

# POSITION PAPER: PRIORITIES FOR THE 13TH WTO MINISTERIAL CONFERENCE (MC 13)



Brazilian National Confederation of Industry  
**THE FUTURE OF INDUSTRY**



POSITION PAPER:  
PRIORITIES FOR  
THE 13TH WTO  
MINISTERIAL  
CONFERENCE  
(MC 13)

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# POSITION DOCUMENT: PRIORITIES FOR THE 13TH WTO MINISTERIAL CONFERENCE (MC 13)



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# EXECUTIVE SUMMARY

Since the last Ministerial Conference of the World Trade Organization (WTO), held in Geneva in June 2022 (MC12), there have been changes in the international and geopolitical landscape.

CNI lists the priorities that should guide the next WTO Ministerial Conference, which will take place in February 2024 in the United Arab Emirates. Industry's priorities for MC13 reflect the changes that have taken place over the period, the most urgent needs and the progress made on mandates since MC 12<sup>1</sup>.

Brazilian industry is convinced of the countless economic benefits derived from a multilateral trading system based on clear and transparent rules. In this context, the Brazilian business sector's strategic priority in the country's trade policy is the continued strengthening of the WTO and the effective improvement of its functioning. This approach reflects a commitment to promoting a more equitable global trading environment that is conducive to sustainable development.

Firstly, the need to **reform the WTO** is highlighted. It is proposed to maintain the principle of single *undertaking* for market access issues in areas where consensus can be reached among Members, and to engage in plurilateral agreement negotiations in areas where multilateral negotiation fails to reach consensus. In addition, it is necessary to strengthen the role of the WTO secretariat in supporting negotiations, create an advisory council made up of representatives of the private sector, restore the WTO dispute settlement system and resume the Appellate Body by completing the process of selecting its new members.

Secondly, it is important to prioritize the **trade and environmental sustainability** agenda, which is increasingly present in various bodies of the entity and in different formats, and which is intrinsically related to industrial subsidies, unilateral trade measures and TBT discussions.

In this context, the Trade and Environment Committee should be strengthened, with greater cooperation between the Trade and Environment Committee and the Trade and Development Committee. The Trade and Environment Structured Discussions (TESSD) do not have a negotiating mandate and should maintain its character as an

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<sup>1</sup> The Brazilian industry's suggestions for the MC12 are [here](#).

exchange of information and best practices forum. The interaction between trade and sustainable development stands out as an opportunity to defend basic principles of environmental law, such as common but differentiated responsibilities when it comes to trade measures. Brazilian industry encourages the opening up of markets for sustainable products and from countries that adopt sustainable practices. In addition, a reform of the WTO's Agreement on Subsidies and Countervailing Measures (ASMC) is proposed, ensuring that developing countries can support the decarbonization of their industries, in line with Article 27 of the ASMC. The transparency of industrial subsidies should also be increased, including those aimed at decarbonizing industrial production. Finally, discussions, dialogue and the promotion of harmonization of technical requirements relating to greenhouse gas (GHG) emissions or the carbon footprint of products should be concentrated in the TBT Committee.

The main deliveries expected for MC13 are the deals concerning **e-commerce** and **investment facilitation**. In the area of e-commerce, the aim is to conclude the agreement on e-commerce and permanently renew the moratorium on customs duties on electronic transmissions, which is essential for guaranteeing a solid basis for digital trade by permanently banning them. In the sphere of investment facilitation, the approval of the Investment Facilitation Agreement (IFA) and its incorporation into the WTO structure are essential goals. This will not only boost investment facilitation, but also ensure the necessary support for developing countries, fostering an enabling environment for sustainable economic growth.

The MC13 is expected to play a crucial role in promoting concrete advances in the reform and modernization of the multilateral trading system. These desired advances in both the **institutional** and **negotiating** spheres aim to establish a multilateral trading system that is characterized by fundamental principles such as openness, transparency, fairness, predictability and non-discrimination. One of the central objectives is to ensure Special and Differential Treatment (SDT) for developing countries, recognizing their distinct needs and thus contributing to the promotion of a more inclusive and equitable global trade order. MC13 is expected to be a significant milestone, where participants are expected to consolidate commitments to strengthen the international trade architecture.

