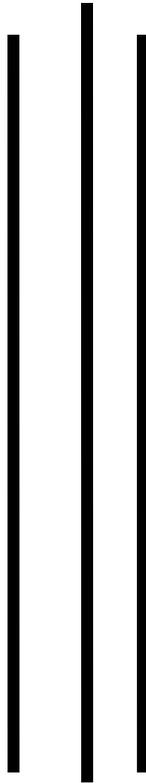


A Comprehensive Report
on
Nepal's Participation in the 11th WTO Ministerial Conference
Buenos Aires, Argentina (09-13 Dec. 2017)



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1. Background

The 11th WTO Ministerial Conference took place in Buenos Aires, the capital city of the Argentina from 09 to 13 December 2015. Ministers/heads of delegations of 164 member countries and observer states, representatives of different intergovernmental organizations and accredited NGOs, media, among others, participated. This is the first Ministerial meeting in South America since the WTO was established in 1995.

This report summarizes the main events of the conference and captures major deliberations that took place in Nairobi, from the perspective of Nepal.

The Mission also liaised between the WTO Secretariat and the Ministry of Commerce and Supplies and the Ministry of Foreign Affairs in matters related to Nepal's participation in MC10. The Mission also facilitated to hold the bilateral meetings with the Ministers of neighboring countries on the sidelines of the Ministerial Conference.

Nepal's Participation in the 10th Ministerial Conference of WTO

Participation in the Opening Session of the Conference

A High Level Nepalese delegation led by the Hon'ble Minister for Commerce MeenBahadurBishwakarma participated in the 11th Ministerial Conference of the WTO. The delegation of Nepal, which consisted of 13 members including Secretary from the Ministry of Commerce, Ambassador/PR of Nepal to the WTO, Joint Secretaries from the Ministry of Commerce, Ministry of Agricultural Development and Department of Custom, Officials of the Permanent Mission of Nepal to the UN and Other International Organizations in Geneva and the Ministry, among others, actively took part in the different meetings and side events organized during the Conference period (A list of Nepalese delegation to MC11 is attached herewith).

The conference opened with the signing of a presidential declaration in support of the WTO. Presidents of Argentina, Brazil, Paraguay, and Uruguay signed the declaration. In their joint declaration, the four presidents reaffirmed the importance of the multilateral trading system as the "best way to take advantage of the opportunities and to face the challenges of international trade." The joint statement of the four presidents was supported by representatives of Colombia, Guyana, Mexico, Peru and Suriname, who also signed the declaration at the conference's opening ceremony. WTO Director General Roberto Azevedo welcomed the joint declaration of support.

Statement by Hon'ble Minister at the Plenary

On 12th December 2017, Hon'ble Minister Mr. Bishwakarma addressed the Plenary of the Ministerial Conference. He reaffirmed Nepal's commitment to the principles and objectives of the WTO as set out in the Marrakesh Agreement that established the WTO in 1995. Mr.Bishwakarmaemphasized that countries at the bottom rung of the development ladder expect equitable trade opportunities through

WTO to eliminate poverty, create jobs and achieve sustained growth and diversified economy, which paves the path to sustainable development.

WTO members should work resolutely to display necessary flexibility to conclude the DDA at the earliest so that meaningful outcomes can be delivered equitable to its deserving members.

Nepal has been in favor of balanced, transparent and inclusive world trade order with special consideration of LDCs' concerns including appropriate S&DT provisions. Without addressing the existing gaps inherent in the physical, digital and regulatory regimes in the LDCs, any new rules or rule making will bring the LDCs to the brink of the further marginalization.

We look forward to more strengthened, inclusive, participatory, transparent and revitalized WTO system as well as sustained global partnership for better and meaningful integration of LDCs into multilateral trading system.

(Statement delivered by Hon'ble Minister at the plenary is attached).

During the Meeting, Mr. Gyan Chandra Acharya, UN Under-Secretary General and High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS) delivered a keynote, highlighting major features of the Vienna Programme of Action for the LLDCs (2014-2024). Mr. Hans Peter Werner, an expert from the Development Division of the WTO Secretariat, made a brief presentation on the inter-linkages between Vienna Programme of Action and Sustainable Development Goals. Trade Ministers from different LLDCs including Lao PDR, Mali, Kazakhstan, among others, delivered statements during the meeting. The meeting ended with the adoption of 15-point Joint Communiqué that highlights the burning issues of the landlocked countries. *(The Joint Communiqué is attached).*

Participation in the LDCs Trade Ministers' Meeting

The delegation of Nepal attended a LDC Trade Ministers' Meeting held in the afternoon of 09th December 2017 in Buenos Aires on the margin of the Ministerial Conference.

