Trade negotiations

- The success achieved at the WTO's Ninth Ministerial Conference in December 2013 provided new impetus for work on the Doha Development Agenda in 2014.
- Following a mid-year setback, WTO members adopted important decisions in November on public stockholding for food security purposes, trade facilitation, and the post-Bali work programme, bringing trade negotiations back on track.
- The revised WTO Agreement on Government Procurement entered into force in April after two-thirds of its parties accepted the amendment protocol. The revised agreement is expected to add US$ 80-100 billion to parties' market access commitments.

Background on trade negotiations

Changes to the rules of trade require the agreement of all WTO members, who must reach consensus through rounds of negotiations. The most recent round began in 2001.

Doha Development Agenda

At the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001, WTO members agreed to launch a new round of trade negotiations. They also agreed to work on other issues, in particular the implementation of the current WTO agreements. The entire package is called the Doha Development Agenda. The negotiations take place in the Trade Negotiations Committee (TNC) and its subsidiaries, which are regular councils and committees meeting in special session or specially created negotiating bodies. The negotiating bodies report to the TNC, which supervises the overall conduct of their work.

Doha Round negotiations in 2014

The success achieved at the WTO's Ninth Ministerial Conference, held in Bali in December 2013, provided new impetus for work on the Doha Development Agenda (DDA) in 2014. The so-called Bali Package – a range of decisions covering trade facilitation, some agriculture issues, cotton and a number of other decisions to help least-developed countries (LDCs) trade – was welcomed as an historic landmark for the WTO and an important stepping stone for the conclusion of the Doha Round. The agreements reached in Bali were hailed as evidence that the WTO can deliver negotiated outcomes that benefit the global economy and, especially, developing and least-developed countries.

To build on the political momentum generated by the Bali success, ministers instructed the Trade Negotiations Committee (TNC) to prepare a clearly defined work programme on the remaining DDA issues by the end of 2014, building on the decisions they had taken in Bali and on other issues under the Doha mandate that are central to the conclusion of the Round. The most immediate deadline set by ministers for WTO members was to adopt by 31 July 2014 the protocol to insert the Trade Facilitation Agreement (TFA) into the WTO's legal framework and open it for acceptance.

Post-Bali work begins

In line with the ministerial mandate, the TNC met in February 2014 to kick-start work on the two tasks that resulted from Bali: the implementation of the decisions and agreements reached and preparation of a work programme on the remaining DDA issues. The Bali decisions were considered an important credibility test for the system. A lot of the work falls outside the TNC. But to ensure coherence and progress across all areas, Director-General Roberto Azevêdo, as Chair of the TNC, and the General Council Chair acted in concert to monitor and report on developments (see pages 46-8).

Regarding the preparation of a post-Bali work programme by the end of 2014, the TNC Chair and the negotiating group chairs started a dialogue with members on issues that might be taken forward and that would help find a path towards the conclusion of the Round. This consultative process continued in different formats and configurations with the aim of trying to identify the elements that could form part of the work programme.

It became increasingly clear that agriculture, non-agricultural market access (NAMA) and services were core. Some parameters also emerged to help frame the discussion. These included the centrality of development, focusing on doable outcomes, recognizing that the main issues in the DDA are interconnected, being creative and open-minded, inclusiveness and transparency, and maintaining a sense of urgency. The Director-General, as TNC Chair, asked members to be realistic. He told them that "this is not the round to end all rounds. […] It is a step in the continuous process of trade liberalization. […] We should be in a position to make some progress in most – or all – areas of the DDA negotiations. Let's put everything on the table and see how far we can go in each area of the negotiations."

An unexpected, but temporary, setback

The intention was for members to have made substantial progress by the summer break. However, as the deadline approached, some members raised concerns with the pace of work in trade facilitation relative to the other areas of the Bali package, including discussions on a permanent solution for public stockholding for food security purposes. The adoption of the TFA Protocol was politically linked to progress in this area, for which ministers had set a deadline of 2017. Despite intensive efforts, members failed to bridge their differences and, as a consequence, did not adopt the protocol by the July deadline.

These events had a freezing effect on the post-Bali work, including the preparation of a work programme for the conclusion of the DDA.

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As Chair of the Trade Negotiations Committee, Director-General Roberto Azevêdo regularly reported on the activities of the negotiating groups.

At an informal TNC meeting on 31 July, the Chair invited members to consider the next steps under these changed circumstances.

An intense process of consultations started immediately after the summer break to try and find a solution to the impasse. Consultations involved members, chairs of regular and negotiating bodies, the TNC Chair and the General Council Chair. The issue facing members was how to implement the Bali decisions and develop a post-Bali work programme, if no solution emerged with regard to the interplay between the trade facilitation protocol and the public stockholding issue.

A breakthrough

In November, an understanding reached on public stockholding and trade facilitation provided the opportunity to break the impasse. The TNC Chair and the Chair of the General Council conducted further consultations with delegations to try and translate this bilateral understanding into an agreement acceptable to all members. After intense consultations and discussions, members adopted three decisions at a special meeting of the General Council on 27 November: on public stockholding for food security purposes, on the protocol of amendment to insert the Trade Facilitation Agreement into Annex 1A of the WTO Agreement, and on post-Bali work to resume work immediately and extend the deadline for the post-Bali work programme to July 2015.

On public stockholding, members committed to an accelerated timeframe and set a timeline of December 2015 to find a permanent solution to this issue. A peace clause remains in force until a permanent solution is found. Under the peace clause, members undertake not to challenge support provided for traditional staple food crops in pursuance of public stockholding programmes for food security purposes existing as of the date of the Bali decision, as long as certain conditions are met. On trade facilitation, the insertion of the TFA into the WTO Agreement allowed the process of ratification to begin. On post-Bali work, members agreed to resume work immediately and engage constructively on the implementation of all Bali decisions and to extend the deadline for the post-Bali work programme to July 2015 (see pages 46-7).