# 1 REFORM OF WTO

## METHOD OF NEGOTIATION

### *Context*

WTO negotiations must comply with the single *undertaking* principle, which states that all WTO Members must agree to all the provisions of a trade agreement being negotiated, without the option of choosing specific parties. This principle was incorporated to ensure that all parties involved in multilateral trade negotiations are committed to the same terms and conditions, avoiding fragmentation of agreements and guaranteeing reciprocity in trade concessions. In practice, however, this negotiating approach has presented limitations as significant disagreements arise between countries on some issues, with the result that trade negotiations become more complex and technical.

### *CNI recommendations*

- Maintaining the principle of single *undertaking* for market access issues in areas where consensus among members is possible.
- Engaging in plurilateral agreement negotiations in areas where multilateral negotiation fails to reach consensus.
- Strengthen the role of the WTO Secretariat in supporting negotiations.
- Create an advisory council made up of representatives from the private sector.

## REFORM OF THE DISPUTE SETTLEMENT SYSTEM

### *Context*

Historically, Brazil has been a major user of the dispute settlement system, with a much higher number of cases as a complainant than cases in which the country has been a respondent at the WTO (35 cases as a complainant and 17 as a respondent).

**TABLE 1 – ONGOING CASES IN WHICH BRAZIL IS A COMPLAINANT COUNTRY**

Dispute	Sector Involved	Target Country	Status
<a href="#">DS506</a>	Bovine Meat	Indonesia	Consultations
<a href="#">DS507</a>	Sugar	Thailand	Consultations
<a href="#">DS514</a>	Steel Products	United States	Consultations
<a href="#">DS568</a>	Sugar	China	Consultations
<a href="#">DS579</a>	Sugar	India	After the Panel's report in Dec. 21, India appealed in a vacuum <sup>2</sup>
<a href="#">DS607</a>	Poultry Meat	European Union	Consultations

Source: own elaboration.

At the end of MC12, Members committed to conducting discussions towards a fully functional dispute settlement system accessible to all Members by December 2024.

It is essential that there is a concrete solution in MC13 to reform and restore the WTO dispute settlement system and make it complete, binding and accessible to all Members by the end of 2024. This is a key element for the predictability and security of the international trade system. The absence of an Appellate Body, i.e. the lack of a double degree of jurisdiction, limits the resolution of conflicts and the effectiveness of the dispute settlement system for all Members of the organization.

### *CNI recommendations*

- Formalize the negotiations taking place under US leadership on the reform of the dispute settlement system.
- Restore the WTO dispute settlement system.
- Resuming the Appellate Body and completing the selection process for its new members.

<sup>2</sup> Appealing in a vacuum means appealing a Panel decision to an Appellate Body that has been inoperative since December 2019. In this way, the decision has no practical effect and no deadline for resolution.

## REGULAR WORK OF THE WTO

### *Context*

The WTO Council for Trade in Goods has been working on an agenda to improve the functioning of the Council for Trade in Goods and its subsidiary bodies, which seeks to discuss improvements to the work of the Council and the other WTO bodies. At the Council's request, the chairs of the subsidiary bodies had to prepare reports to the Council reflecting the improvements in the functioning of their respective bodies since the conclusion of MC12.

The topics under discussion dealt with planning the organization of meetings, working procedures and the use of digital tools. A number of suggestions were put forward by Members, such as the Brazilian proposal together with other countries [JOB/CTG/21/Rev.3](#) (June 2023), which proposes a joint work plan suggesting some elements and practices that could be applied horizontally without affecting the functioning and particularities of each subsidiary body. Some reports from WTO bodies also make suggestions for improvement, as in the case of the Committee on Agriculture<sup>3</sup>.

### *CNI recommendations*

- Expanding discussions and implementing suggestions for better functioning of the Council for Trade in Goods and other WTO bodies.