At the end of the meeting, the LDC Trade Ministers adopted a joint declaration containing LDCs' priorities and concerns in the context of the Eleventh Ministerial Conference. *(The declaration is attached).*

Participation in the LLDCs Trade Ministers' Meeting

4.5 Participation in the EIF High Level Dialogue

4.6 Participation in the Negotiations and Core group Meetings at Nairobi

During the Ministerial Conference, the Nepalese delegation actively took part in negotiations and core group meetings of LDCs and G-90, among others, on different issues including Special and Differential Treatment proposal, Rules of Origin and Services Waiver.

As the negotiations on G-90 S & DT proposal could not conclude in Geneva until the last moment, the Chairperson of the Committee on Trade and Development-Special Session came up with her own proposal containing some 9 modest proposals out of 25 original proposals submitted by the G-90 members.

The Chair's proposal was too modest and did not include two LDC specific proposals, namely original proposal no. 17 on extension of TRIMS for LDCs and proposal no. 18 concerning allowing LDCs to recourse on minimum reference price in the case of fraudulent documentation in the customs points. Nepal, along with other LDC members such as Bangladesh, Uganda and others, asked to reinstate these two proposals with a view to ensure adoption by the Ministerial meeting. Other members of the G-90, in particular developing countries and LDCs, insisted on including industrialization related proposals such as proposals no. 1, 14 and 16. A series of negotiations took place in small group in Nairobi on Chair's proposal as well on those left-out proposals.

Despite intensive discussions, convergence could not be reached for adoption of S&DT package in line with the request of G-90. In the course of negotiations, developed and some developing country members raised the 'systemic and philosophical issues' in regard to some of the S&DT proposals. Some developed countries expressed deep concern about the coverage of the beneficiaries of the proposed S &DT proposal while some showed sympathy to LDCs. One of the strong reservations expressed from developed country members' side was unwillingness in having binding language on any S & DT proposal. This went counter to the spirit of G-90 as well as against the mandate of para 44 of the Doha Declaration. Amidst the growing divergences, G-90 decided to pursue proposal No. 17 as a stand alone decision and to get it reflected in the Ministerial declaration. Unfortunately, Ministerial Declaration could not include any S&DT specific paragraph that obliges members to pursue negotiations on this critical agenda on priority basis and with a clear deadline. There is no commitment to move the S&DT agenda forward, even though it has been left in the future interests of the Members.

On preferential rules of origin, the draft text was more or less stabilized in Geneva. However, at the last moment as the US delegation came up with its own suggestion in regard to the calculation of value of substantive transformation, it was a bit difficult situation for LDCs Group to convince the US side on the text which was adopted by majority of members. Eventually, the text on preferential rules of origin got unanimously adopted by the Ministers.

On Services waiver text, despite a few rounds of consultations, convergence could not develop in Geneva among delegates. There was a little hope whether the text was going to be accepted by Members. Against this background, H.E. Mr. Francois Kanimba, Minister of Trade of Rwanda who was appointed as the Facilitator by the MC10 Chairperson on this matter, tried to develop a compromise language in the text between LDCs and the developed and developing country Members. As a result, a modest text was issued by the Facilitator, which LDCs decided to agree despite some of their concerns still unaddressed.

During the conference, several rounds of intensive negotiations also took place on some of the key issues of agriculture such as export competition, public stockholding, SSM and Cotton. After series of

negotiations, members eventually came up with agreed texts on different areas of agriculture negotiations.

4.7 Closing Ceremony of the Conference and Ministerial Declaration

The Ministerial Conference concluded on 19th December 2015, taking one extra day. At the closing ceremony, Ministers adopted 34-point Ministerial Declaration along with taking various decisions in some of the areas of WTO negotiations. (*The declaration is attached*). Ministers also endorsed 3 regular works under the General Council decisions. The major decisions adopted by the Ministerial Conference under the DDA issues included Special Safeguard Mechanism (SSM) for Developing Country Members, Public Stockholding for Food Security Purposes, Export Competition and Cotton. Two LDC specific decisions - Preferential Rules of Origin and Services waiver were endorsed by the Conference. During the conference, a group of 53 WTO members who were negotiating a tariff-cutting agreement on information and communication technology goods for more than 3 years reached a final deal. Members agreed to phase-out tariffs on 201 IT products in different tranches starting from 1 July 2016. Addressing the closing session, H.E. Amina C. Mohamed noted that despite challenging moments faced in reaching Nairobi package, members had been able to deliver some important outcomes at this Ministerial and it had reaffirmed the central role of the WTO in international trade governance. Comparing Nairobi package with the Bali decision, DG Azevedo mentioned that after the historic agreement in Bali on TF, once again members had been able to deliver on one of the important pillars of Agriculture negotiations, i.e. Export Competition, in the last twenty years of negotiation history of the WTO.