Negotiations on a post-Bali work programme restart

The adoption of these decisions put work back on track, both on implementation and on the preparation of a post-Bali work programme. Given the urgency of the task ahead, the Chair asked negotiating group chairs to restart work immediately, so as to prepare the ground for intensified work from January 2015.

At the December General Council meeting, the TNC Chair reported on the resumed activities of the negotiating groups. He welcomed members' re-engagement and highlighted a number of "ingredients" that, in his view, would be critical to a successful outcome. These were: maintain a sense of urgency, be reasonable and pragmatic and focus on what is doable, and there must be a high degree of engagement from all delegations, including in capitals, so as to be ready to make important political calls. Finally, engagement needs to be broad and the needs of developing countries must remain central to the negotiations. While agriculture, NAMA and services continue to be the core issues, members need to be fully engaged outside these core areas as well.

The Chair announced that work will continue in 2015 and intensify as necessary. He said that 2015 is going to be a big year for the WTO and encouraged delegations to ensure that it will be a year to remember.

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Agriculture

In the first half of 2014, the agriculture negotiations focused on developing a work programme for completing the agriculture part of the Doha Round, as instructed by the Bali Ministerial Declaration. Members gave priority to issues where legally binding outcomes could not be achieved in Bali, for example in export competition and cotton. Work was effectively suspended for much of the second half of the year by an impasse in the negotiations. Work resumed in December after this impasse was resolved by the General Council in November.

During the first half of the year, the Chair held informal consultations in a variety of configurations to clarify the perspectives that members had on the way forward for the work programme in agriculture. It was clear that all elements within the Doha Development Agenda (DDA) agriculture framework are inter-related and they will need to be dealt with as an overall package.

Ambassador John Adank chaired the agriculture negotiations in 2014.

Export competition (export subsidies and export measures with equivalent effect) was considered to be an area where members have a well-developed idea of the potential landing zone for agreement. Domestic support and market access pillars were areas requiring more in-depth discussion. To take these discussions forward, the Chair circulated on 15 July a set of questions about members' views on these two pillars; some initial reactions to these questions were provided during an informal meeting on 23 July.

The meeting focused on whether the present draft negotiating text, which dates from 2008, should continue to be the centrepiece of the negotiations. Some negotiating groups, notably the G33 group of developing-country food importers, said that it should. Others said that although the document remained the most suitable basis for continuing talks, they were open to alternative approaches. A few members said that the draft, known as "Rev.4", was too complex.

The Secretariat held two technical workshops (on domestic support and on market access) following a request by some members, to help deepen understanding at the technical level of issues that had come up in the course of the negotiations.

However, after the stalemate reached in July 2014 due to some members' concerns with the pace of work in trade facilitation relative to other areas of the Bali Package, including the public stockholding for food security issue (see page 46), all efforts focused on finding a solution to this problem. A solution was found (see below) and adopted by the General Council in November 2014, at which point the General Council also called for an immediate resumption of work on the implementation of all Bali ministerial decisions, including on a clearly defined work programme for the remaining DDA issues. The General Council set July 2015 as the new deadline for agreeing the work programme. The Committee on Agriculture special session met in December to resume agriculture negotiations.

Public stockholding for food security purposes

In December 2013 in Bali, ministers agreed to protect developing countries' public stockholding programmes for food security purposes on a temporary basis against any legal challenge under domestic support provisions of the Agreement on Agriculture. This was a compromise aimed at addressing both the food security concerns of the proponent countries and the concerns of those who feared that without any disciplines, the food that is stockpiled and later released could depress prices and affect farmers' incomes and food security in other countries. A permanent solution was to be found by 2017.

Early in 2014, some members objected that the timeline for a permanent solution was too long. The disagreement over the timing eventually led in July to the freezing of virtually all negotiations under the DDA. Finally the General Council reached an agreement in late November that stated that members will strive for a permanent solution on food stockpiling by December 2015. Members also clarified that the permanent solution should be sought in "dedicated sessions" of the Committee on Agriculture (special session), which would be accelerated and separate from the rest of the Doha Round agriculture negotiations. Food stockpiling will continue to be protected from legal action until the permanent solution is approved, as long as certain conditions are met.

Background on agriculture

The agriculture negotiations began in 2000 under a commitment that WTO members made in the 1986-94 Uruguay Round to continue farm trade reforms. They were brought into the Doha Round when it was launched in 2001. Broadly, the objective is to reduce distortions in agricultural trade caused by high tariffs and other barriers, export subsidies and domestic support. The negotiations take place in the WTO Committee on Agriculture, meeting in special session. They also take into account social and political sensitivities in the sector and the needs of developing countries.

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Cotton

In Bali, ministers agreed that twice a year, WTO members will discuss developments for cotton related to trade – particularly in market access, domestic support and export competition. These dedicated discussions are to take place in the context of the agriculture negotiations, with the aim of increasing transparency and strengthening monitoring. The decision was based on a proposal presented by the co-sponsors of the Sectoral Initiative in Favour of Cotton – Burkina Faso, Benin, Mali and Chad (the Cotton Four or C-4).

Two dedicated discussions of the relevant trade-related developments for cotton were held in 2014. The first discussion took place in June and saw factual exchanges on members' cotton trade-related policies and relevant developments. The discussion was informed by a Secretariat background paper compiling factual information and data from members' notifications and other submissions on export subsidies, domestic support and market access. The second discussion was held in November and was informed by an updated and revised Secretariat background paper and a presentation by the International Cotton Advisory Committee (ICAC) on the global cotton market.