## INCREASING THE TRANSPARENCY OF THE WTO'S WORK

### *Context*

There is a surplus of WTO documents that are treated as restricted and not made available to the public, even if they involve day-to-day issues. In the case of the Trade and Environment Committee, for example, a large number of documents relating to meeting agendas and communications from thematic sessions remain restricted. The importance of committing to the transparency not only of documents but also of notifications related to WTO agreements was reiterated by Brazil and other countries ([JOB/GC/204/Rev.12](#)) in November 2022. In November 2023, the Brazil emphasized the need to increase the ease of access to official WTO documents, especially those

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<sup>3</sup> WORLD TRADE ORGANIZATION. [Report on improvements in the functioning of the committee on agriculture](#). Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/L/1509.pdf&Open=True>. Accessed November 2023.

relating to agendas, in order to improve understanding of the organization and facilitate access by a wider range of governmental and non-governmental entities (document [WT/GC/W/897/Rev.1](#)).

*CNI recommendations*

- Increasing the transparency of WTO committees, working groups and documents.

# 2 TRADE AND ENVIRONMENTAL SUSTAINABILITY

## *Context*

The interface between trade, sustainable development and environmental sustainability has been a constant in the work of the WTO's various bodies. And the intersectionality of these issues tends to increase even more as trade barriers proliferate under the pretext of protecting the environment or mitigating climate change.

It is worth noting the difference between the Trade and Environment Committee as a permanent forum for dialogue between Members on the relationship between trade and the environment and initiatives such as the *Trade and Environmental Sustainability Structured Discussions* (TESSD). The latter is a relevant platform for exchanging and discussing experiences in environmental initiatives with an impact on trade, as well as assessing the compatibility of these measures with multilateral trade rules.

Given the additional challenges faced by developing countries, the need for **greater cooperation between the discussions of the Committee on Trade and Environment and the Committee on Trade and Development** is fundamental. It is worth noting that the Trade and Environment Committee's own work program aims to assess the effect of environmental measures on market access, especially with regard to developing countries, and the situations in which the elimination or reduction of trade restrictions would be beneficial to trade, the environment and development. In this sense, CNI supports proposals such as the one that proposes dedicated multilateral discussions on the trade aspects and implications of certain environmental measures, based on the European Union's (EU) CBAM as an example. At the June 2023 meeting of the Committee on Trade and Environment, Brazil praised the proposals of Colombia (RD/CTE/221), which highlights the need to identify principles that serve as a basis for the adoption of trade-related climate measures; the China, which proposes a structured process that would allow for a more substantial debate on these measures; and India (JOB/TE/78),

which identifies the risks posed by unilateral protectionist measures, as well as the contributions that the work of the Committee on Trade and Environment could make in response to the specific interests of developing countries. Other initiatives - such as that of the United Kingdom, with suggestions to reinvigorate the Trade and Environment Committee (document [WT/CTE/W/252](#)) and greater participation and engagement of developing countries as set out in Paraguay's proposals (documents [WT/CTE/W/256](#) and [WT/CTE/W/257](#)) – are relevant to improving the Committee's work.

## STRUCTURED DISCUSSIONS ON TRADE AND ENVIRONMENTAL DEVELOPMENT - TESSD

The TESSD has proved to be an important forum for debating trade-related environmental measures. For example, there have been discussions about the possibility of the TESSD strengthening the role of the Committee on Technical Barriers to Trade with regard to standards and the Committee on Trade and Environment with regard to transparency.

It should be emphasized, given the complexity of the issues and the diversity among its members, that the **TESSD does not have a negotiating mandate on the subject and that the discussions held within the TESSD should be treated as fundamental exchanges of experience for the maturing of the issues in the multilateral trade system.**

The TESSD discussions were concentrated around 4 (four) thematic areas, each with an Informal Working Group: trade-related climate measures; environmental goods and services; circular economy; subsidies<sup>4</sup>.

## WORKING GROUP ON TRADE-RELATED CLIMATE MEASURES

With regard to the Working Group on Trade-Related Climate Measures, Members adopted a sectoral approach in discussions on the different forms of carbon standards and measurement measures aimed at reducing carbon emissions.

Members also shared experiences on the commercial considerations involved in developing and designing policies.