5. Bilateral Meetings on the Sideline of the Ministerial Conference

Hon'ble Minister Mr. Pun held three bilateral meetings and exchanged views on issues of bilateral trade interests with the Ministers and Vice-Minister of neighboring countries on the sidelines of MC10.

The first bilateral meeting was held with H.E. Mr. Tofail Ahmed, Hon'ble Minister of Commerce and the Head of the Bangladesh Delegation to MC10, on 15 December 2015. During the bilateral meeting, Minister Pun recalled Bangladesh's support to earthquake victims of Nepal following the devastating earthquake in April this year, and extended sincere thanks to the Government of Bangladesh for the good gesture of friendship and cooperation. During the talk, Minister Pun touched upon the difficulty faced by Nepal due to obstruction of cargo vehicles on the southern border, and the efforts to improve the current supply situation, particularly the supply of fuel and other essential commodities. The two Ministers agreed to complete all bilateral trade and related agreements which are at various stages of negotiations as early as possible. The Commerce Minister of Bangladesh described Nepal as a good friend of Bangladesh from the SAARC region, and assured Minister Pun that Bangladesh would be ready to cooperate with Nepal at all times. Minister Ahmed was willing to talk with the Nepalese side on being assured that the Bangladesh-Nepal issues be not linked with Nepal's current issues and concerns with India in any way.

On 16th December 2015, Hon'ble Minister Mr. Pun held a bilateral meeting with the Indian State Minister for Commerce and Industry, Mrs. Nirmala Sitharaman at KICC. During the meeting, putting brief account of current state of disrupted supply of essential goods and services in Nepal, Minister Pun said that obstruction in supply of daily essentials, including those of petroleum products and

medicines, at the Indo-Nepal border points, has created serious impacts on the economic lifeline of the country, and was inviting a humanitarian crisis which is not in the interest of ordinary citizens of either side. Hon'ble Minister clearly put across the view that the current problems can be resolved as and when India unlocks its big reservoir of goodwill toward Nepal and the Nepalese people as a whole. He insistently requested Indian counterpart to ease movement of vehicles across Nepal-India border points to facilitate supply of essential goods and other consumer items.

During the talk, Hon'ble Minister Mr. Pun said that as Nepal has been trying to resolve political issues domestically, political issues should not come in the way of bilateral trade and economic development as it affects the livelihoods of millions people in both sides. The disruptions on the border points that have prolonged for three months are likely to create a humanitarian crisis, as hospitals lack essential drugs and food products are in short supply, the minister outlined. As current supply crisis has badly affected various sectors of the economy, including manufacturing, finance and trade, and has hit the economy hard, Minister Pun urged Indian side to be sympathetic on this matter and be supportive in resolving the crisis.

In response to Hon'ble Minister's request, Hon'ble State Minister of Commerce of India Mrs. Sitharaman said that India had neither imposed any trade embargo against Nepal, nor had any intention to do so. She reiterated the Indian position that as the security situation in bordering areas is unfavourable, some of the cargo trucks got stranded at border points, affecting the supplies to Nepal. She was trying to hint that these issues were directly handled by her seniors at the External Affairs Ministry and the Prime Minister himself. At the end of the meeting, she promised to convey all the concerns expressed by the Nepalese side to 'her seniors' in the Government of India at the capital. It is indicative of the situation at hand.

The third bilateral meeting took place between Hon'ble Minister Mr. Pun and Vice-Minister for Agriculture of the People's Republic of China H.E. Mr. QuDongyu in the afternoon of the 16th December 2015 at KICC. During the meeting issues related to enhancing agriculture trade between Nepal and China, and the Tibet Autonomous Region of China, in particular, opening up of new trade points and improving infrastructure at existing major border points between the two countries were discussed. Nepal's intention of purchasing petroleum products from China on commercial basis and advancing the issue of transit agreement between two countries were also discussed. The Chinese Vice-Minister assured Nepalese side to continue China's support to Nepal's overall economic development and promised to convey Nepal's concerns to the higher political authorities in Beijing for further consideration.

During all three bilateral meetings, Hon'ble Minister Mr. Pun was accompanied by Commerce Secretary Mr. Naindra Prasad Upadhaya, H.E. Mr. Deepak Dhital, Ambassador/PR to the WTO, as well as senior officials of the Ministry and the Mission.