The Cotton Four noted that the recent price falls were hurting their producers and called for a swift conclusion to the negotiations to address trade-distorting policies. While various members shared information on recent developments related to cotton, several regretted the lack of up-to-date information on policy developments and delays by members in submitting notifications. It was agreed that additional information on relevant policy developments would be sought through a questionnaire, Trade Policy Review reports and further ICAC inputs. The Chair also noted that cotton will be an important element in the context of the post-Bali work programme.

Market access for non-agricultural products

Negotiations on non-agricultural market access (NAMA) were slowed by an impasse in the implementation of the Bali ministerial decision on trade facilitation, which virtually paralyzed work in almost all aspects of the Doha Round. However, after the impasse was broken in late November, the Chair of the Negotiating Group, Ambassador Remigi Winzap, said he would resume consultations in different formats in 2015.

At meetings of the Negotiating Group in March and July, the Chair noted little convergence between WTO members on how to take the negotiations forward. Members remained divided on whether the 2008 NAMA draft modalities ("Rev.3") offered the basis for continued negotiations. The Chair further noted that, in his view, those who believed that Rev. 3 should be the basis for further negotiations were prepared to admit that it was not "written in stone". Those who were opposed to using Rev.3 were prepared to accept that a lot of effort had gone into it and that it could be "a" basis.

Ambassador Remigi Winzap chaired the NAMA negotiations in 2014.

The Chair urged members to reflect on "how and under what circumstances can members contribute to a meaningful NAMA result, taking into consideration the past experience, the present realities and the possible instruments at hand?" He observed that when compared with the situation in 2011, one positive aspect was that discussions on NAMA had restarted and that members were collectively looking for solutions. It was clear, he said, that members had to look at the NAMA and the agricultural pillars of the Doha Round in a "holistic" manner. Ambition in agriculture went with ambition in NAMA. Ambition in NAMA had to be paid for in agriculture, the Chair said.

The Negotiating Group received three documents which had been requested from the WTO Secretariat to assist them in their work. These were members' shares in world non-agricultural trade, recent NAMA and import tariff data, and the state of play in the updating of members' tariff schedules to keep them in line with the most recent version of the Harmonized System.

There were no further consultations on NAMA in the second half of the year because of the impasse over trade facilitation. The deadlock related to the political link with another of the decisions taken at the Bali Ministerial Conference regarding stockpiling by governments for food security. The deadlock was broken in late November when the General Council reached agreement on the implementation of the ministerial decision on food security, so clearing the way for inclusion

Background on market access for non-agricultural products

Non-agricultural products are products not covered by the Agreement on Agriculture. These range from manufactured goods to forestry and fisheries. Collectively, they represent more than 90 per cent of world merchandise trade.
The negotiations aim to reduce or, as appropriate, eliminate tariffs as well as non-tariff barriers (NTBs) particularly on goods of export interest to developing countries.
The negotiations are conducted in the Negotiating Group on Market Access for Non-Agricultural Products (NAMA).

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of the Trade Facilitation Agreement in the WTO rulebook. At the group's final meeting in December, the Chair said consultations in the NAMA negotiations would resume in 2015.

Services

In 2014, the Council for Trade in Services discussed a post-Bali work programme, with several guiding principles being proposed. However, as in most areas of the Doha Round negotiations, discussions were hampered over the second half of the year by the trade facilitation deadlock. The Working Party on Domestic Regulation continued to explore disciplines on licensing and qualification requirements and technical standards. It also conducted a dedicated discussion on domestic regulation in regional trade agreements. The Working Party on GATS Rules initiated a discussion on emergency safeguard provisions in regional and bilateral trade agreements, and continued technical discussions on government procurement and subsidies.

The Council for Trade in Services met twice in special session during the year, mainly to discuss the process and substance of a post-Bali work programme in services. WTO members proposed several guiding principles for this work, such as balance (within the services sector and in relation to other sectors), ambition (the degree of market opening or other concessions) commensurate with agriculture and non-agricultural market access (NAMA) and the importance of the development dimension.

WTO members stressed the need to concentrate on what was "doable" and to advance on the basis of transparency and inclusiveness. In terms of what needs to be done before members submit their revised services offers – a key future step in the services talks – many members underscored the need for openness to new approaches.

Background on services

Services are the most important economic activity in most countries when measured as a share of overall production, and they are the single largest source of employment. The General Agreement on Trade in Services (GATS) mandates WTO members to progressively liberalize trade in services through successive rounds of negotiations. At the Doha Ministerial Conference in November 2001, the services negotiations became part of the "single undertaking" under the Doha Development Agenda. They are overseen by the Council for Trade in Services, meeting in special session, and its subsidiary bodies, in particular the Working Parties on Domestic Regulation and on GATS Rules.

Ambassador Gabriel Duque chaired the services negotiations in 2014.

One suggestion was to take inspiration from regional trade agreements on services, where many members had gone well beyond the provisions contained in the General Agreement on Trade in Services (GATS) by binding existing levels of market access. Other suggestions involved focusing on groups of sectors, such as those linked to the digital economy, electronic commerce, supply chains, trade facilitation, or interests of developing countries.

However, the failure to adopt the protocol on trade facilitation by the end-July 2014 deadline (see pages 30-1) led to a significant slowing of work on services in the second half of the year. After agreement on trade facilitation was reached in the General Council in November, the Council for Trade in Services held an informal meeting in December to discuss how to define a work programme by July 2015 for the services component of the Doha Round. Progress in the services sector of the post-Bali programme will be determined by progress in agriculture and non-agricultural market access negotiations, members stressed.

Meanwhile, good progress was made in implementing the Bali ministerial decision on services exports from least-developed countries (see page 67).

Elsewhere, the 23 members participating in the negotiations on a plurilateral Trade in Services Agreement (TISA) kept the Council regularly informed on progress in their negotiations (see page 67).

