that as of 1 January 2017 all Members should be meeting the transparency commitments included in the annex to the Export Competition Decision regarding cotton.

# Expected Work Plan of CoA for 2019

June 2019: Dedicated discussions on export competition as per the Nairobi Ministerial Decision

June 2019: Committee likely finalizing the Bali TRQ review discussions.

November 2019: Committee undertaking the annual consultation pursuant to Article 18:5.

November 2019: Committee monitoring actions within the framework of the Decision on Measures concerning the Possible Negative Effects of the Reform Programme on the LDCs and NFIDCs.

December 2019: The General Council would take a decision on the recommendations arising from the review in the CoA of the Bali TRQ Decision no later than 31 December 2019.

# **Committee On Trade And Development**

The CTD serves as a focal point for the consideration and coordination of work on development in the WTO. Among the broad areas of its work are included: how provisions favouring developing countries are being implemented, guidelines for technical cooperation, increased participation of developing countries in the trading system, and the position of least-developed countries. Moreover, the specific areas of its mandate include: technical assistance programmes, Special and Differential Treatment provisions, Small Economies, Aid for Trade, follow up to the direction by the Ministers at the Eighth Ministerial Conference of the WTO<sup>4</sup>, regional trade agreements among developing countries, preferential schemes in favour of developing and least-developed countries, and development dimension of electronic commerce. Below table provides a brief summary of the discussions on some key issues which took place

had called on Members to fully operationalize the mandate of the CTD as a focal point for development work.

<sup>&</sup>lt;sup>4</sup> At the Eighth Ministerial Conference (MC8), Ministers had, inter alia, reaffirmed the positive link between trade and development and called for focused work in the CTD. Ministers



#### in 2017-2018 in the CTD.

Issues	Brief Summary of Discussions in 2017-2018
Work In The Committee On The Basis Of The Chairman's Concluding Statement From The Eighth Ministerial Conference ( <i>WT/MIN(11)/11</i> )	<ul> <li>Attention drawn to the proposal by Ecuador, circulated in document <i>WT/COMTD/W/204/Rev.1</i> which asked for the Secretariat to update, at least once every two years, its document on the implementation of special and differential treatment (S&amp;D) provisions in the WTO Agreements and Decisions.</li> <li>The representative from India asked CTD to report regularly on the development-related work taking place in other WTO bodies and further said that it was important for the parties to submit their notification and information requirements.</li> </ul>
Regional Trade Agreements (RTAs) under Enabling Clause Notifications	<ul> <li>Regarding the Agadir Agreement – between Egypt, Jordan, Morocco and Tunisia - data had been received from Egypt, Jordan and Morocco. However, the Secretariat was still waiting to receive data from Tunisia.</li> <li>Chairman indicated one new notification under the Enabling Clause which concerned</li> </ul>
	<ul> <li>Egypt's accession to the Common Market for Eastern and Southern Africa, notified on 3 January 2017 in document <i>WT/COMTD/N/51</i>.</li> <li>For the interest of CTD and the Committee on Regional Trade Agreements (CRTA),</li> </ul>
	Members were asked to maintain similar practices in the implementation of the Transparency Mechanism for RTAs.
	• Need was felt for more regular consultations with the parties to RTAs notified under the Enabling Clause.
Notifications Under The Transparency Mechanism For Preferential Trade Arrangements (PTAs)	• A new notification concerning the US' trade preferences for Nepal had been made under the Transparency Mechanism for PTAs which has been circulated in document <i>WT/COMTD/N/52</i> . The Secretariat was in the process of drafting the factual presentation.
	• There were five PTAs for which the Secretariat had still not received the full set of data or information required for the preparation of factual presentations which were implemented by China, India, the Russian Federation, Thailand and Chinese Taipei. The Chair urged the notifying Members to provide the required data and information as soon as possible.
Review Of Steps Taken to Provide Duty- Free and Quota-Free (DFQF) Market Access to Least Developed Countries	• The Secretariat was asked to prepare a report, in close coordination with Members, on their DFQF market access for LDCs at the tariff line level, based on their notifications. However, because of a divergence of views between some Members on the scope and coverage of the report, the Secretariat was yet to circulate its report.
Participation Of Developing Countries in The Multilateral Trading System	• The Economic Research and Statistics Division (ERSD) provided a broad overview of the information contained in the Secretariat paper. Weak economic activity coupled with the fall in energy and commodity prices explained a decline in export earnings.
	• A representative of the ERSD said that the Secretariat was working on the development of quality statistics, with a view to improving the coverage of the Trade in Value-Added (TiVA) database.
Electronic Commerce	• The Chairman drew Members' attention to the Ministerial Decision concerning the WTO's Work Programme on E-Commerce adopted at the Eleventh Ministerial Conference (MC11). The Chairman invited Members to consider possible ways forward for the CTD in the e-commerce area, and to share any ideas with the Committee. He also indicated that, as per the MC11 Decision, the General Council would hold periodic reviews on the Work Programme on E-Commerce, based on reports submitted by the relevant WTO bodies.