6. Adoption of Accession Package of Liberia and Afghanistan

During the Ministerial Conference, Ministers also unanimously adopted accession package of Liberia and Afghanistan on 16th and 17th December 2015 respectively, amidst a special session that took place in KICC. The Protocol of Accession concerning to Liberia was officially signed by the WTO DG Mr. Roberto Azevêdo and H.E. Mrs. Ellen Johnson Sirleaf, President of Liberia. The protocol of accession of Afghanistan was signed by the WTO DG Mr. Azevedo and the Afghanistan's First Deputy Chief Executive Mr. Mohammad Khan Rahmani. Both the senior leaders of the acceding countries said that "accession to the WTO marks another turning point in the history of their country's economy and it

isan important step towards reforming and integrating their economy to the world economy and meeting aspirations for the growth and development of their people”.

Liberia applied for WTO membership in 2007 and Members of the Working Party concluded the negotiations on 6 October 2015. In the case of Afghanistan, it applied for WTO membership in 2004 and members of the Working Party concluded the negotiations on 11 November 2015. With the adoption of accession package of these two LDCs, the number of LDCs joining WTO would reach 36 in total. Delegation of Nepal congratulated both parties on having successfully concluded accession process.

7. Participation in Other Programmes

In the evening of 15 December 2015, Hon'ble Minister of Commerce Secretary and Ambassador/PR of Nepal to the WTO, participated in the Gala Dinner, hosted by H.E. Dr. Amina C. Mohamed, Cabinet Secretary, Ministry of Foreign Affairs and International Trade of Kenya, in honour of Heads of Delegations, attending the conference. The Gala Dinner was organized at Carnivore Gardens. During the dinner, Hon'ble Minister, Commerce Secretary and H.E. Ambassador/PR, had a good opportunity to interact and exchange views with Ministers, heads of delegations, ambassadors and other senior officials of different countries on the potential outcomes of MC10.

On the evening of 17th December 2015, Hon'ble Minister held a short meeting with NRN communities living in Kenya. Hon'ble Minister was briefed by the NRN Kenya President Mr. Ram Chandra Baisya on NRN activities in Kenya. Discussion was held how NRN living in Kenya could be supportive of promoting export items of Nepal to African countries including Kenya. During the briefing, Mr. Baisya mentioned that around 600 Nepalese are residing in Kenya and engaged in different professions at present.

On 18th December afternoon, Hon'ble Minister met Honorary Consul of Nepal to Kenya, Mr. Jimmy Oskar and briefly discussed on issues relating to investment and trade promotion between Nepal and Kenya.

8. Participation in Side Events

During the conference period, several side events were organized in parallel with the Conference events under the banner of "Trade and Development Symposium" by different international non-governmental organizations including ICTSD, CUTS, SAWTEE, covering different topics related to trade, transit, trade facilitation, competitiveness development and so on. Of the more than 3 dozen side events, Members of the Nepalese Delegation took part in some of them.

A side event entitled "Trade as Tool for LDCs' Graduation: How can the Multilateral Trading System Deliver on Development" was attended by the Commerce Secretary Mr. Nandra Prasad Upadhaya as a panelist. In the similar vein, H.E. Ambassador Mr. Deepak Dhital contributed to the side event entitled "Challenges in the Implementation of Trade Facilitation Agreement" as a panelist.

9. Overall Assessment of MC10 Outcomes and Way Forward

The Nairobi Ministerial Conference was successful to deliver some outcomes to its Members even though it fell short of meeting the expectations. In that respect, this Conference should be seen as moderately successful event in producing deliverables to its members, in particular developing and

LDCs. The Nairobi Package contains a series of six Ministerial Decisions, of which four belongs to agriculture, namely Export Competition, Special Safeguard Mechanism (SSM), Public Stockholding for Food Security Purposes and Cotton. Besides, it has also delivered on two LDC specific issues - preferential rules of origin and services waiver. In addition, Nairobi Ministerial also remained successful in concluding agreement on Expansion of Information Technology Products among 53 members (Agreement is attached), the benefits of which could be equally shared and utilized by developing and LDC members even though they were not part of the negotiations. The EIF Pledging Conference on the eve of the Ministerial meeting for securing fund for launching the Second Phase of the EIF programme, should also be taken as an achievement of the Nairobi Ministerial Conference.

The endorsement of three regular works under the General Council including Work Programmes on Small Economies, TRIPS Non-Violation and Situation Complaints and Work Programme on Electronic Commerce, are other outcomes of the MC10. The conclusion of accession process of two LDCs, namely Liberia and Afghanistan shows that WTO is still relevant organization for poor countries that are not yet well integrated in the world.