Domestic regulation

In 2014, the Working Party on Domestic Regulation continued to explore technical issues related to the development of disciplines on licensing and qualification requirements and procedures and technical standards. WTO members completed their review of 93 questions contained in the "List of Potential Technical Issues Submitted for Discussion". Upon the conclusion of the discussions, the Chair circulated a document with the information and views exchanged by members over the course of the review.

In the discussions, WTO members had sought to clarify the use of certain domestic regulation concepts and terms as they relate to

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regulatory frameworks and practices. Some members also reflected on the implications of the responses provided for the development of horizontal domestic regulation disciplines.

To facilitate the discussion, the WTO Secretariat prepared three background notes: on measures of general application, regulatory issues in sectors and modes of supply, and technical standards in services.

The discussions shed further light on how disciplines under consideration in the negotiations might relate to, or impact on, regulatory practices at the national level.

WTO members also completed their discussions on regulatory issues, based on the Secretariat note "Regulatory Issues in Sectors and Modes of Supply". As part of the discussions, members specifically addressed challenges faced by developing countries in regulating services sectors. Further background on this issue was provided by the Secretariat note "Services-related regulatory challenges faced by developing countries".

While the regulatory discussion was not intended to reach any particular conclusions, it was generally noted by members to have been a useful exercise which had helped improve their understanding of the relationship between regulation and market access. The Working Party also benefited from examples of national regulatory frameworks provided by a number of members as well as from the exchange of views on the challenges faced by developing countries in implementing regulatory reform.

A new area of work was launched in 2014 with a dedicated discussion on domestic regulation in regional trade agreements (RTAs). The purpose of the discussion is to give members the opportunity to share details of the different types of domestic regulation provisions in RTAs as well as to draw attention to commonalities or differences with the disciplines negotiated under the GATS Article VI:4 mandate. The information presented on a wide range of RTAs indicated that domestic regulation provisions have generally been based on existing GATS obligations as well as the negotiating mandate in Article VI:4. In a number of cases, certain modifications and additional obligations have also been included at either the horizontal or sectoral level. The discussion is expected to continue in 2015.

GATS rules

The Working Party on GATS Rules carries out the negotiating mandates contained in Articles X (emergency safeguard measures), XIII (government procurement) and XV (subsidies) of the GATS. As in previous years, members engaged in technical discussions on all three topics.

On emergency safeguard measures (ESM), following a proposal submitted by the "Friends of ESM" (comprising Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Thailand and Viet Nam – with Lao PDR joining them in September 2014), the Working Party discussed emergency safeguard provisions in regional and bilateral trade agreements (RTAs).

The proponents presented emergency safeguard provisions for services contained in several RTAs involving them, either individually or collectively as the Association of Southeast Asian Nations (ASEAN), and explained the reasons for adopting them. So far, however, none has been invoked. Subsequently, at the request of WTO members, the Secretariat prepared an updated factual note detailing safeguard-type and safeguard-related provisions for trade in services in some 122 RTAs notified to the WTO. A first preliminary exchange of views on the note took place in September 2014.

On government procurement, the Working Party discussed a preliminary version of a WTO staff working paper, "The relationship between services trade and government procurement commitments: insights from relevant WTO agreements and recent RTAs". Staff members from the Secretariat's Intellectual Property Division who work on the Government Procurement Agreement and the Trade in Services Division prepared the paper in their personal capacity. Following two rounds of discussions, in the course of which delegations provided useful suggestions for improvement, a final version of the working paper is expected to be presented for a more in-depth examination in 2015.

Concerning subsidies, upon request from WTO members, the Secretariat issued a revised version of its background note "Subsidies for Services Sectors – Information contained in WTO Trade Policy Reviews", presenting updated empirical evidence of support measures in individual service sectors.

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Trade-related aspects of intellectual property rights (TRIPS)

Work resumed in the TRIPS Council special session but positions on a system for notifying and registering geographical indications (GIs) for wines and spirits continue to diverge. Finding a common approach remains challenging. The TRIPS Council, in regular session, undertook its 12th annual review of the incentives given to companies by developed countries to transfer technology to least-developed countries. After the Bali Ministerial Conference of December 2013 extended the moratorium on TRIPS "non-violation and situation complaints", the TRIPS Council continued its consideration of this issue on the basis of a new submission.

Negotiations on a GI register

With the impetus given to the Doha Round by the Ministerial Conference in Bali, efforts at negotiations resumed in the TRIPS special session, at least briefly, after only one meeting on a procedural matter had been held in 2013. However, substantive positions on the issue of geographical indications (GIs) remained unchanged. WTO members have long disagreed over the legal effects that a GI register should have and whether the effects would apply to all WTO members or only to those who choose to participate in the register. Positions also remained divided on product coverage and whether, as the negotiating mandate says, the register should be confined to GIs for wines and spirits or whether it could also apply to other products, such as food and agricultural goods.

The register is intended to facilitate the protection of GIs for wines and spirits. These are indications (including place names or other terms or signs associated with a place) used to identify products whose place of origin gives them particular qualities, reputation or other characteristics. Scotch, Champagne and Tequila are well-known examples. The TRIPS Agreement mandates negotiations on establishing a register and work has continued since 1996.

In April 2014, after a series of consultations during the spring, the Chair issued the first report of the TRIPS special session since the circulation of the 2011 "draft composite text", which had reflected members' positions in draft treaty language. The report showed that finding a common approach to advancing the GI work remained challenging, particularly on the wider question of whether linkages should be made with the two TRIPS-related implementation issues, namely the extension of GI protection and the relationship between the TRIPS Agreement and the Convention on Biological Diversity (see below).