#### **Expected Work Plan of CTD in 2019**

All the above mentioned issues will remain on the CTD agenda in 2019.

#### **Council For Trade In Services**

The Council for Trade in Services (CTS) operates under the guidance of the General Council and is responsible for facilitating the operation of the General Agreement on Trade in Services (GATS) and for furthering its objectives. It is open to all WTO members, and can create subsidiary bodies as required. Presently, the Council oversees the work of four such subsidiary bodies: the Committee on Trade in Financial Services, the Committee on Specific Commitments, the Working Party on Domestic Regulation and the Working Party on GATS Rules.

Below table gives a brief summary of discussions on some important issues in the CTS in 2017-2018.

Issues	Brief Summary of Discussions in 2017-2018
Notifications Pursuant to Articles III:3 and V:7 of the	• Concerning the notifications made pursuant to GATS Article <b>III:3</b> <sup>5</sup> , the Chairman drew the Council's attention to the communication received from Norway, in document ( <i>S/C/N/869</i> ).
GATS	<ul> <li>Concerning the notifications made pursuant to GATS Article V:7<sup>6</sup>, the Chairman drew the Council's attention to the communications received from Colombia and the Republic of Korea (<i>S/C/N/868</i>); Costa Rica and Colombia (<i>S/C/N/870</i>); Colombia, Chile, Mexico and Peru (<i>S/C/N/871</i>) and Hong Kong, China and Macao, China in document (<i>S/C/N/898</i>).</li> </ul>
	• The Chairman had also drawn the Council's attention to the communication received from Colombia, Peru, Ecuador and the European Union ( <i>S/C/N/876</i> ).
	• The representative of the United States drew Members' attention to the notification by China and Macao, China, which he believed represented best practice with respect to paragraph 14 of the RTA Transparency Mechanism.
Operationalization of the LDC Services Waiver	• LDCs had expressed their concerns at the Nairobi Ministerial Conference of the WTO (2015) about the very few notifications that addressed Sections B and C of the LDC Collective Request. They had also requested the notifying Members to provide an assessment of the use of the preferences by LDC services suppliers, for instance by sharing information on the supply of services by LDC suppliers in notified sectors.
	• LDCs had increasingly come to the conclusion that it was more helpful to their service suppliers if donor Members, development partners and agencies could design and provide technical assistance to projects and programmes that were based in their respective countries or regions, with a view to building LDC supply capacity on the ground.
	• The representative of Chad said that according to the Secretariat Note in document <i>WT/COMTD/LDC/W/66</i> on 'Market Access for Products and Services of Export Interest to Least Developed Countries', LDCs' trade in commercial services had begun to grow again in 2017.
Work Programme on Electronic Commerce	• Members like India, Ukraine, Canada, New Zealand, Cuba, Singapore and Paraguay provided constructive feedbacks and proposals through which the digital experience of information sharing and trade development can be enhanced at the WTO.
	• While Brazil identified electronic signatures in the meeting as a relevant issue for e-commerce

<sup>&</sup>lt;sup>5</sup> In the **Article III** of the GATS which focuses on transparency, **Section III:3** states that "Each Member shall 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 covered by its specific commitments under this Agreement." <sup>6</sup> **Article V** of the GATS deals with economic integration and **Section V:7a** says that:-

<sup>(</sup>a) Members which are parties to any agreement referred to in paragraph 1 shall promptly notify any such agreement and any enlargement or any significant modification of that agreement to the Council for Trade in Services. They shall also make available to the Council such relevant information as may be requested by it. The Council may establish a working party to examine such an agreement or enlargement or modification of that agreement and to report to the Council on its consistency with this Article.

