



ACTIVITY BRIEF

DECEMBER 10–13, 2017,
BUENOS AIRES, ARGENTINA



TPSA | CANADA-INDONESIA TRADE AND
PRIVATE SECTOR ASSISTANCE PROJECT

TPSA Supports Indonesia's Participation in the World Trade Organization's 11th Ministerial Conference in Buenos Aires

Four Ministry of Trade officials benefitted from TPSA's financial support and technical coaching and gained practical experience in multilateral trade negotiations at MC11 in Argentina.

Background

Every other year, the World Trade Organization (WTO) holds a Ministerial Conference (MC), bringing together its 164 members to discuss and negotiate important trade issues. The Ministerial Conferences can rule on any matter related to the WTO mandate or included under any multilateral agreement. These include accession procedures, dispute-settlement systems, and trade in goods and services. The high-level decision-makers (normally trade ministers) who participate in the MCs provide the necessary political buy-in and create momentum for bridging negotiation positions and reaching agreements.

Although WTO Doha Development Agenda (DDA) negotiations are progressing slowly, the most recent MCs have produced some successes. For instance, MC9, held in 2013 in Bali, Indonesia, concluded with the adoption of the Trade Facilitation Agreement, the first multilateral trade deal since the establishment of the WTO. At MC10, held in 2015 in Nairobi, Kenya, WTO members agreed on a series of six Ministerial Decisions on agriculture, cotton, and issues related to least-developed countries.



NGO briefing on the first day of MC11.

In parallel, the WTO Secretariat has made efforts to increase transparency in multilateral trade negotiations and be more open to the participation of civil-society representatives. Although only country representatives can be present in negotiation rooms, many public side events are organized by other international and non-governmental organizations. Thus, a tradition of global civil-society involvement in the WTO negotiations has slowly been established.

Canada

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IN PARTNERSHIP WITH





Activity Description

As a first step, the Canada-Indonesia Trade and Private Sector Assistance (TPSA) project and the Ministry of Trade (MoT) conducted close consultations to select the participants in MC11, which was held in Buenos Aires, Argentina, in December 2017. The objective was to select four mid-career professionals (both male and female) who have high potential for further advancement within the MoT. As this activity was aimed at building capacity in multilateral trade negotiations, candidates were not required to be experts in the field, but did need a basic knowledge of the functioning of the WTO, as well as a willingness to learn and eventually to share knowledge acquired with their colleagues at MoT.

Once selected, each participant was given a specific negotiating issue, in order to cover the MC11 topics as comprehensively as possible. The selection process yielded the following participants:

- Ms. Rini Dwi Hastuty, Head of Section for Communication Services at the Directorate for Trade in Services Negotiations, was selected to cover trade in services negotiations, particularly issues related to electronic commerce.
- Ms. Irma Rubina Sianpar, International Trade Analyst at the Directorate of Multilateral Cooperation, was selected to cover agriculture negotiations.
- Mr. Ezra Bintang Tumpal, Assistant Deputy Director for Intellectual Property and Investment at the Directorate of Multilateral Cooperation, was selected to focus on investment facilitation.
- Mr. Angga Handian Putra, Head of the Trade Dispute Settlement Section at the Directorate of Multilateral Negotiations, was selected to work on the WTO rules negotiations, more specifically on fisheries subsidies.



Participants strategize before the start of the conference.



MC11 participants share their learnings with MoT colleagues.

The activity was delivered using a three-phase approach. The first phase focused on preparing participants for MC11. Prior to leaving for Buenos Aires, TPSA senior trade and investment experts Wenguo Cai and Alexandre Larouche-Maltais provided coaching and technical support to the four participants. Each of them was required to conduct desk research and prepare a background note on their focus topics.

The second phase took place during MC11 in Buenos Aires. As members of the official delegation of Indonesia, the participants were asked to follow the multilateral talks as closely as possible and to get directly involved, if feasible. They provided regular debriefs of their daily activities to Mr. Cai and Mr. Larouche-Maltais, who in turn provided information on the overall progression of discussions and side events.

The third and final phase occurred on April 27, 2018, when TPSA organized a knowledge-sharing event in Jakarta for 36 MoT staff (17 men and 19 women). During the event, three of the four MC11 participants delivered technical presentations on their respective topics, providing background information, a history of MC negotiations, recent developments, and key achievements in Buenos Aires. More importantly, they informed the audience about the potential implications of multilateral trade negotiations for Indonesia and shared their recommendations for what the country should do next.

Participant Feedback

What happens at WTO ministerial conferences has important implications for Indonesia, and the participants welcomed the opportunity to observe and learn by attending MC11 in Buenos Aires.



In a post-activity survey, the participants noted that their skills and knowledge had increased and that their new level of confidence/skill in applying that knowledge was either “very good” or “good.” Participants indicated that they expect to use the knowledge they had gained to improve their work.

Feedback from the knowledge-sharing event was also good, with 9 per cent of respondents indicating the training was “excellent,” 44 per cent “very good,” and 44 per cent “good.” All respondents reported that they expect to use their new knowledge and skills in their future work.

