

WKÖ¹ POSITION-PAPER FOR WTO-MINISTERIAL CONFERENCE (MC13)

I. Background

The 13th WTO Ministerial Conference (MC13) will take place from 26-29 February 2024 in Abu Dhabi, Dr Thani bin Ahmed Al Zeyoudi, Minister of State for Foreign Trade of the United Arab Emirates, has been elected as Chair of the Conference.

MC13 should build on the successes achieved and the significant package of agreements ("Geneva Package") of MC12 and deliver good results so that the organisation can set a further example of relevance.

The WTO bodies and the Director-General have identified four thematic areas to be prepared for the conference and negotiation successes to be achieved:

- Reform of dispute settlement
- Agriculture and food security
- "Second wave" of fisheries subsidies
- Development issues (LDC graduation)

II. WKÖ-Position on the World Trade Organization and Multilateralism

- Non-discrimination, the gradual opening of markets, the removal of unjustified trade barriers and fair-trade rules are essential, especially in challenging times and geopolitical changes. This is what the multilateral trading system stands for and is therefore crucial for the global and sustainable economic growth that is so necessary to create jobs and prosperity.
- Modern times also require modern trade rules. The necessary modernisation of the WTO's multilateral trade rules must include reforms and adjustments in the three main disciplines: creating global trade rules, monitoring, and guaranteeing compliance through efficient dispute settlement.
- The last decade has seen an increasing number of bilateral trade agreements worldwide, including those of the EU. Although these are based on WTO trade rules, there is sometimes a lack of coherence and convergence with the multilateral trading system. Plurilateral, regional and bilateral agreements in goods and services must not be an obstacle to the conclusion of the WTO's Doha Development Agenda (DDA), which was launched in 2001. Market liberalisation and development must remain at the centre of the DDA. The concerns and interests of the LDCs must also be considered. Regrettably, there has been little progress in the general trade negotiations to date.

There is an urgent need for success here. We therefore call on all WTO members to show the necessary flexibility and willingness to compromise to finally conclude the trade round, which has already lasted far too long.

- Strengthening the WTO and thus the multilateral trading system is and will always be the best way to meet the challenges of increasingly fragmented world trade.

¹ WKÖ is the Austrian Federal Economic Chamber and represents the interests of 550,000 businesses in Austria.

III. WKÖ-Expectations regarding the 13. WTO-Ministerial Conference

Time is pressing about the WTO-MC13: It is important to sound out and prepare well for some realistic and realizable goals, but the package must not be overloaded with unrealistic expectations and an agenda that is too far-reaching. To underline the importance of the World Trade Organization, the conference needs to achieve visible successes.

- **Further extension of the e-commerce moratorium**

Progress in e-commerce protects companies from the administrative burden associated with the levying of customs duties and can also make a positive contribution to stable supply chains. A further extension of the moratorium on customs duties on digitally traded goods and services must be agreed at least until the 14th Ministerial Conference.

- **Definition of a concrete work program for the restoration of the Dispute Settlement System**

The dispute settlement system must be restored to its usual capacity and competence with its two lines of defense and is of the utmost importance for the international economy and the credibility of the WTO. Only a fully functioning WTO can ensure fair competition in international trade in times of increased protectionism. The multi-party interim appeal arbitration procedure temporarily established by the EU with some other WTO members (including China, but not the USA) can only be used between all members of the organization willing to join as long as the WTO Appellate Body is not fully functional and is not a permanent substitute for WTO dispute settlement.

WTO members must therefore, in their own interests and in the interests of an intact international economy, continue their intensive efforts to achieve fully functioning dispute settlement that is binding on all member states and urge the USA to cooperate actively in restoring the full functioning of the WTO Appellate Body.

WTO members must play their part! The EU must keep up the pressure on everyone, including the more "difficult" negotiating partners within the organization.

The aim is and remains to be able to present substantial results on dispute settlement reform at the end of the 13th WTO Ministerial Conference and not just a progress report "on a process that drags on".

- **No extension of the TRIPS waiver² to therapeutics and diagnostics**

We categorically reject an extension of the TRIPS³ waiver in connection with therapeutics and medical devices. Under no circumstances should there be a negotiation concession in exchange for another MC13 negotiation topic. This would be a serious setback, especially regarding precautions for future virus variants of the Covid 19 pandemic and possible new pandemics.

Instead, the WTO should focus on reducing trade barriers and bureaucracy, promoting healthcare systems in poorer countries and, last but not least, promoting voluntary license agreements, which also include the transfer of technology to less developed regions of the world.