	discussions, Ukraine supported the convening of a thematic seminar on e-commerce to reduce the knowledge gap on the subject.
	• Micro, Small and Medium Enterprises (MSMEs) were recognized as the potential main beneficiary of digital trade where they could be given the opportunity to enter new markets and thus be provide d with more trade and domestic employment opportunities as well as access to innovation.
	• The Chairman indicated that two new communications had been submitted under the Work Programme by Chinese Taipei. They were contained in documents <i>JOB/SERV/277</i> and <i>JOB/SERV/278</i> .
Assessment of Barriers to Entry in Mode 4	• The representative of India said that supply of services through mode 4 was particularly important for developing countries and LDC and it was therefore disappointing that commitments in an area of such critical interest to these countries were shallow and fraught with market access, administrative and other barriers.
	• The representatives of Turkey, Bolivar Republic of Venezuela, Bangladesh, Brazil, Cuba, Ecuador, Argentina and Peru all supported India's proposal to hold a seminar on Mode 4. While the United States had some concerns with the wording of the proposal by India, his delegation had no objection to moving the process forward to the concrete planning stage.
	• The representative of India took the opportunity to request the Secretariat to update its Background Note on mode 4, contained in document <i>S/C/W/301</i> , dated 15 September 2009. However, the Chairman said that it was not possible for the Council to agree to India's suggestion to update the Secretariat Note on mode 4 at that meeting.
Trade Facilitation Agreement for Services	• The Representative of India had introduced a draft legal text for an Agreement on Trade Facilitation for Services (TFS) for discussion.
	• Members had engaged in an extensive discussion of India's proposal. In addition to making a number of general comments, delegations had also posed several detailed questions and raised specific observations.

### **Expected Work Plan for 2019**

The CTS will continue to deal with the issues on its agenda as mentioned above. There is also the possibility of having a dedicated meeting of the CTS to review the Nairobi Ministerial Decision on the implementation of the LDC services Waiver at a specific date in the second quarter of 2019, possibly between April and May 2019. The Council in the second quarter of 2019 could also probably hold a workshop on the same issue that would bring together LDC government and private sector stakeholders, Members' development agencies and relevant international organizations.

# Committee On Trade And Environment

The Committee on Trade and Environment (CTE) is the standing forum dedicated to dialogue between governments on the impact of trade policies on the environment, and of environment policies on trade. It was set up by the 1994 Marrakesh Ministerial Decision on Trade and Environment

The main focus of CTE is to identify and understand the relationship between trade measures and environmental measures to promote sustainable development. Moreover, as per the relevant Doha Ministerial Declaration, it focuses on 3 main issues: a) Environmental requirements and market access: preventing 'green protectionism' and promoting "win-win-win" situations; b) The relevant provisions of the Trade-Related Aspects of



Intellectual Property Rights (TRIPS) Agreement; c) Labelling requirements for environmental purposes. The CTS undertook discussions on a number of issues in 2017-2018. Below table provides a brief summary of discussions on some key issues.

