

## **TWN Info Service on WTO and Trade Issues (Jan24/06)**

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### **WTO: US, Costa Rica, Paraguay say ministerial mandates lack sanctity on PSH**

Geneva, 17 Jan (D. Ravi Kanth) — The chair of the Doha agriculture negotiations, Ambassador Alparslan Acarsoy of Turkiye, on 17 January appears to have indicated that he will issue a draft text on what might be possible for the World Trade Organization's 13th ministerial conference (MC13), to be held in Abu Dhabi from 26 February, said people familiar with the discussions.

Given the unbridgeable positions witnessed at the one-and-a-half-day special session on the two mandated issues of the permanent solution for public stockholding (PSH) programs for food security purposes in developing countries and the special safeguard mechanism (SSM), it remains to be seen whether any outcome can be accomplished at MC13, said people, who asked not to be quoted.

At the continued special session on 17 January, the chair reported on his discussions with a dozen trade envoys last week and their request for preparing a draft text under his own responsibility.

The chair also suggested that he may hold another meeting with the 12 trade envoys from the United States, the European Union, the United Kingdom, Australia, Argentina, Japan, Brazil, China, India, Indonesia, Cameroon, and South Africa to map out the contours of what could be accomplished at MC13, said people familiar with the discussions.

The chair appears to have said that members supported his efforts to intensify the negotiations for finalizing a draft text, even though they seemingly talked past each other at the special session, said people, who asked not to be quoted.

As previously reported in the SUNS, the chair convened the special session to discuss the issues of PSH and SSM, as well as a proposal from the Cairns Group of farm-exporting countries, two specific proposals on how to address product-specific subsidies by New Zealand and Canada, and a proposal on export restrictions by the United Kingdom to address the food security issue.

Even before the chair prepares his draft outcome on agriculture, the US seems to have placed some conditions, insisting that the chair's draft text should not have specificity and that it should only provide guidance, said people familiar with the discussions.

In effect, the US appears to have subtly cautioned the chair not to suggest any outcome on the mandated issues of PSH and SSM at the meeting, said several negotiators, who asked not to be quoted.

Several other members said that the proponents of different issues and coordinators of different groups must be included in the chair's consultations.

Paraguay, a vocal member of the Cairns Group, sought to be included in the chair's consultations.

Switzerland, the coordinator of the G10 group of farm-defensive countries, also sought a seat in the chair's consultations, said people familiar with the discussions.

### **PSH**

During the discussion on PSH on 16 January, it became apparent that the proponents of the mandated issues concerning the permanent solution for PSH and SSM on the one side, and the opponents such as Costa Rica, Paraguay, and other Cairns Group members as well as the United States, on the other, remained in disagreement, said people familiar with the discussions.

The proponents of the permanent solution for PSH, led by India, Indonesia on behalf of the Group of 33 (G33) countries, China, and the Africa Group among others, rallied around their proposal (Job/AG/229) tabled at MC12 in June 2022, emphasizing the need to respect the

mandates as agreed by trade ministers at the WTO's ninth ministerial conference in Bali, Indonesia, in December 2013 (the Bali decision), the November 2014 General Council decision that further clarified and reinforced the Bali decision, and the MC10 outcome in Nairobi, Kenya, in December 2015.

India is understood to have said that members made a payment for the Bali decision on PSH by agreeing to the Trade Facilitation Agreement, suggesting that it would be a "betrayal" to renege on the Bali and subsequent General Council and ministerial mandates, said people familiar with the discussions.

India made a detailed presentation on PSH at the special session, suggesting that any attempt to undermine those mandates would not augur well for the multilateral negotiations that are based on the sanctity of the mandates, said people familiar with the discussions.

The proponents of PSH showed how a permanent solution on PSH can be concluded at MC13, including treating programs for PSH under the "green box" (the G33 had presented a proposal in the run-up to the Nairobi meeting), said people who asked not to be quoted.

It appears from the discussions on PSH that the ministerial mandates have little value as some members of the Cairns Group and the United States have gone against the ministerial decisions, said a person who asked not to be quoted.

#### OPPONENTS OF PSH

The special session seems to have witnessed concerted efforts by Costa Rica and Paraguay as well as the US to change the narrative and disregard the previous mandates, said people who asked not to be quoted.

The US, for example, is understood to have said that the Bali decision has caused "detrimental consequences" over the past 10 years.

