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## **WTO in Limbo: Urgent Need for New Director-General**

*By Kaewkamol Pitakdumrongkit*

### **SYNOPSIS**

*WTO members should choose the WTO director-general very soon as major issues remain to be tackled. As the world organisation is purposed to advance global trade governance, it cannot afford to be in limbo for long.*

### **COMMENTARY**

2020 IS not a good year for the World Trade Organisation (WTO). The institution is struggling to remain important and relevant in global trade governance. Concerning dispute settlement, the Appellate Body has ceased to function since December 2019. The COVID-19 pandemic has caused the postponement of the bi-annual Ministerial Conference which could have provided an opportunity for the members to alleviate their tensions and conflicts.

Moreover, the rise of trade megadeals namely the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership (RCEP) tempts some observers to believe that trading blocs will eclipse WTO and become new key players advancing global trade.

### **Enter WTO-Plus Blocs: New WTO Chief Needed**

Entering into force on 30 December 2018, CPTPP is an agreement among 11 parties representing 13.5 per cent of the world's goods trade. It is dubbed a "WTO-Plus" deal because some rules governing services trade and labour and environmental standards are more advanced than those of the WTO's. RCEP, which was signed by 15 countries on 15 November 2020, is the world's biggest trading bloc to date.

While critics contend that the pact still awaits ratification from the signatories before

being activated, the fact that RCEP covers about 30 per cent of the global GDP and 30 per cent of the world's population signifies its potential to shape the future landscape of international commerce.

Furthermore, the stepping down of the director-general (DG) Roberto Azevêdo added another blow to WTO. Such move has made the organisation leaderless. Several nations see a need to elect the next chief soon. For instance, the Global Governance Group (3G) – an informal grouping of 30 nations convened by Singapore – released a statement urging all WTO parties “to work together to expeditiously complete the selection and appointment of a new WTO director-general in accordance with the agreed rules and procedures”.

Why is a new DG needed? The main reason is that WTO needs a chief to help facilitate trade discussions and negotiations. Hence, the DG's influence largely emerges from the DG's soft skills. For instance, his ability to leverage on the networks of experts, businesses, and officials as well as ability to persuade conflicting parties to find a common ground can make or break the negotiation.

Also, the chief may have access to certain knowledge such as members' interests. It can use the information to help members reconcile their different preferences and arrive at an agreed outcome. Additionally, presiding over some major gatherings, the DG can control the meeting's pace, the framing of issues, and the structure of the debates over certain matters. These elements can also determine whether the talks would ultimately succeed or fail.

### **Challenges Facing Next DG**

Whoever becomes the next chief will have to use the above skills to tackle the following burning issues: In the areas of trade negotiation and liberalisation, the DG should convince the members to rely on certain FTAs as a template for crafting WTO's rules. History teaches us that such arrangements can be beneficial to global trade governance.

For example, some terms of the North America Free Trade Agreement (now renamed as the United States-Mexico-Canada Agreement) were later adopted at the WTO and hence shaped the WTO's rules concerning investment, trade in services, and intellectual property rights.

Regarding dispute settlement, the chief should urge the members to adopt the Walker Principles aimed at salvaging the appeal process by directly addressing the US' concerns. For example, the Principles ensure that facts are not subject to appeals, the Appellate Body makes the verdict within 90 days, and the entity's decision does not add to the members obligations and strip away their rights as provided by WTO.

As far as transparency is concerned, the new DG should play an active role in collaborating with other international organisations especially the United Nations Conference on Trade and Development (UNCTAD) to come up with an agreed definition of a “developing nation”.

Doing so would help address the contentious issue of special and differential treatment

(SDT) as some members intentionally self-select their developing country status to take advantage of SDT. The definition will improve transparency, enabling WTO to better monitor member's compliance and detect non-compliers.

### **Now for Biden's Move**

At the time of writing, Singapore, as the 3G's convener, had been invited to attend the virtual G-20 Summit on 22-23 November which was hosted by Saudi Arabia. Free trade supporters were hoping that the world's leaders would use this Summit as a venue to convince one another to speed up the selection process.

Yet, the world may have to wait until US president-elect Joe Biden is sworn into office in January 2021. As the new American administration is speculated to be more willing to pursue multilateralism and cooperate with partners and allies, the DG selection will likely be finalised not long after the US government is installed.

In sum, the WTO members should finish selecting a new DG very soon as many burning issues remain to be tackled. As the world organisation is purposed to advance global trade governance, it cannot afford to be in limbo for long.

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