Despite these substantive and procedural complications, consultations continued on how to reflect the work on the GI register in the post-Bali work programme. At a second informal special session in December, delegations reaffirmed their commitment to meeting the July 2015 deadline (see page 31) for a work programme that should set out how to complete the Doha Round and cover all negotiating groups. In the case of TRIPS, it means how to set up a GI register for wines and spirits. However, delegations offered no new ideas and said the talks should not return to the substance until a clearer picture emerges on negotiations in agriculture, non-agricultural market access and services. As a first step, the Chair proposed an informal information meeting — rather than a negotiating session — in February 2015 to provide a summary of where the talks have reached. At this meeting, WTO intellectual property negotiators were given a rundown of almost 20 years of talks on setting up a GI register for wines and spirits.

Background on TRIPS

The Doha Development Agenda mandates negotiations on a multilateral system for notifying and registering geographical indications for wines and spirits. The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) carries out the negotiations in special session. In its regular sessions, the TRIPS Council implements other relevant ministerial decisions, notably those relating to technology transfer and dispute settlement. The Hong Kong Ministerial Declaration mandates the Director-General to consult on certain TRIPS-related implementation issues identified in the Doha Declaration.

Outstanding implementation issues

During 2014, WTO members did not engage on the question of whether the "higher" or "enhanced" level of GI protection currently available only for wine and spirit GIs should be extended to GIs for

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other products. Differences continue on whether extending such higher GI protection would help trade in such products or whether increasing the level of protection for these products would create an unnecessary legal and commercial burden. This question of possible "GI extension" is the first of the two so-called "outstanding implementation issues" in the TRIPS area, on which the 2005 Hong Kong Ministerial Declaration had called for consultations by the Director-General.

The second of these issues concerns the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD): whether – and, if so, how – TRIPS should do more to promote the CBD objective of equitably sharing the benefits that arise when genetic resources are used in research and industry. The main focus has been on proposals to amend the TRIPS Agreement to require patent applicants to disclose the source or the country providing genetic resources and associated traditional knowledge that form the basis for an invention. No further consultations on the outstanding implementation issues have been held since the last written report by the Director-General in April 2011. This issue was mentioned by several members in the TRIPS Council's discussions on related items during 2014 but no significant advances were made,

Incentives for technology transfer

In October 2014, the TRIPS Council, in regular session, undertook its 12th annual review of the reports provided by developed countries on the incentives they give to companies to transfer technology to least-developed countries (LDCs). The TRIPS Agreement requires developed countries to provide such incentives, and in 2003 the Council gave effect to a directive by the Doha Ministerial Conference to establish a review mechanism to monitor this obligation.

The WTO Secretariat organized a seventh annual workshop for LDC and developed-country delegations (see page 69) to discuss in more depth the operation of these incentives. The discussions also covered harmonization of reporting formats, based on an LDC proposal, and the Secretariat's efforts to improve the accessibility of the vast amounts of useful information available.

TRIPS non-violation disputes

After the decision at the 2013 Bali Ministerial Conference to again extend the moratorium on so-called "non-violation" complaints in WTO disputes over intellectual property rights, the TRIPS Council continued its discussion on the merits of such complaints under TRIPS, with new input from members. Differences remained over whether such disputes should be permitted under the TRIPS Agreement, and over what would constitute a legitimate basis for such a dispute in this area.

In general, WTO disputes can be brought not only if an agreement or commitment has been violated but also if an expected benefit under an agreement has been nullified without violating the letter of the agreement. However, for disputes over intellectual property protection, the TRIPS Agreement prescribed a five-year moratorium on initiating such "non-violation and situation complaints" and this moratorium has been extended by a series of ministerial conferences.

In the run-up to the Bali Ministerial Conference, WTO members had agreed to engage in intensified work on examining the scope and modalities for non-violation complaints, with the aim of finding a way out of the current cycle of extending the non-violation moratorium from one ministerial conference to another. A non-violation case arises in the WTO when one country challenges the legality of another's actions because it feels it is deprived of an expected benefit, even if no actual agreement or commitment has been violated. Non-violation disputes are allowed for goods and services but the moratorium prevents them in intellectual property.

At its June meeting, the Council had before it a new submission on this issue, which elaborated on the background and conditions for applying such complaints to TRIPS. The United States circulated a paper citing WTO case law and other factors to rebut a number of reservations countries have raised. It asserts that "non-violation" complaints are fully appropriate under the TRIPS Agreement. The TRIPS Council is directed to continue examining the scope and modalities for these disputes, and to make recommendations to the Nairobi Ministerial Conference in December 2015.

Trade and development

The Committee on Trade and Development (CTD), meeting in special session, focused on proposals for future work after ministers agreed in Bali in December 2013 to create a monitoring mechanism on special and differential treatment for developing countries.

The year began with extensive rounds of consultations to seek the views of members on how to proceed with the work of the special session, following the launch of the monitoring mechanism (see page 110). The mechanism, initially proposed by the African Group in 2002, gives the opportunity to analyse and review all aspects of the implementation of special and differential treatment (S&D) provisions contained in multilateral WTO agreements, ministerial and General Council decisions. S&D refers to the special treatment granted to developing countries in WTO agreements, such as longer implementation periods or easier obligations.

Background on trade and development

Many WTO agreements contain provisions that give developing countries special rights and that allow developed countries to treat them more favourably than other WTO members. As part of the Doha Round of negotiations, the special session of the Committee on Trade and Development is reviewing these "special and differential treatment" provisions with a view to making them more precise, effective and operational.

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Some members indicated that they wished to undertake a comprehensive review of all S&D proposals as part of the special session's work. In February 2015, these members tabled 25 S&D provisions that they want the special session of the CTD to work on as part of the post-Bali work programme. They promised to submit substantive proposals explaining the rationale and the problems identified with each provision at a second stage. Given the limited time before the end-July 2015 deadline for all negotiating groups to contribute to the post-Bali work programme, the chair urged members to submit their detailed textual proposals as soon as possible so that substantive discussions could start in the special session of the CTD.