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<sup>4</sup> The summary of the TESSD informal group meetings held in September 2023 can be found in document [INF/TE/SSD/R/19](#).



The CNI sees the interaction between trade and sustainable development as an opportunity to defend basic principles of environmental law such as common but differentiated responsibilities when it comes to trade measures.

In this sense, CNI advocates encouraging and opening up markets for sustainable products and countries that adopt sustainable practices - not imposing trade restrictions. Unilateral and discriminatory trade measures, incompatible with multilateral rules, have generated extreme concern, especially those already adopted by the European Union, such as CBAM and the *European Union Deforestation Regulation (EUDR)*, which could increase the risk of unbridled multiplication of standards and regulations with an impact on trade (Brussels effect).

## ENVIRONMENTAL GOODS AND SERVICES WORKING GROUP

In turn, in the Working Group on Environmental Goods and Services, Members continued sector-specific discussions within the framework of the objective of adapting to and mitigating climate change. Current discussions on renewable energy have focused on identifying relevant environmental goods and services, barriers to their dissemination, challenges faced by developing countries, as well as opportunities and approaches to promote trade in these goods and services.

Members agree that discussions on environmental goods and services should have a broader scope and show interest in considering the entire life cycle to determine environmental goods, with countries pointing out some non-tariff measures and similar issues that they consider detrimental to trade in environmental goods and services, including difficulties in identifying environmental goods in the Harmonized System.

This group has also addressed issues related to the ability of developing countries to engage in and maximize benefits from trade in environmental goods and services. Issues mentioned include: benefits of South-South cooperation; lack of technical and regulatory capacity; need to build institutional infrastructure and clean energy policies, promotion of sustainable chains with sustainable standards; need to promote fair and equal access to trade and investment in technology; need to transfer technology, skills, and technical assistance.

With regard to environmental goods, the CNI indicates its concern about competitiveness involving foreign subsidies and the possible detour of trade with the loss of third markets. CNI also supports the definition of environmental services being broad enough to include all activities that reflect Brazil's potential, such as carbon capture and removal, forest regeneration, etc.

## CIRCULAR ECONOMY WORKING GROUP

With regard to the circular economy, the CNI reiterates that an international consensus is being developed on the subject, through internationally recognized standards on terminology, strategies and circularity indicators. The Confederation has actively participated in these discussions, which are taking place within the framework of the *International Organization for Standardization (ISO)*. The concept of circular economy defended in this environment and by the CNI is one that is capable of maintaining the circular flow of resources by recovering, retaining and adding value to them, as well as contributing to sustainable development. In this sense, what is circular is not the resource itself, but its valorization and permanence in the production cycle, which is achieved through various strategies. The mapping exercise of trade and trade policy aspects involved in the life cycle of products can be found in document [INF/TE/SSD/W/27/Rev.1](#) (November 2023).

The distinction between circular products cannot be approached in a simplistic way, which risks *greenwashing* and favoring or disfavoring products without guaranteeing their real contribution to a value chain or a circularity strategy. In addition, the export of Brazilian products, especially to the European market, which has consolidated legislation on the subject, could be significantly impacted. Therefore, classifying circular economy goods under specific codes is not an appropriate solution.

## GRUPO DE TRABALHO DE SUBSÍDIOS

The Subsidies Working Group has been a forum for exchanging experiences on subsidy formulation and ideas on how to improve transparency and data availability. Members began these discussions with a focus on agricultural subsidies and subsidies related to the transition to a low-carbon economy. The outcome of the discussions is contained in document [INF/TE/SSD/W/29/Rev.1](#) (November 2023). The aim of the compilation is to take stock of past discussions without being exhaustive of all kinds of subsidies that can be discussed at future meetings of the Working Group, with a view to constant updating.

## TRADE AND ENVIRONMENTAL SUSTAINABILITY TOOL

It is worth highlighting the proposal put forward by the TESSD co-organizers for a Trade and Environmental Sustainability Tool, as detailed in document [INF/TE/SSD/W/28](#). According to the co-organizers, over the last two years, the exchange of experiences and the debates in the four working groups have generated a wealth of information, and the work has become more focused at sectoral level and has progressed towards concrete results. Consequently, there is a need and an opportunity for the TESSD to capitalize on this work and create a tool that promotes transparency, knowledge dissemination and improved understanding, as well as collaboration at the intersection of trade and environmental sustainability, among Members and supported by stakeholder contributions.

