

Global Unions Statement to the 12th WTO Ministerial Conference (MC12)

Geneva/June 2022

Trade rules must protect people and the planet.

With major countries enacting further lockdowns and more than 20 billion mRNA vaccines still to be manufactured to vaccinate the global population fully, the pandemic is far from over. The WTO could play a decisive role in assisting the production of vaccines, tests, and protective equipment by agreeing to the tabled proposal for a TRIPS waiver. Advanced economies, many of which have secured more than enough vaccines to vaccinate their population, have blocked any meaningful progress and instead prioritised the interests of a few pharmaceutical corporations. We condemn the lack of solidarity from developed to developing countries, and we are concerned by the lack of courage to agree on a meaningful TRIPS waiver. The current Secretariat text proposal falls short of workers expectations and its scope needs to be expanded to fulfil its objective of furthering the fight against the pandemic.

The pandemic has highlighted the fragility and inadequacy of the trade model the WTO had been promoting the last decades. More than two years after the pandemic's beginning, supply chains remain heavily disrupted due to recent lockdowns, the war in Ukraine and severe logistical problems. The WTO members should now prioritise action that would lead to resilient supply chains and domestic production, addressing the chronic governance gaps, including the failure to enforce human and labour rights – a failure that allows the exploitation of millions of workers.

At the 2015 Nairobi ministerial, developed countries announced that they no longer support the Doha Development Agenda and that they would pursue market access through plurilateral agreements. Development concerns that we have highlighted for two decades – the operationalisation of special and differential treatment, the unequal subsidies rules in agriculture, and developing countries' flexibilities – remain unaddressed. The industrialised economies have undermined the multilateral trading system by resisting progress in these and other development priorities for decades and are now advancing alone in areas of their interest, including e-commerce and domestic regulation, without the ministerial conference's mandate.

Against this backdrop, some members have proposed a short-sighted WTO reform agenda. It would further the WTO imbalances that produce income inequality, undermine sustainability and hinder development. Instead, the goals of the WTO reform should be a new balance that puts development, resilience, and social justice at the core of WTO deliverables.

We call on ministers to agree to the TRIPS waiver and address the following priorities:

E-Commerce Negotiations

Trade unions call for the abandonment of the e-commerce negotiations in the WTO. Cross-border data transfers, data storing and uses, access to source codes, and other supposed e-commerce issues are inherently political, as they will determine the future distribution of wealth and power; access to technology; access to information and how to deal with disinformation; the quality of good governance and democracy; consumer habits; climate action; and, in general, much more than just e-commerce.

The WTO, with its reductive approach to government regulation, is not the right place for governance on the future of work and the global economy to be

agreed. The proposals tabled by the most assertive promoters of these negotiations are identical to big tech's demands, which is another reason trade unions view this endeavour with suspicion and repulse.

The Joint Initiative on e-commerce negotiations must be abandoned. In their stead, governments should agree on rules and establish institutions for global data governance with data rights in an appropriate forum, with the participation of social partners, and with a clear mandate to ensure data-driven technologies are accessible to all.

Investment Facilitation and Domestic Regulation Disciplines

The negotiations on investment facilitation concern, among other things, the predictability and objectivity of investment measures, administrative procedures and mediation mechanisms. They potentially overlap with the domestic regulation disciplines negotiations. Both negotiations aim to limit government competence to draw investment policy with national objectives and instead establish a corporate-friendly environment for investors to exert their power to block or water down government regulation. The negotiations included standards on national investment policy that determine the policy's legitimacy.

The WTO dispute settlement has used similar provisions in the GATS that require domestic regulation to be "transparent", "impartial", and "not more burdensome than necessary" to weaken and block national regulation. The effect of the Agreement on Domestic Regulation Disciplines would be similar, as it includes requirements for expedited administrative procedures and the processing of applications in "reasonable time periods". Disciplines disguised as measures friendly to small and medium enterprises (SMEs) would further limit the regulatory space of participating

countries. The inclusion of rules in schedules is also concerning because it is a new practice not based on any precedent.

Investment facilitation and the domestic regulation disciplines agreements would further GATS and curtail the ability of governments to establish investment criteria to attract long-term, responsible, productive investment. Foreign investors already enjoy bizarrely excessive privileges under bilateral investment treaties (BITs) that allow them to challenge regulation ad hoc directly in investor-state dispute settlement (ISDS).

Governments have national competence to facilitate, attract and promote investment unilaterally. There is no advantage in committing national investment policy and domestic regulation to the WTO. We call on the WTO members to abandon the negotiations and any resulting agreements.

Localisation measures on foreign investment, like requirements for joint ventures, foreign ownership ceilings, and investment performance targets on local labour employment, training and skills, and local content requirements, are key industrial policy

tools and should remain available to all economies. In the WTO reform, part of the membership supports restricting such measures and, if agreed, this approach would undermine sustainable development that is even more essential now to recover from the economic impacts of the pandemic. The WTO should suspend any restrictions on governmental policy-making regarding foreign direct investment and especially measures in the public interest.