Additional views were solicited on how to take such work forward so as to finalize the work programme and restart substantive work on the Agreement-specific proposals.

The work of the Committee on Trade and Development on implementing the decisions taken at the Bali Ministerial Conference in December 2013 is described on page 110.

Trade and transfer of technology

The Working Group on Trade and Transfer of Technology held a one-day workshop to discuss the relationship between trade and technology transfer. The same theme dominated its work in its three formal sessions, where it also explored possible recommendations to increase the flow of technology to developing countries.

The group continued to discuss the challenges and opportunities related to the dissemination of environmental technology and its relationship with sustainable development in line with instructions from the Ninth Ministerial Conference. In Bali, ministers declared that although progress has been made, more work remains to be done to increase flows of technology to developing countries. They directed the Working Group to continue its work in order to fully achieve the mandate of the Doha Ministerial Declaration.

At a workshop in June, a cross-section of experts from the public and private sectors and from intergovernmental organizations and academia discussed the relationship between trade and transfer of technology. Participants looked at how technology transfer is a key determinant of increased labour productivity, economic growth and development. Trade was seen as an important factor in technology transfer, both as a direct vehicle for transfer of technology in the shape of imports of machinery, equipment and services, and less directly through foreign direct investment, for example.

While trade agreements were seen as potentially encouraging technology transfer, not least by reducing policy uncertainty, panellists at the workshop stressed that trade agreements were only one of several factors affecting technology transfer. Repeated emphasis was laid on the importance of education and the availability of skilled human resources and appropriate institutional and policy environments in the host country, for both the transfer and absorption/adaptation of technology. Participants highlighted the role of research and development (R&D) institutions and knowledge centres in fostering technology and innovation.

Speakers noted that the poorest countries seem to have not benefited from technology transfer and said that technology transfer to LDCs could be improved by providing better funding opportunities for investment in technology adaptation and by fostering linkages between developed and developing country research institutions.

Background on trade and transfer of technology

The Working Group on Trade and Transfer was established at the Doha Ministerial Conference in 2001 and has the mandate "to examine the relationship between trade and transfer of technology and to make recommendations on steps that might be taken, within the mandate of the WTO, to increase flows of technology to developing countries".

Trade and transfer of technology
www.wto.org/developmentnegs

Trade and environment

The Committee on Trade and Environment in Special Session (CTESS) held a number of consultations in 2014 to discuss the way forward on the environment chapter of the Doha mandate and the priorities for the post-Bali work programme. The WTO Secretariat will organize an information session covering all aspects of the Doha mandate on trade and environment in early 2015.

Consultations continued in the early part of the year on ways to advance the work of the CTESS. At an informal session in December, members debated the next moves, bearing in mind that 2015 will be a significant year for the environment (see below).

Several WTO members stressed the importance of sending an appropriate signal on trade and environment to coincide with other international developments, notably the work on integrating the proposed Sustainable Development Goals into the post-2015 development agenda (see page 74) and the next United Nations Climate Change Conference which will be held in Paris in December.

Other members, while recognizing the importance of the Doha trade and environment mandate in the post-Bali work programme, stressed the need to first address other key issues on the Doha agenda – agriculture, non-agricultural market access and trade in services – as doing so could contribute to sustainable development.

It was agreed that as a next step, the WTO Secretariat would organize an information session in early 2015 to review the state of play in all three aspects of the environment chapter of the Doha negotiations. The negotiations cover the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs), procedures for regular information exchange between MEA secretariats and the relevant WTO committees, and the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

Background on trade and environment

The negotiations on trade and environment, part of the Doha Development Agenda, address two main themes: the relationship between the WTO and multilateral environmental agreements, and the elimination of barriers to trade in environmental goods and services. The negotiations take place in special session of the Committee on Trade and Environment. The negotiations aim to ensure that trade and environment policies are mutually supportive.

Trade facilitation

Following the conclusion of trade facilitation negotiations at the Bali Ministerial Conference in December 2013, the newly created Preparatory Committee on Trade Facilitation undertook a legal review of the Trade Facilitation Agreement (TFA) and drew up an amendment protocol to insert the TFA into the WTO legal framework. It also started to receive WTO members' notifications of their commitments under the TFA. The amendment protocol was adopted by WTO members at a General Council meeting in November, paving the way for the entry into force of the agreement. A Trade Facilitation Agreement Facility was set up to help developing and least-developed members implement the TFA.

Over the course of ten sessions, the Preparatory Committee on Trade Facilitation carried out the tasks assigned to it by the Bali Ministerial Conference decision of December 2013. These tasks included conducting a legal review of the Trade Facilitation Agreement, adopting the amendment protocol and receiving WTO members' notifications of their commitments under the TFA. The first two tasks were completed in 2014 and considerable advances were made on the task of receiving members' notifications.

At the Bali Conference, ministers had also set out a road map for implementing the new agreement, setting a deadline of 31 July 2014 for adoption of the amendment protocol by the General Council.

In July, members were able to adopt the legally reviewed text of the Trade Facilitation Agreement but they failed to adopt the protocol amendment by the July deadline, as adoption was linked to progress in other areas of the Bali Package and members were unable to bridge their differences (see page 30).

Trade and environment
www.wto.org/environmentnegs

Trade facilitation
www.wto.org/facilitationnegs

Significant progress was made, however, on the notification of "Category A" commitments indicating the provisions that developing countries would be able to implement upon the Agreement's entry into force, or, in the case of a least-developed country, within one year after entry into force. By the end of July, the Preparatory Committee had received 45 notifications. To support countries in the preparation of these notifications, 45 WTO trade facilitation needs assessments were conducted in 2014.