Issues	Brief Summary of Discussions in 2017-2018
Fisheries	• The representative of the Food and Agriculture Organization of the United Nations (FAO) presented the 2016 edition of the State of World Fisheries and Aquaculture (SOFIA), providing an overview of the current and future perspectives of the fisheries and aquaculture sector.
	• There was a great focus on the challenge of feeding 9.7 billion people by 2050 and SDG 14's important role was focused on in this context.
	• FAO was developing technical guidelines on methodologies for the estimation of Illegal, Unreported and Unregulated (IUU) fishing and indicators.
	• The 32nd Committee on Fisheries (COFI) meeting had requested the FAO Secretariat to prepare a global study on transhipment to understand the current regulations and the type of operations.
Fossil Fuel Subsidies Reform	• In the meeting of 20th March 2017, the representative of New Zealand reminded delegations that at the June 2016 meeting of the CTE, a comprehensive overview of the international effort to reduce and eliminate fossil fuel subsidies to date had been provided.
	• The Fossil Fuel Subsidies Reform (FSSR) Communiqué stressed the importance of phasing out fossil fuel subsidies and served as a clear point of reference for ongoing international and country level efforts. The Communiqué in particular asked that finance should be consistent with a pathway towards low greenhouse gas (GHG) emissions and climate resilient development.
	• New Zealand viewed the WTO as a natural home to consider FFSR.
The International Organization for Standardization's work on carbon footprint	• A representative of the International Organization for Standardization (ISO) presented an update regarding ISO investigations on potential barriers to trade caused by carbon footprint standards.
	• The ISO Ad Hoc Group carried out its work in 2016 to examine concerns that standards would cause barriers to trade for products from developing countries and submitted a report in June 2017 to the Technical Management Board (TMB).
Other Items on the CTE'S Work Programme (ITEMS 1, 2, 3(A), 4, 5, 7, 9 AND 10)	• The representative of the United Nations Industrial Development Organization (UNIDO) presented the organization's work on e-waste management. UNIDO followed three priorities of creating shared prosperity, advancing economic competitiveness; and safeguarding the environment.
	• In the meeting of 20 <sup>th</sup> March 2017, the representative of the Republic of Korea, on behalf of Costa Rica, Canada, Mexico and Korea, updated Members on their joint proposal on "Deepening the understanding of the relationship between the climate change and trade regimes". Discussions that had taken place in recent CTE meetings, including Members' presentations of their Intended Nationally Determined Contributions (INDCs), showed that many Members, regardless of their economic situation, considered that climate change was an important challenge for economic growth and sustainable development, and that the joint proposal fell squarely within the CTE mandate. However, the representative acknowledged that the issue was very sensitive for some Members and that was why co-sponsors had proposed flexible approaches. The co-sponsors considered it regrettable that an informative session on trade and climate change could not be discussed in the CTE even though the Committee was discussing various other important environmental issues also with trade implications.
	• The representative of the WTO Secretariat presented the WTO Environmental Database (EDB) for 2013, which compiled information on environment-related measures and covered all notifications under WTO Agreements and TPRs.
	• In the meeting of 17th January 2018, the representative of the WTO Secretariat introduced the biennial update of the Matrix on Trade-related Measures Pursuant to Selected Multilateral Environmental Agreements (MEA Matrix. Nearly 20 MEAs, including Conventions and Protocols, were covered by the MEA Matrix.



#### **Expected Work Plan for CTE in 2019**

While CTE will continue to deal with issues under its mandate in its meetings to be held in 2019, Argentina and Canada have jointly announced that they would work on a peer review process of the CTE in 2019.

## Conclusions and Recommendations

The brief summary of discussions on some important issues at the CoA, CTS, CTD and CTE in 2017 - 2018 in the above section shows that these regular WTO Bodies are dealing with broader issues of inter alia food security and reform of world agricultural markets, promoting exports of services from LDCs, development-related concerns of developing and least-developed countries. relationship between trade and environment, etc. There are numerous agenda items under these broad mandates to discuss more specific issues. Moreover, some of them (i.e. CTD and CTS) are also entrsuted to hold discussions on emerging issues such as ecommerce. Developing countries and LDCs must participate in these deliberations to advance their interests and engage in constructive discussion with their trading partners.

At the same time, the very limited human, technical and institutional capacities of smaller developing countries and LDCs have to be taken into account which are the main reason for their limited participation in the regular work of the WTO so far.

Accordingly, smaller developing countries and LDCs can consider the following to work towards improving their participation in the regular WTO work in 2019 and beyond:

• The regular WTO Bodies often have standard agenda items and the frequency of their

meetings each year is also known. Developing and least-developed countries can examine these agendas and the proposed timings of the meetings at the start of each year to identify the issues that are most important to them. They can also identify their key interests to be advanced in respect of these issues.

- To mitigate their capacity constraints, developing and least-developed countries can then seek the assistance of relevant international organisations, think tanks and NGOs to provide them with data and information related to these issues and based on objective research and analysis.
- Simultaneously, they should also seek the inputs from the relevant stakeholders in their countries including the private sector.
- Developing and least-developed countries can also work together on specific issues that are of common interest to other countries in the region or even beyond including developed countries. This will allow them to pool their own limited resources as well as build alliances with other least-developed, developing and developed countries to advance their interests and achieve their objectives.

Finally, attention to important issues under the regular work of the WTO should become an integral part of the work of developing and least-developed country delegates in Geneva including by making it a standard agenda item for the periodic meetings of their groupings (e.g. ACP, Africa and LDC groups). This will allow them to build the necessary technical and institutional capacity and also seek the technical and capacity building assistance in this area from their development partners.





#### **CUTS International, Geneva**

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