It suggested that India made substantial gains from the Bali decision by becoming the biggest rice exporter.

The US, however, appeared to remain silent on how PSH also rescued India in providing food grains to 800 million people, said people present at the meeting.

The US underscored the need for some procedural steps, including the need to provide data for further discussions.

Aside from the US, Costa Rica and Paraguay, the two lead campaigners against PSH, drew attention to paragraph eight of the Bali decision concerning the work program.

According to paragraph eight of the Bali decision, "members agree to establish a work program to be undertaken in the Committee on Agriculture to pursue this issue (PSH) with the aim of making recommendations for a permanent solution. This work program shall take into account Members' existing and future submissions."

Surprisingly, Costa Rica and Paraguay did not mention paragraph nine of the Bali decision, which states, "in the context of the broader post-Bali agenda, Members commit to work program with the aim of concluding it no later than the 11th Ministerial Conference", i.e., the Buenos Aires ministerial meeting, said people, who asked not to be quoted.

Moreover, the Bali decision was further clarified and reinforced by the General Council decision on PSH in November 2014.

Before the 2014 General Council decision on clarifying the Bali decision, India had blocked the protocol of the Trade Facilitation Agreement until it obtained clarity and a guarantee of concluding the permanent solution on PSH, said people who asked not to be quoted.

Consequently, in an agreement that was reached primarily between the US and India on the PSH issue, which was later agreed upon by all members at a General Council meeting on 27 November 2014, it was made explicitly clear in paragraph 4 of the General Council decision (WT/L/939) that members would treat the PSH issue "distinct" from other agriculture issues.

According to paragraph 4 of the 2014 General Council decision, "Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent

solution on the issue of public stockholding for food security purposes by 31 December 2015. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session (“CoA SS”), in dedicated sessions and in an accelerated time frame, distinct from the agriculture negotiations under the Doha Development Agenda (“DDA”). The three pillars of the agriculture negotiations, pursuant to the DDA, will continue to progress in the CoA SS.”

Incidentally, the US had agreed to this in a bilateral meeting in Geneva to secure the passage of the Trade Facilitation Agreement, as reported by this correspondent.

It is also common knowledge that once the US and other major industrialized countries had pocketed the Trade Facilitation Agreement, they allegedly immediately undermined the DDA negotiations at MC10 in Nairobi, Kenya in December 2015 and later stymied efforts to reach an agreement on the permanent solution on PSH at MC11 in Buenos Aires, Argentina, in December 2017, and at MC12 in Geneva in June 2022.

Further, it is agreed in WTO jurisprudence that each successive agreement made either by the General Council or ministerial conference takes precedence over the previous agreement, said people familiar with the discussions.

The 2014 General Council decision on PSH was further reinforced by the MC10 decision in Nairobi.

The Nairobi ministerial decision on PSH states:

“Members note the Ministerial Decision of 7 December 2013 (WT/MIN(13)/38 and WT/L/913) and reaffirm the General Council Decision of 27 November 2014 (WT/L/939).

2. Members shall engage constructively to negotiate and make all concerted efforts to agree and adopt a permanent solution on the issue of public stockholding for food security purposes. In order to achieve such permanent solution, the negotiations on this subject shall be held in the Committee on Agriculture in Special Session (“CoA SS”), in dedicated sessions and in an accelerated time frame, distinct from the agriculture negotiations under the Doha Development Agenda (“DDA”).

3. The General Council shall regularly review the progress.”

It is in this context that Costa Rica and Paraguay as well as the United States appear to hold a weak hand in their opposition to the issue of PSH, said members who asked not to be quoted.

SSM

The short discussion on SSM laid bare the continued divergent positions between the proponents on the one side and the opponents on the other, said people familiar with the discussions.

The Africa Group, which proposed to conclude the SSM at MC13, raised the issue at the meeting, but there was little or no convergence, said people familiar with the discussions.

CAIRNS GROUP PROPOSAL

At the meeting, the Cairns Group proposal containing a matrix of capping several domestic support payments drew sharp criticism from China and the European Union among others.

In a similar vein, two separate proposals on product-specific subsidies by New Zealand and Canada also received little support from non-Cairns Group members.

Lastly, the United Kingdom’s proposal on export restrictions for addressing food security was severely opposed by Argentina and India among others.

In short, the chair faces a Herculean task in preparing a draft text that would be palatable for members of different groups amidst unbridgeable positions. +