The proposed tool aims to provide WTO members with a living instrument of transparency and cooperation that reflects the progress made by members in their trade and environmental policies and in their good practices to achieve climate objectives. It will also promote transparency on stakeholder contributions. The tool will enable policymakers to better understand where Members stand in the four thematic areas and use the platform for better-informed trade and investment policy decisions, as well as to determine potential areas for partnerships and cooperation. The tool will be designed as a living instrument that encourages the evolution of current topics under discussion and organically includes new functionalities or areas of interest to Members.

## TRADE REMEDIES AND SUSTAINABILITY

Although little explored, it is necessary to discuss in greater depth the interface between trade defense and sustainability, which is already becoming a reality in trade remedies investigations, decisions by investigating authorities, proposals to change trade remedies legislation to reflect sustainability aspects and even pressure to redefine multilateral rules on the subject.

The trade remedies issues where these discussions, international practices and proposals have been most frequent are: definition of like product, infant industry, particular market situation, normal value, undercutting margin and green subsidies.

As an example, the European Union has considered the cost of carbon pricing in the context of *dumping* investigations. In the US, a Department of Commerce public consultation in 2023 proposed that social and environmental sustainability be taken into account in

*dumping* and subsidy determinations. The US has also applied countervailing measures against third countries due to free allocations of emissions allowances to specific sectors. In the UK, the new investigating authority (TRA) has brought about important discussions about trade defense and environmental sustainability. Even in Brazil, the public consultation on public interest and trade remedies mentions sustainability.

However, there are concerns that these measures and trends could divert trade remedies instruments from their original purpose, making them less objective and more prone to abuse. It is crucial that the WTO, through its Committees on *Anti-dumping Practices*, *Subsidies and Countervailing Measures and Safeguards* - possibly in cooperation with the Committee on Trade and Environment - monitors these trends in order to contribute to the exchange of information and experiences on this intersectionality, which is fundamental for the maturation of the issue in the multilateral trading system.

### *CNI recommendations*

- Strengthen the Trade and Environment Committee.
- Increase cooperation between the Trade and Environment Committee and the Trade and Development Committee.
- Maintain the exchange of information and best practices character of the TESSD, which does not have a negotiating mandate.
- Increase the number of WTO Members participating in the TESSD.
- Encouraging the opening up of markets for sustainable products and countries that adopt sustainable practices.
- Support the creation of the Trade and Environmental Sustainability Tool within the TESSD.
- Ensure that the definition of environmental goods and services includes all activities that reflect Brazil's potential.
- Increase the exchange of information and experiences on the interface between trade defense and sustainability.

# 3 INDUSTRIAL SUBSIDIES

## *Context*

Subsidies play a key role in the energy transition and in supporting climate reduction and mitigation.

However, subsidies that artificially distort the market when used indiscriminately and in a non-transparent way, impacting trade to the detriment of Members that lack the capital and fiscal space to support their industries, should be avoided. Take, for example, the US *Inflation Reduction Act*, which includes a wide range of policies to support investment in domestic clean energy production. Such large-scale programs will not only have an impact on international trade and the redirection of international investments, but also on major economies stepping up their domestic support policies in favor of decarbonization.

In addition to the aforementioned challenges, the practices of state-owned companies represent another challenging element in the context of the distortions present in the global economy. Although these companies play a substantial role in many economies, they become a concern when they indiscriminately expand their participation in international trade, especially when they benefit from subsidy policies. This situation has had a negative impact on Brazilian industry due to the practice of unfair competition.

For the industry, the ASMC has not been enough to deal with new distortive subsidies, including those related to state-owned companies and financing at below-market rates.

Although there may be an overlap between the discussions on industrial subsidies and "green subsidies", it is a fact that these discussions, including questions regarding the impact on trade and possible incompatibility with WTO rules, should take place in the organization's existing committees, especially the Trade and Environment Committee.