After an intense period of consultations and discussions, WTO members finally adopted the amendment protocol at a special meeting of the General Council on 27 November. The TFA therefore entered into the WTO's legal framework. As a result, members were able to commence their domestic ratification process. Hong Kong, China became the first member to formally ratify the TFA and to deposit its instrument of acceptance with the WTO Secretariat on 8 December. This marked an important first step towards reaching ratification by two-thirds of the WTO membership, which is required for the TFA to enter into force.

The Trade Facilitation Agreement breaks new ground for developing and least-developed countries in the way it will be implemented. For the first time in WTO history, the requirement to implement the Agreement is directly linked to the capacity of the country to do so. In addition, the Agreement states that assistance and support should be provided to help them achieve that capacity.To this end, WTO members have established a Trade Facilitation Agreement Facility to assist developing and least-developed countries in securing assistance and support (see below).

Background on trade facilitation

Negotiations on a new Trade Facilitation Agreement were launched in July 2004 as part of the Doha Development Agenda. They aimed to expedite the movement, release and clearance of goods, including goods in transit, as well as to ensure effective cooperation between customs and other appropriate authorities. Particular attention was paid to developing and least-developed countries, which stand to benefit from far-reaching flexibilities and considerable technical assistance and capacity-building support. After nearly ten years, the negotiations were successfully concluded in December 2013 at the WTO's Ninth Ministerial Conference in Bali.

Trade Facilitation Agreement in a nutshell

The Trade Facilitation Agreement is divided into three main sections.

Section I contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It clarifies and improves the relevant articles (V, VIII and X) of the General Agreement on Tariffs and Trade (GATT) 1994. It also sets out provisions for customs cooperation.

Section II contains special and differential treatment (SDT) provisions that allow developing and least-developed countries (LDCs) to determine when they will implement individual provisions of the Agreement and to identify provisions that they will only be able to implement upon the receipt of technical assistance and support for capacity building.

To benefit from SDT, a member must categorize each provision of the Agreement, as defined below, and notify other WTO members of these categorizations in accordance with specific timelines outlined in the Agreement.

- Category A: provisions that the member will implement by the time the Agreement enters into force (or in the case of a least-developed country member within one year after entry into force)
- Category B: provisions that the member will implement after a transitional period following the entry into force of the Agreement
- Category C: provisions that the member will implement on a date after a transitional period following the entry into force of the Agreement and requiring the acquisition of assistance and support for capacity building.

For provisions designated as categories B and C, the member must provide dates for implementation of the provisions.

Section III contains provisions that establish a permanent committee on trade facilitation at the WTO and require members to have a national committee to facilitate domestic coordination and implementation of the provisions of the Agreement. It also sets out a few final provisions.

Trade facilitation
www.wto.org/facilitationnegs

By the end of the year, another seven WTO members had notified their Category A commitments, bringing the total to 52.

Once it enters into force, the Trade Facilitation Agreement is expected to reduce total trade costs by up to 15 per cent in developing countries.

Trade Facilitation Agreement Facility

The Trade Facilitation Agreement Facility (TFAF) was created to help developing countries and least-developed countries (LDCs) implement the Trade Facilitation Agreement. It became operational when the TFA amendment protocol was adopted by the General Council in November 2014. The Facility acts as a focal point for implementation of the Trade Facilitation Agreement and aims to support developing countries and LDCs by:

- helping them to assess their capacity to implement the TFA and their needs for assistance to implement particular provisions of the Agreement
- maintaining an information-sharing platform to assist with the identification of possible donors
- providing guidance on the implementation of the TFA through the development or collection of case studies and training materials
- undertaking donor and recipient match-making activities
- providing project preparation grants in cases where a member has identified a potential donor but has been unable to develop a project for their consideration, and is unable to find funding from other sources to support the preparation of a project proposal
- providing project implementation grants related to the implementation of TFA provisions in cases where efforts to attract funding from other sources have failed. These grants are limited to "soft infrastructure" projects, such as modernization of customs laws through consulting services, in-country workshops, or training of officials.

The TFAF complements efforts by regional and multilateral agencies, bilateral donors and other stakeholders to provide trade facilitation-related technical assistance and capacity-building support.

Several major international organizations – the International Trade Centre, the Organisation for Economic Co-operation and Development, the United Nations Conference on Trade and Development, the United Nations Economic Commission for Europe, the World Bank Group, and the World Customs Organization – have pledged to assist WTO members in implementing their commitments under the TFA. The TFAF aims to ensure that no WTO member is left behind.

TFAF Trade Facilitation Agreement Facility

WTO rules

The Negotiating Group on Rules continued its technical activities, most notably in the context of the Technical Group, which exchanges information about the anti-dumping practices of WTO members. As the year drew to a close, the Negotiating Group began consideration of the role of WTO rules in the work programme called for by the Bali Declaration. In November, the General Council set July 2015 as the deadline for the post-Bali work programme covering all aspects of the Doha Round.

After informal consultations in October 2012, the Chair of the Negotiating Group had concluded that delegations were not yet prepared to resume active negotiations until the broader direction of the Doha Round was clarified. That remained the situation in 2014. As the year drew to a close, however, the Group began to reflect on what role, if any, WTO rules on anti-dumping, subsidies, countervailing measures and regional trade agreements should play in the post-Bali work programme, in line with the instruction issued by ministers in Bali in December 2013.

Ambassador Wayne McCook chaired the Negotiating Group on Rules in 2014.

Background on WTO rules

WTO members agreed at the Doha Ministerial Conference in 2001 to launch negotiations to clarify and improve WTO rules on anti-dumping, subsidies and countervailing measures, and regional trade agreements. In the context of the subsidies negotiations, there was specific mention of disciplines on fisheries subsidies, and at the Hong Kong Ministerial Conference in 2005 there was broad agreement on strengthening those disciplines, including through a prohibition of certain forms of fisheries subsidy that contribute to over-capacity and over-fishing. With regard to regional trade agreements, the General Council established a transparency mechanism on a provisional basis in December 2006.