Further, the WTO Agreement on **Trade-Related Investment Measures (TRIMs)** already restricts many such government measures and establishes transitional periods. The pandemic has shown the value of promoting local production and so, the members should engage in negotiations to review the restrictive TRIMs regime and suspend provisions that pose barriers to development policy. Countries are always free to grant equal treatment to foreign investment unilaterally.

Fishing Subsidies

Overfishing is a problem that threatens ocean sustainability. Subsidies to big industrial fleets that have been overfishing for decades should not be treated in parity with subsidies given to small-capacity fishermen in developing countries. Disciplining subsidies with WTO rules would be a step in the right direction to the extent such an approach respects the principle of special and differential treatment.

Trade unions call on WTO members to introduce disciplines and limitations on fishing subsidies that do not affect small fishing communities and to consider fishing subsidies broadly to include fossil fuel subsidies and other advantages given to big fleets.

Development

In order to contribute to the achievement of the Agenda 2030, WTO members should re-affirm and ambitiously conclude the Doha Development Round and its implementation agenda.

The trade union movement urges WTO members, developed and developing countries alike, to agree to preferential access schemes on the condition of improving ILO standards implementation and promote the Decent Work Agenda; operationalise and implement the least developed countries (LDC)

package agreed in Bali in 2013; simplify the rules of origin to facilitate LDCs to make use of preferential access to markets; allow unilateral duty-free quota-free (DFQF) access for all LDC products; extend indefinitely the waiver on services enjoyed by the LDCs; and conclude an ambitious agreement to operationalise special and differential treatment principles and amend the monitoring mechanism to improve the impact of such provisions on development.

Agriculture

The war in Ukraine, commodity price speculation, grains hoarding, and other reasons have caused food prices to soar. It is high time for a WTO change of course on the imbalanced Agreement on Agriculture that has undermined food security for decades. Trading arrangements for agriculture

significantly impact one billion people who depend on subsistence agricultural activities. The WTO members must ensure that an agreement on agriculture guarantees food security and improves the incomes and livelihoods of small producers. Such an agreement should also guarantee that WTO

rules on agricultural subsidies do not discriminate against developing countries.

We urge the WTO members to allow governments to classify stockholding programmes for food security purposes under the “green box” provision of the agriculture agreement; eliminate the distinction of subsidies according to the colour of the boxes in which they are notified, as it has no scientific justification; provide for a functioning special safeguard mechanism (SSM) in order to help developing countries react to import surges; foster DFQF imports

of food products from LDCs by all members as long as they do not harm their domestic food consumption; forbid exports of food products at prices below the average national production cost; eliminate all cotton subsidies and all subsidies that damage food security and domestic production in the developing world; and raise the allowed de minimis support for developing countries, including by updating the method of calculation, particularly for those without aggregate measurement of support (AMS) commitments and taking inflation into account.

WTO Reform

Several WTO members have started a discussion aiming to reform the WTO. In this initiative, the trade union movement sees an opportunity to realign the multilateral system’s rules with the goals of the Agenda 2030 and address climate warming and income inequality.

In addition to concluding the Doha Development Round and reforming the agreement on agriculture, the reform should increase cooperation between the ILO and the WTO and establish **a floor for fair competition with capacity building mechanisms and enforceability of labour and environmental standards.**

All new negotiations should examine, foresee and understand the impact on inequalities, the environment, decent work and labour income, and other Sustainable Development Goals. Before any negotiations, officials should inform the negotiations in line with the **sustainability impact assessments** findings. This includes guarantees that mitigate the adverse impacts and the abandonment of negotiations that would cost jobs, decrease wages or have a heavy environmental footprint.

Experts and academia have criticised the dominant **economic modelling** as inaccurate and ideologically dispositioned towards trade opening. In order to

create outcomes that are closer to reality, the WTO should contribute, in cooperation with UNCTAD and other international organisations, to a scientific initiative to develop credible economic modelling.

The WTO should ensure that its agreements and rules and in line with and promote the internationally agreed ILO labour standards to support inclusive growth. The Trade Policy Review Mechanism should monitor and consider labour standards violations with the participation of workers’ representatives. The Aid for Trade should secure resources to cover adjustment costs and skills development for workers affected by trade liberalisation.

The WTO and its membership have a critical role in global economic governance. The current trade rules have shaped a global economy that produces extreme inequalities, labour exploitation and wasteful consumption, leading to environmental degradation and climate change, the disempowerment of disenfranchised groups, persisting inequalities and poverty, and food insecurity. The current crisis in the WTO is an alarm to change course as billions of people have been excluded from trade’s benefits, which accrue to a small global elite.

It’s time for a change.