In this sense, due to the asymmetries between countries, developing countries should be guaranteed the possibility of supporting the decarbonization of their industries, in line with Article 27 of the Agreement on Subsidies and Countervailing Measures (ASMC), which recognizes that subsidies can play an important role in economic development programs in developing countries. Consideration should be given to revising the rules of the Agreement to allow for the sustainable industrialization of developing countries.

### *CNI recommendations*

- Reform the WTO Agreement on Subsidies and Countervailing Measures to ensure that developing countries can support the decarbonization of their industries, in line with Article 27 of the ASMC.
- Increase the transparency of industrial subsidies, including those aimed at decarbonizing industrial production.

# 4 TECHNICAL BARRIERS TO TRADE (TBT)

## *Context*

The TBT Committee must play an essential role in discussions, interlocution and promotion of harmonization of the requirements imposed by the different countries on the subject, since the TBT Agreement obliges Members to base their technical regulations on relevant international standards, where available. Regulations based on international standards are considered by the TBT Agreement to be presumably no more trade restrictive than necessary.

In this sense, the Committee on Technical Barriers (TBT) should contribute to ensuring that unilateral measures with technical requirements imposed by WTO Members on imported products and which relate to the GHG emissions or carbon footprint of imported products are not discriminatory and do not create unnecessary barriers to trade.

An example of this was the initiative by the TBT Committee and other international organizations to seek an understanding of decarbonization standards for the iron and steel sector - "*Steel Standards Principles: Common emissions measurement methodologies to accelerate the transition to near zero*" (November 2023). According to the report, the principles document was developed by a group of partners, including the International Energy Agency, the United Nations *Industrial Development Organization* and the World Steel Association, with the support of the WTO Secretariat.

The principles signal a commitment to collaboration and coordination across the international landscape of standards bodies and initiatives, to work towards coherent and interoperable methodologies for measuring and verifying GHG emissions in steel products and production, in pursuit of accelerating the decarbonization of the steel industry. These bodies recognize the fact that there will be a continued need for regional and national diversity, but that interoperability must be achieved when it comes to how carbon is counted/calculated in these sectors.

In addition, a persistent issue in the TBT Committee is the under-reporting and consequent lack of transparency in the identification of new technical regulations. While some countries maintain a complete and timely notification of these measures, several other countries do not comply with these obligations, both countries with more limited resources to do so and those that do have resources. This disparity highlights the pressing need to improve the notification process and encourage all Members to fulfill their obligations in this regard.

### *CNI recommendations*

- Concentrate discussions, interlocution and promotion of harmonization of technical requirements relating to GHG emissions or the carbon footprint of products in the TBT Committee.
- Improve the notification and transparency mechanisms in the TBT Committee.



# 5 E-COMMERCE

## *Context*

E-commerce is an inescapable reality. It is present in the trade of services and goods, enabling *online transactions* and facilitating physical transactions. The movement and use of data by countries has also become an important everyday issue for governments, business sectors and individuals. Thus, regulating the digital economy is crucial to increasing legal certainty for companies and guaranteeing a safe environment for consumers.

At MC11, in December 2017, several countries released a joint statement to start exploratory discussions with a view to future negotiations at the WTO on trade issues involving e-commerce. In January 2019, several countries - including Brazil - confirmed their intention to start these negotiations at the WTO.

The MC12 Ministerial Decision on the Work Program on Electronic Commerce (document [WT/MIN\(22\)/32](#)) calls for the resumption of the work of the Work Program on Electronic Commerce with special attention to the development dimension and determines the intensification of discussions on the moratorium on the collection of customs duties on electronic transmissions, including its scope, definition and impact. Several discussions dedicated to specific e-commerce issues have been held within the WTO General Council, which also maintains the [Portal](#) dedicated to the Work Program on Electronic Commerce.

Brazil has actively participated in discussions dedicated to specific issues involving international trade, as well as in the negotiations on the *Joint Statement Initiative on E-commerce (JSI)*.