Key Learnings

Eliminating fisheries subsidies that contribute to illegal, unreported, and unregulated (IUU) fishing through multilateral negotiation is in line with Indonesia’s national interest.

Despite the inability to generate a consensus on how to address harmful fisheries subsidies at the WTO, Indonesia should pursue multilateral negotiations in good faith.

In the context of the Doha Round, WTO members negotiate on 20 areas of trade, including “trade rules,” which cover a wide range of negotiating issues from anti-dumping to fisheries subsidies. One of the objectives of the multilateral talks on rules for fisheries subsidies is to “clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries.”¹

Addressing IUU fishing at the WTO makes both economic and ecological sense: In recent decades, underwater resources have been largely over-exploited, leading to increasing concerns about unsustainable fishing activities, food security, and ocean environmental protection, especially in developing countries. In addition, the WTO offers a strong enforcement tool—the dispute settlement mechanism—that could guarantee member states comply with their obligations under a potential agreement on fisheries subsidies.

Prior to MC11, this issue was perceived as a “low-hanging fish,” as recent developments at the WTO indicated progress and allowed observers and negotiators to be optimistic. Several country



MC11 symposium on trade and sustainable development.

groups submitted text proposals, certain countries’ positions were converging, and an agreement on fisheries subsidies was gaining momentum. Unfortunately, MC11 failed to reach a consensus, and WTO members adopted a decision to continue to engage constructively in the negotiations, with a view to adoption by the 12th WTO Ministerial Conference in 2019.

During MC11, Indonesia pushed for an agreement to increase transparency in fisheries subsidies, excluding certain subsidies such as government supports for the installation of safety equipment or for infrastructure to reduce environmentally harmful emissions. Indonesia also proposed a definition for artisanal and small-scale fisheries that should be preserved in a future WTO agreement. Overall, finding a development-friendly agreement that ensures sustainability of fish resources remains directly in line with Indonesia’s national interest as both an archipelago and a developing country. For this reason, Indonesia should continue negotiating at the WTO to reach a multilateral agreement prohibiting IUU fisheries as soon as possible.

Facilitating investment can constitute a key component of Indonesia’s future economic development policy.

Indonesia should carefully examine the potential benefits of a future multilateral agreement on investment facilitation (IF).

There is no universally accepted definition of IF. However, several international institutions have attempted to provide conceptual clarifications. For instance, at the regional level, the Asia-Pacific



Session at MC11.

Economic Cooperation (APEC) refers to “actions taken by governments designed to attract foreign investment and maximize the effectiveness and efficiency of its administration through all stages of the investment cycle.”² Transparency, simplicity and predictability are among its most important principles.

In this regard, IF is different and more extensive than the concept of “investment promotion,” as the latter focuses on the promotion of investment destination locations through marketing and incentives.

Those opposed to an agreement on IF argue that WTO negotiations should remain focused on trade and trade-related domestic regulations. IF falls outside the scope of the WTO mandate, as noted by India, who argued that the inclusion of IF in the WTO negotiating agenda might not be consistent with the national development objectives of developing countries. A coalition of developing countries supported India’s position, taking the view that IF would undermine future negotiation prospects and potential outcomes under the DDA.

Recently, Indonesia decided to team up with Mexico, Korea, Turkey, and Australia to organize an investment workshop to collect WTO members’ views on IF. Among the key messages shared there was that core WTO principles could form the basis for further discussions on IF, including “transparency, predictability, and non-discrimination in investment policies; efficiency and streamlining

of administrative procedures to minimize investment barriers; international cooperation, capacity-building, and technical assistance.”³

At MC11, Indonesia was in favour of discussing IF in the WTO, but stressed the importance of maintaining a flexible domestic policy space (i.e., right to regulate) about investment. Indonesia submitted that investment facilitation should aim at implementing and administering investment policies more clearly, efficiently, predictably, and fairly, providing win-win outcomes for both government and investors.

MC11 did not reach an agreement on IF, but rather issued a Joint Ministerial Statement on Investment Facilitation for Development. This statement recognizes the “dynamic links between investment, trade, and development” and calls for “beginning structured discussions with the aim of developing a multilateral framework on investment facilitation.”⁴ The text outlines key IF negotiation objectives, including improving the transparency and predictability of investment measures, speeding up administrative procedures and requirements, and enhancing international cooperation.

Liberalizing trade in services can have substantial economic benefits, but Indonesia should undertake a comprehensive review of domestic regulations and revisit its negotiation positions.

Indonesia should pursue multiple services trade negotiations at bilateral and regional levels while enhancing inter-agency coordination and mapping out domestic measures restricting trade in services.

Trade in services has been covered under the multilateral rules since the entry into force of the General Agreement on Trade in Services in 1995.



Reception at the Canadian embassy in Buenos Aires.



Since the launch of the DDA, little progress has been made on services trade, and negotiations show a gap between developed and developing countries. This deadlock has led many countries, including Canada and Indonesia, to negotiate bilateral and regional free trade agreements (FTAs) covering trade in services in order to achieve greater liberalization.