Justification:

There is currently no restriction on the supply of authorized therapeutics against COVID-19, which is why the measure lacks a predetermined trigger for the TRIPS waiver agreed at MC 12. The production output of the affected drugs currently exceeds the contractually agreed quantities for all variants, disease severities and patient groups. As the frequency of testing is declining globally - as in Austria - the number of treatments is also currently decreasing despite rising incidences, as the efficacy of these therapeutics only prevents severe disease progression at a very early stage of infection. Planning is difficult for companies under the current circumstances and increases the economic risk for providers. Partnerships with multilateral organizations and 138 voluntary licensing agreements have made it possible to create sufficient production capacities for these therapeutics. Combined with tiered pricing models and non-profit supply commitments for low- and middle-income countries, these mean that the entire African continent and the entire Southeast Asia region have also gained access to these medicines. Cancellation of the patents would jeopardize the legal basis for these initiatives, including those entered under the Medicines Patent Pool (PP).

The cancellation would also have a direct impact on drug safety. While voluntary licensing agreements can also transfer the legal obligations for the provisions applicable in the respective markets - such as adverse drug reaction reporting in Europe - a compulsory license does not include such measures. There is therefore a risk that medicines that do not at least meet WHO standards and falsified medicines will enter the supply chain. The number of counterfeit medicines is also likely to increase again, thereby undermining the system against the introduction of counterfeits onto European markets, which has been set up at great financial expense.

² At MC 12, WTO members decided to waive obligations under the TRIPS Agreement regarding patents for the production of Covid 19 vaccines

³ TRIPS = Agreement on Trade-Related Aspects of Intellectual Property Rights

The full-scale expansion (therapeutics and medical devices) will drastically reduce the value of research activities across some industry sectors. Currently, 37 treatment options - just 2% of the COVID-19 treatment options in development - have been approved. Above all, this means that research is ongoing. 75% of this research expenditure is being funded by private investors. With the loss of certainty of being able to recoup the investment on the market, most of these projects are likely to be terminated prematurely and cancelled. The extension will cover more than 135,000 patents instead of the current 4,300 and, in addition to pharmaceuticals, will also extend to chemicals, machinery, rubber and glass products far beyond the healthcare sector.

In economic terms, it should be noted that the costs of the expansion will have to be borne by the USA and Europe. As a result, research expenditure from the corporate sector is expected to fall by more than a third and the value of patents is expected to fall by 28%. This will also have a significant dampening effect on the development of gross domestic product and cause the loss of highly qualified jobs. In Austria, 20 years of development work, which has allowed the pharmaceutical and medical technology sector to grow to 60,000 direct jobs (see Life Science Report Austria by the BMAW), could be severely damaged. The TRIPS waiver also appears to be used as a model for other sectors. In the area of so-called green technologies, such plans have been put forward at WTO level. These measures would bring the EU into new dependencies instead of leading to a reindustrialization of Europe or even to strategic independence. In the EU, patent-intensive economic sectors account for 16 per cent of gross domestic product.

- **Achieving success with plurilateral agreements**

Plurilateral agreements within the WTO are legitimate and valuable mechanisms for driving forward the necessary regulatory efforts and adapting them to the economic realities of the 21st century. A breakthrough in these areas could also offer significant opportunities for small and medium-sized enterprises. We therefore support the following two Joint Statement Initiatives as important possible deliverables of MC13:

- 1. E-Commerce Initiative:**

At MC13, there must be a set timeline for finalizing all negotiation topics of this initiative to develop rules in e-commerce. These plurilateral WTO negotiations were launched in Davos, Switzerland, in January 2019 with the participation of 76 members. The number of participating members now stands at 90, but negotiations have recently stalled due to disagreement on issues such as cryptography, source codes and other technical specifics. The e-commerce initiative has already made significant progress and reached consensus in several disciplines. By MC13, at least a substantial agreement - excluding the controversial issues of data traffic and source code - must be reached. A further objective must be to accelerate progress and ensure a high-level outcome at MC14.

2. Investment Facilitation for Development

The Investment Facilitation for Development Initiative should become a demonstrable result of the ministerial conference and the basis of a new multilateral agreement (Investment Facilitation Agreement) for areas that are important for investment facilitation. The creation of increased transparency and predictability as well as the establishment of networks and databases to connect investors and companies are important for the economy. The agreed rules are intended to minimize risks for companies and strengthen information flows. More than 100 members are already participating in this joint initiative, which was published at the eleventh ministerial conference in Buenos Aires in December 2017. The future framework should also help to address the priorities and needs of developing and least developed countries in the area of investment facilitation. Negotiations should be finalised at MC13.