It is worth highlighting the communiqué presented by several countries, including Brazil ([WT/GC/W/831/Rev.8](#)), which indicated their position on the revision of the ministerial decision. They stated that they agree to continue working within the framework of the Work Program on Electronic Commerce, based on the existing mandate, as established in WT/L/274. They also indicated that they will reinvigorate this work through intensified discussions on the basis of proposals put forward by the following countries Members, including with regard to development-related issues. Instruct the General Council to

conduct periodic reviews at its session in July [and December] 2022 [and July 2023] on the basis of reports that may be submitted by the relevant WTO bodies. They also agree to maintain the current practice of not imposing tariffs on electronic transmissions until MC13.

### *CNI recommendations*

- Conclude the agreement on electronic commerce.
- To renew, definitively, the moratorium on customs duties on electronic transmissions, making them permanently banned.
- Eliminate barriers related to the digitalization of trade, ensuring that the regulatory frameworks are inclusive, transparent and efficient.

# 6 INVESTMENT FACILITATION

## *Contexto*

In the context of the WTO, investment facilitation means establishing a more transparent, efficient and investment-friendly business climate, making it easier for domestic and foreign investors to invest, conduct their day-to-day business and expand their existing investments.

Investments, both by Brazilian companies abroad and by foreign companies in Brazil, are a fundamental part of promoting Brazilian international trade. Investment facilitation means establishing a more transparent, efficient and investment-friendly business climate.

The Investment Facilitation Agreement (IFA) under negotiation at the WTO could bring gains in terms of reducing investment costs, attracting foreign direct investment and facilitating investments by Brazilian companies in other countries.

In July 2023, the "Investment Facilitation for Development (IFD)" group announced the conclusion of negotiations on the text of the **Agreement on Investment Facilitation for Development** (IFD Agreement), which seeks to create a transparent, efficient and predictable environment to facilitate not only more investment, but also more sustainable investment and support the national, bilateral and regional reform efforts of IFD participants ([INF/IFD/W/51](#)). These negotiations were born out of the Joint Ministerial Declaration of several countries at MC11 (Buenos Aires), which urged Members to set up Structured Discussions with the aim of developing a multilateral agreement on investment facilitation.

## *CNI recommendations*

- Approve the Investment Facilitation Agreement (IFA) and incorporate it into the WTO structure, with the necessary support for developing countries.



# 7 OTHER THEMES

## 7.1 AGRICULTURE

Trade liberalization in agriculture has made very little progress since the WTO was established. Discussions on agriculture focus on the current challenges facing food security and the continuation of MC12 deliveries. At the same time, trade restriction measures inconsistent with WTO rules are emerging, including unilateral measures affecting agricultural trade.

The Geneva Package of MC12 brought several commitments in the area of agriculture, and it is important to make progress on some of them in MC13. In particular, progress is expected on the Work Program dedicated to the needs of least developed countries in relation to net food-importing developing countries, created shortly after the end of MC12 as a result of the Ministerial Declaration on Emergency Response to Food Insecurity. The Work Program needs to be completed and its recommendations approved. It is the first multilateral declaration in the history of the WTO to address food security, focusing on Members' concerns about trade disruptions, record prices and high volatility of food prices and agricultural production as threats to food security. The declaration recognizes the role that trade and domestic production play in improving global food and nutrition security and reaffirms the importance of not imposing export bans or restrictions in a way that is incompatible with WTO provisions. It also recognizes the importance of food reserves in contributing to Members' domestic food security and calls on countries with available surplus stocks to make them available on international markets, in accordance with WTO rules. The most recent report by the coordinator of the Working Group is contained in document [G/AG/W/240](#) (July 2023), in which the coordinator proposes recommendations based on the topics previously agreed in document [G/AG/35](#) (November 2022). The dedicated WTO page on the Work Program can be found at this [link](#).

A US proposal, meanwhile, cites the importance of innovation and support for sustainable increases in agricultural productivity and food safety. In this sense, the American

document suggests that WTO Members work together to share information on innovations and technologies in order to continue regulating the safety of food and agricultural products<sup>5</sup>.