However, this global trend has not been challenge-free for developing countries. One of the problems faced by developing countries such as Indonesia is the negative-listing negotiation approach used for FTA negotiations by developed countries. In a negative-list approach, countries list non-conforming measures (i.e., ones that would otherwise be contrary to the rules in the FTA) that they will maintain after the entry into force of the FTA, or sectors they wish to protect. If a service- or investment-related sector is not listed, it will be considered liberalized.

Indonesia also has difficulty consulting with domestic stakeholders on services trade liberalization and adopting a uniform and coherent position for each service sector.

In Indonesia, there seem to be inconsistencies due to lack of coordination among different ministries when determining negotiation positions at the multilateral and regional/bilateral levels. As certain ministries are perceived to be more willing than others to liberalize trade in services, foreign trade partners may receive mixed messages.

During the MC11, the focus of trade in services negotiation was on e-commerce, and the main outcome was the adoption of a Ministerial Decision on Electronic Commerce. This statement affirms the

will of WTO members to continue the work being done under the Work Programme on Electronic Commerce and, more importantly, to "maintain the current practice of not imposing customs duties on electronic transmissions" until 2019.⁵ As Indonesia's Minister of Finance decided to impose customs duties on intangible goods bought and delivered through electronic means, Indonesian negotiators suggested that the "moratorium" should not cover intangible goods.

Given the relative stagnation of multilateral talks on e-commerce, 71 WTO members representing 77 per cent of global trade issued a joint statement indicating their intention to initiate "exploratory work together towards future WTO negotiations on trade-related aspects of electronic commerce."⁶ Recognizing the particular challenges faced by developing countries, the statement invites all other members to join. Canada signed the declaration; Indonesia decided not to do so.

Encouraging the revival of multilateral agricultural negotiations should be a priority for Indonesia.

Despite struggles to reach a deal at the WTO, Indonesia must continue its efforts in this area.

Agriculture plays a predominant role in developing and least-developed economies. The agricultural sector provides employment, reduces poverty, and ensures food security. Although its importance has been declining, Indonesia's agricultural sector still contributes to national GDP and accounts for 40 per cent of employment. Some of the country's most exported products are agricultural goods, such as palm oil, rubber, cocoa, coffee, and tea.

At the WTO, negotiations on agriculture focus on three pillars: export competition (export subsidies and related issues), domestic support, and market access. The first pillar deals with measures that may have effects comparable to export subsidies, such as international food aid, export credits, and the activities of agricultural state trading enterprises. The second pillar covers all internal policies that aim to keep producer prices higher than normal international trade prices, financial programs for agricultural producers, or any other domestic support policies that may artificially reduce costs



Information-sharing event at MoT offices in Jakarta.



for agri-producers. The third pillar refers to the “tariffication” of agricultural non-tariff barriers, reduction of tariffs, and providing minimum access to domestic markets.

Since the establishment of the WTO, agriculture negotiations have proven highly controversial. On the one hand, developing countries tend to gain a comparative advantage in agricultural trade, although their domestic industries may need stabilization programs in difficult times. On the other hand, developed countries maintain strong protectionist measures as their domestic producers struggle with international competition, and because opening their market would have high social and political costs. For these reasons, multi-lateral agricultural trade talks have not progressed much since the launch of the DDA.

During MC11, the gap between developed countries (led by the U.S.) and developing and least-developed countries (led by India) seemed wider than ever, and the conference delivered no substantial outcome in agricultural negotiations. In the future, Indonesia could help bridge the gap by acting as mediator between the positions of developed and developing countries, advocating for more flexibility in upcoming WTO negotiations.

About the TPSA Project

TPSA is a five-year, C\$12-million project funded by the Government of Canada through Global Affairs Canada. The project is executed by The Conference Board of Canada, and the primary implementation partner is the Directorate General for National Export Development, Ministry of Trade.

TPSA is designed to provide training, research, and technical assistance to Indonesian government agencies, the private sector—particularly small and medium-sized enterprises (SMEs)—academics, and civil society organizations on trade-related information, trade policy analysis, regulatory reforms,

and trade and investment promotion by Canadian, Indonesian, and other experts from public and private organizations.

The overall objective of TPSA is to support higher sustainable economic growth and reduce poverty in Indonesia through increased trade and trade-enabling investment between Indonesia and Canada. TPSA is intended to increase sustainable and gender-responsive trade and investment opportunities, particularly for Indonesian SMEs, and to increase the use of trade and investment analysis by Indonesian stakeholders for expanded trade and investment partnerships between Indonesia and Canada.

The expected immediate outcomes of TPSA are:

- improved trade and investment information flows between Indonesia and Canada, particularly for the private sector, SMEs, and women entrepreneurs, including trade-related environmental risks and opportunities;
- enhanced private sector business links between Indonesia and Canada, particularly for SMEs;
- strengthened analytical skills and knowledge of Indonesian stakeholders on how to increase trade and investment between Indonesia and Canada;
- improved understanding of regulatory rules and best practices for trade and investment.

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ENDNOTES

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