- **Climate efforts of the WTO**

Climate change cannot be solved by national or purely EU measures. It is a global problem and requires a global solution. Co-operation at multilateral level must therefore be better coordinated. If this is not done, measures to price carbon, subsidize green technologies, standards and regulations can and will increase the cost of the transition to decarbonizing the economy, slow it down and reduce both economic and climate efficiency. In contrast, coordinated approaches that help maintain the integrity of the global trading system would serve climate goals more effectively.

The introduction of environmental and/or social criteria (KPIs) into global procurement/trade processes would fundamentally shift the focus of all stakeholders from "price" to "type of production". A cheap commodity will then have to be re-evaluated, for example, in the case of less environmentally friendly production. Global stakeholders (e.g. industry and public clients) will thus have the opportunity to reorganize themselves and operate more sustainably. However, the definition of assessment criteria must not lead to increased bureaucracy.

The WTO must hold structured discussions to promote environmental protection and sustainability globally. This should include the identification of possible contributions of international trade to a climate-neutral, resource-efficient, and circular global economy, information exchange, transparency, technical assistance for underdeveloped countries and much more.

The focus will be on achieving the Sustainable Development Goals (SDGs) and supporting international environmental commitments, promoting the conservation, sustainable use and restoration of biodiversity, careful use of natural resources including marine fisheries and land degradation, deforestation and desertification, climate change mitigation and adaptation and the promotion of sustainable production.

The negotiations in the four WTO working groups on environmental and sustainability issues (environmental goods and services/EGS, trade-related climate measures, circular economy and subsidies) must be continued intensively and produce initial results at MC13.

The MC13 declaration must contain well-founded elements on environmental protection and climate protection in the direction of a level playing field at WTO level and already set out a work plan up to MC14.

Furthermore, at the 13th Ministerial Conference, as many more members as possible must be won over to the Coalition of Trade Ministers for Climate Action in order to achieve concrete results and develop initiatives and next steps to sharpen the role and added value of this climate coalition.

This coalition was officially launched in January 2023 on the sidelines of the World Economic Forum in Davos. Together with Ecuador, Kenya and New Zealand, the EU is at the forefront of the initiative, which involves 56 other countries in addition to the EU.

The aim of the coalition is to identify how trade policy can contribute to tackling climate change. It will serve as a forum for high-level political dialogue to promote international cooperation on climate, trade and sustainable development. Supporting the least developed countries and vulnerable developing countries is one of the Coalition's priorities. To this end, trade and investment in "green" technologies and services must be promoted.

The official announcement at MC13 that more countries will join this climate coalition could be another important signal to strengthen multilateralism.

- **Micro, small and medium-sized enterprises (MSMEs)**

International trade poses major challenges, especially for micro, small and medium-sized enterprises (MSMEs), which in their large number and regionality support the economies of the countries. They continue to face significant obstacles (technical and bureaucratic requirements) and are disproportionately affected by the economic impact of the pandemic.

To support MSMEs as important pillars of the economy, all WTO members must adopt the full package of recommendations for MSMEs developed by the informal WTO working group.

- **Industrial Subsidies**

The first steps towards resolving the issue of industrial subsidies were taken in January 2020 with a joint declaration by the EU, the United States and Japan.

This announced agreement to tighten existing regulations on industrial subsidies and condemned forced technology transfer practices. This push must be followed by a plurilateral initiative on competition neutrality that covers industrial subsidies, state-owned enterprises and forced technology transfers. This initiative is supported to create a level playing field and must quickly come up with proposals to solve the problems of industrial subsidies.

- **Fisheries subsidies negotiations**

The success of these multilateral negotiations at MC12 was already an important sign of the functioning and credibility of the organization as a multilateral trade policy forum and for the achievement of the Sustainable Development Goals.

The results negotiated at that time must be ratified by 2/3 of the members in order to enter into force. At present, almost 50 per cent of the required 110 ratifications by member states have been achieved; the ratification process for the agreement on fisheries subsidies should be completed by MC13 at the latest.

Furthermore, the parts of the fisheries agreement (Fish Phase 2) that were not finalized at MC12 should be finalized at MC13 to stop the unsustainable overexploitation of the world's oceans.

- **Agriculture and food security**

Climate change and frequent extreme weather events such as droughts, heat waves, rainfall and floods are reducing crop yields and exacerbating the risks to global food security. WTO members' recourse to product-specific export restrictions in response to extreme weather events exacerbates the impact on global food and agricultural supply shortages. Relevant progress should therefore be made at MC13 in the area of agriculture, including aspects of global food security.