Out of these six outcomes, agreement on abolishing export subsidies for farm exports, has been taken as the centerpiece of the Nairobi Package which Director-General Roberto Azevêdo termed as the “most significant outcome on agriculture” in the organization’s 20-year history.

However, the Tenth Ministerial Conference could not deliver any concrete outcomes on development issues under DDA, which has disappointed many developing and LDCs Members. Many developing countries and LDCs from Africa and Asia attached great value to S & DT proposals from the perspective of fostering industrialization and creating some policy space or flexibilities for the advancement of their trade and development. However, this could not materialize by this Ministerial. It is surprising that even LDC specific S & DT proposals including TRIMS extension, could not be endorsed by the Ministerial on the assumption of some members that it could lead to systemic implications in the functioning of the WTO. The Ministerial declaration even fails to mention that ongoing negotiations on S & DT would be continued on a priority basis in the future. Nonetheless, paragraph 24 of the declaration gives some assurance and policy space for LDCs to pursue those parts of the Doha Agenda that falls under the ambit of their interests and concerns. LDCs believe that S & DT can be revived in the post-Nairobi period. **Against this backdrop, it would be worthwhile for Nepal to review all the existing 25 S & DT proposals objectively from our point of view, and prepare national positions on each of them so that when negotiations start on this issue in the near future we could put forward our arguments on each of these proposals based on ground reality of our national needs.**

Regarding agriculture, decisions on market access and domestic support could not take place. This situation perpetuates market distortion in agriculture, which would not be in favour of many developing and LDCs relying on agriculture trade. Similarly, as no concrete decisions on services trade and rules could take place, there are still serious concerns going on.

LDCs' strong attempts to convert all LDC-specific Bali decisions into a legally binding ones fell short of expectations. Nonetheless, Nairobi delivered some results in the areas of preferential rules of origin, services waiver and cotton which are expected to enhance LDCs' trade both in merchandise and services fronts. These decisions are modest as compared to ambitions set in LDC proposals. At the current level, these decisions build upon the Bali decisions and add incremental values in the implementation of Bali decisions. From our national perspective, we need to analyze to which extent

the decisions on these two specific issues could support our trade. **With respect to services waiver, we need to conduct a study to assess whether preferences to the services and service providers extended by some developed and developing country Members through their notifications bear any commercial significance to Nepal in the particular services market.**

Despite LDCs' strong attachment, no decision could take place on DFQF issue in favour of LDCs by the Ministerial this time. However, to our solace, there seems to be some initiative taken by the US unilaterally to grant zero tariff preferential access to the garment and apparel products of Nepal into the US market. Once this decision comes into operation, Nepal could make significant gains in the exports of these products. **It is time for Nepal to do some homework for the comeback of the garment and related industries, keeping in mind the largest market for these exports.**

The spirit of DDA could not be reaffirmed strongly in the MC10 declaration (declaration is attached), and bifurcation of interests got reflected in the final declaration along the 'yes' and 'no' lines. Despite developing countries strong call for a commitment to continue DDA until it gets to a logical conclusion, the Ministerial declaration does not reaffirm DDA unequivocally. Similarly, it could not prevent members from introducing new agenda for negotiation without first concluding DDA. Members find contradictory opinions expressed between paragraph 30 and 31 which contain diverging opinions in regard to advancing DDA in the future. Even though paragraph 31 acknowledges members' commitment to advance negotiations on the remaining Doha issues, the declaration neither prescribes a clear road map, nor identify a clear deadline to conclude DDA. The fate of DDA as a whole remains highly uncertain from now on.

Para 24 expresses strong commitment to address the marginalization of LDCs in international trade and to improve their effective participation in the multilateral trading system. In regard to LDC issues, it further ensures that all issues of specific interest to LDCs shall be pursued on a priority basis, with a view to strengthening them, making them commercially meaningful and, when appropriate, legally binding. This has given some rays of hope to LDCs that they can continuously pursue their agenda in the WTO even if the future of DDA remains uncertain. It is necessary for LDCs to make this more than lip service.

To sum-up, Nairobi Ministerial Conference could not live up to the expectation of majority of developing country members, including LDCs. The Conference failed to deliver or make any reaffirmed commitment on prioritizing development issues. The tacit acknowledgement of divergent views on DDA issue in the declaration for the first time has brought WTO at a crossroad of redefining how the multilateral trading system works for everybody. Solidarity among developing and LDCs members in forging common understandings and positions in areas of their priority interests is extremely important to get through this crossroad.