WTO rules
www.wto.org/rulesnegs

Work continued in the Technical Group, a forum in which delegations exchange information about their anti-dumping practices.
The Technical Group met in April and October 2014 and exchanged information about WTO members' practices in such areas as sunset reviews, in which the possible continuation of anti-dumping duties beyond the original period of application is considered, price undertakings (agreements by exporters to increase prices in lieu of the application of anti-dumping duties) and issues surrounding the scope of the product under investigation.

Dispute Settlement Understanding

In 2014, negotiations sought to move towards an exploration of realistic and achievable outcomes in all 12 areas under discussion. Work continued on the basis of the "horizontal process" adopted since June 2013 in which interested participants explored possible solutions in all areas under discussion.

The various conceptual elements of possible solutions identified do not, at this stage, reflect full convergence of WTO members' positions. Nor do all participants perceive these elements, taken together, as necessarily reflecting an adequate or acceptable overall balance of interests. The amount of work remaining to achieve convergence between positions still varies significantly from issue to issue. In certain areas, convergence of principle has been achieved and this is reflected in draft legal text, such as on notification of mutually agreed solutions and the protection of strictly confidential information. In other areas, the elements that could form the basis of final outcomes will need to be confirmed, building on the work to date, and translated and expressed in legal text in order to reach final outcomes.

The 12 issues under discussion range from developing country concerns, including special and differential treatment, to effective compliance (ways of ensuring that members found to be breaching WTO rules promptly bring their measures into compliance) and remand (referral of cases by the Appellate Body to panels for further action). This wide range of issues was discussed in 2014 based on participant-driven efforts with the goal of building convergence around approaches that would have the broadest possible base of support.

Ambassador Ronald Saborío Soto chaired the Dispute Settlement Understanding negotiations in 2014.

WTO members share a common interest in systemic improvements to the Dispute Settlement Understanding (DSU) to increase the effectiveness of dispute settlement procedures as a key instrument of predictability and security in the multilateral trading system. This is true for all members alike, whether or not they have, to date, been frequent users of procedures under the DSU.

A number of members have emphasized that they face particular constraints in accessing dispute settlement procedures and defending their interests effectively through recourse to such procedures. While the means to address these concerns remain under discussion, it is widely acknowledged that a successful outcome needs to take due account of this dimension. In this respect, the work conducted in the context of the "horizontal process" has been especially constructive.

Participants appear to be ready to continue to build on this work to confirm possible flexibilities and solutions across the board.

Background on Dispute Settlement Understanding

In November 2001, at the Doha Ministerial Conference, WTO members agreed to negotiate to improve and clarify the Dispute Settlement Understanding (DSU) – the rules and procedures governing the settlement of WTO disputes. These negotiations, which take place in special sessions of the Dispute Settlement Body (DSB), are part of the Doha Development Agenda but are not formally part of the "single undertaking". This means they are not legally tied to the rest of Doha negotiations.

Dispute Settlement Understanding
www.wto.org/disputenegs

Revised Government Procurement Agreement

The revised WTO Agreement on Government Procurement (GPA) entered into force on 6 April 2014 after two-thirds of its parties accepted the amendment protocol (see page 87). Subsequently, two additional parties also provided their instruments of acceptance. The revised agreement is expected to add US$ 80-100 billion to parties' market access commitments.

Additional market access commitments under the revised GPA include the extension of coverage to approximately 500 other procurement entities, among them local government and sub-central entities, together with new services and other areas of public procurement activities. The revised agreement should bring annual market access gains of US$ 80-100 billion or more.

The Agreement's text has been streamlined and modernized to include, for example, standards related to the use of electronic procurement tools. It recognizes and facilitates the use of e-procurement while strengthening the GPA's role in promoting good governance and battling corruption.

The revised GPA also provides important flexibilities for developing countries that join the GPA to manage their transition to a more internationally competitive government procurement regime. It also reinforces the scope provided by the original GPA to promote the conservation of natural resources and to protect the environment through the application of appropriate technical specifications.

Two-thirds of the 15 parties to the GPA (counting the European Union and its 28 member states as one) were required to accept the protocol of amendment before the revised GPA could enter into force. This condition was met when Israel approved the protocol on 7 March. As of February 2015, 12 parties had provided their instruments of acceptance. These parties are: Canada; the European Union, including its 28 member states; Hong Kong, China; Iceland; Israel; Japan; Liechtenstein; the Netherlands with respect to Aruba; Norway; Singapore; Chinese Taipei; and the United States. The revision was adopted in March 2012.

Ambassador Krzysztof Trepczynski chaired the Committee on Government Procurement in 2014.

With the entry into force of the revision in 2014, WTO members succeeded in delivering on a ministerial call made at the Bali Ministerial Conference in December 2013 to achieve this goal by the two-year anniversary of the adoption of the GPA revision.

The entry into force of the revised GPA has triggered work in the WTO Committee on Government Procurement on various agreed new work programmes. These programmes were a separate outcome of the negotiations resulting in the revised GPA. The programmes include issues such as facilitating participation by small and medium-sized enterprises in government procurement, promoting sustainable procurement practices and improving the statistical data available on operations pursuant to the GPA. Work related to the programmes is expected to gather momentum in 2015.

Background on Government Procurement Agreement

The Government Procurement Agreement (GPA), adopted in 1994, ensures that signatories do not discriminate against the products, services or suppliers of other parties to the GPA with respect to the government procurement opportunities that are opened to foreign competition. It sets minimum standards for the transparency of procurement, which are based on internationally recognized best practices. The GPA is a "plurilateral" agreement, which means that it applies only to those WTO members that have agreed to be bound by it. The WTO Committee on Government Procurement administers the GPA.

Revised Government Procurement Agreement
www.wto.org/gpa