



# WEBINAR ON 12<sup>th</sup> WTO MINISTERIAL CONFERENCE: WHAT'S IN IT FOR THE DEVELOPING COUNTRIES



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## BACKGROUND NOTE

The 12<sup>th</sup> Ministerial Conference (MC12) of the WTO is scheduled from 30 November to 3 December 2021. Apart from already existing issues that have been the subject of the earlier Ministerial Conferences, the COVID-19 pandemic has widened the fiscal disparities among countries and has thrown new challenges.

On WTO's response to the pandemic, various initiatives are being undertaken across multiple channels. In this regard, Ambassador David Walker of New Zealand (former GC Chair) has been appointed as the facilitator for MC12 deliverables on WTO's response to the pandemic.

MC12 will be a crucial opportunity to overhaul the institutional reforms in the WTO including the deadlock in the Appellate Body. The core issues at the table (especially from developing countries' perspective) for the MC-12 are (i) WTO reforms; (ii) fisheries subsidies; (iii) permanent solution public stockholding programme; (iv) Joint Statement Initiatives (JSI) and the role of consensus in setting the negotiating agenda for the WTO. MC12 will be an important opportunity to end the impasse and create a balanced outcome between old and new issues and interests of developed and developing countries. It will pave the path forward to revitalize the multilateral trading system in order to ensure certainty in the global trade regime. The major concerns of the developing countries regarding the major issues are as follows:

### **i. WTO Reforms**

WTO's role as an international negotiating and Dispute Settlement Body has been rendered ineffective since the Appellate Body (AB) became dysfunctional in December 2019. The WTO Members have been sincerely making efforts towards the reinvigoration of the AB by attempting to address the issues highlighted by the USA. At the G-20 Trade and Investment Ministerial meeting held in October 2021, the ministers noted that the G-20 Members "commit to a successful and productive WTO 12<sup>th</sup> Ministerial Conference as an important opportunity to advance WTO reform to revitalize the organization".<sup>1</sup> Since 2018 several WTO Members have put forward proposals regarding (1) fundamental principles of the WTO trading system including the rules-based multilateral trading system (especially consensus-based decision-making process), transparency and notifications, developing country status and special and differential treatment; (2) to improve the review and deliberative functions of Committees, the processes for WTO rule-making and agenda-setting, the role of the Chairpersons and the Secretariat support of Members, and (3) to revitalize the AB and restore the proper functioning of the Dispute Settlement Body. The other Members have also undertaken discussions at various avenues such as G-20, G-7 etc. in order to set up a path for the success of MC12.

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<sup>1</sup> *Ministerial Statement on Trade and Investment*, G-20, (October 12, 2021), <https://www.g20.org/wp-content/uploads/2021/10/G20-TIMM-statement-PDF.pdf>.

## **ii. Agriculture**

Issues like Domestic Support, Market Access, Export Competition, Special Safeguard Mechanism, etc. are of immense importance to developing countries. Especially for a developing country like India, the permanent solution on public stockholding is of utmost importance as it is vital to enhance India's food security, and make its policies in this regard immune from being challenged at the Dispute Settlement Body. For the developed countries, the issue of transparency is of priority as many Members lag behind years in complying with their notification obligations, and further, it will ensure that the agriculture trade is open and predictable. Another contentious issue is the proposal for the removal of export prohibitions or restrictions on foodstuff purchased for non-commercial humanitarian purposes by the World Food Program.

## **iii. Fisheries Subsidies**

The currently negotiated text on fisheries subsidies aims to tackle overcapacity and overfishing to meet the objectives of the UN Sustainable Development Goal-14, including with respect to illegal, unregulated, and unreported (IUU) fishing. Apart from the importance of these issues in a commercial setting, fisheries constitute an important source of livelihood, especially in developing countries and LDCs. Along with increased notification requirements, the proposed agreements prohibit three types of subsidies viz. those that support (i) IUU fishing, (ii) affect overfished stocks, or (iii) lead to overcapacity and overfishing. The major bone of contention in this issue is regarding special and differential treatment in order to ensure that unnecessary burden should not be imposed on developing countries and LDCs in the name of sustainable fishing.

## **iv. Reshaping the WTO after the pandemic**

One of the major agenda of the discussion at MC12 is to preserve and guarantee public health. However, intellectual property rights like patents may pose a barrier in the procurement or supply of medical products, PPE kits and COVID-19 vaccines to the Members. Therefore, on October 2, 2020, India and South Africa had jointly submitted a paper seeking a waiver from "the implementation, application and enforcement of Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19".<sup>2</sup> Likewise, by 'exploring opportunities to invest in IPRs', the Members must not dilute the principle of affordable access to medicines and COVID-19 vaccines by advocating for greater protection of IPRs by exploring investment opportunities in the same.

Addressing these concerns at MC12 will provide an important opportunity to end the impasse and arrive at a balanced outcome between the old and new issues and interests of the developed and developing countries.

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<sup>2</sup> *Waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19*, Communication from India and South Africa, IP/C/W/669 (2<sup>nd</sup> October 2020).