## AGRICULTURAL TRADE REFORM

### *Context*

Brazil, together with other countries, highlighted the reform of agricultural trade in line with Article 20 of the Agreement on Agriculture and expectations of progress in market access by MC14<sup>6</sup>. Equally important is the Declaration of the Cairns Group (an organization made up of the following countries: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Philippines, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, Thailand, Uruguay and Vietnam) on the contribution of the multilateral trade system to sustainable and resilient agriculture and food systems<sup>7</sup>. It is important that progress is made in the negotiations on the domestic support pillar under the terms of the Cairns Group proposal contained in document [JOB/AG/243/Rev.1](#) (November 2023), reaching a ministerial decision on the modalities for the reform of the domestic support pillar.

With regard to multilateral agricultural trade rules, the communication from Brazil and other Latin American countries on food security through agricultural reform (document [WT/GC/W/893](#), June 2023) indicates that they supported, at MC12, the Declaration on the Reform of Multilateral Agricultural Trade Rules (WT/MIN(22)/17), through which they committed themselves to working together and making ambitious and decisive progress with regard to the 3 (three) pillars of the Agreement on Agriculture under the terms of art. 20 of the agreement.

Although food insecurity requires emergency action, hunger can only be overcome with sustainable food production in the medium and long term, as highlighted by the Brazilian communication [JOB/AG/254](#) (October 2023), and the approach to food security must include social, environmental and technological perspectives.

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5 WORLD TRADE ORGANIZATION. Enhancing food security: the WTO's role in supporting innovation and sustainable growth in agricultural productivity. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/SPS/GEN2168.pdf&Open=True>. Accessed on 09 Nov. 2023.

6 WORLD TRADE ORGANIZATION. Reform of agricultural trade in terms of market access. Communication from Argentina, Brazil, Paraguay and Uruguay. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/AG/255.pdf&Open=True>. Accessed on: Nov. 2023.

7 WORLD TRADE ORGANIZATION. The contribution of the multilateral trading system to sustainable and resilient agriculture and food systems. Available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/AG/GEN222.pdf&Open=True>. Accessed Sept. 2023.

In November 2023, during a preparatory meeting for MC13 on agricultural topics, participants emphasized the search for political guidance for agricultural negotiators ([here](#)). The main topics discussed were how to reconcile different views on the approach to negotiations and how to achieve a meaningful outcome on agriculture at MC13. In December 2023, during COP28, the Deputy Director-General of the WTO emphasized that agricultural trade reform at the WTO is an integral part of the sustainable agriculture agenda ([here](#)).

### *CNI recommendations*

- Focus efforts on reforming multilateral agricultural trade rules in line with Article 20 of the Agreement on Agriculture, strengthening a negotiating agenda that reduces domestic support, tariffs and non-tariff barriers.
- Progress in the negotiations on the domestic support pillar under the terms of the Cairns Group proposal, reaching a Ministerial Decision on the modalities for the reform of the domestic support pillar.
- Conclude and approve the Work Program for the Ministerial Declaration on Emergency Response to Food Insecurity.

## **7.2 SANITARY AND PHYTOSANITARY MEASURES (SPS)**

### *Context*

Through the MC12 Declaration, WTO Members recognized the new opportunities and challenges for international trade in food, animals and plants, such as population growth, innovation in tools and technologies, climate change and the continued application of measures that constitute a disguised restriction on international trade ([WT/MIN\(22\)/27](#)). To this end, a Work Program was proposed to strengthen the application of the SPS Agreement.

Progress is expected on the Work Program to strengthen the application of the SPS Agreement and identify the mechanisms available to address current challenges and the impacts of new challenges, according to the conclusions reported in document [G/SPS/W/344/Rev.3](#) (November 2023) and summary of work [G/SPS/GEN/2134/Rev.3](#)

(November 2023). The most recent report on improvements to the functioning of the SPS Committee is contained in document [G/L/1508](#) (October 2023).

#### *CNI recommendations*

- make progress on the Work Program to strengthen the application of the SPS Agreement;
- improving the notification and transparency mechanisms in the SPS committee

## 7.3 FISHING SUBSIDIES

### *Context*

The Agreement on Fisheries Subsidies is in the process of reaching the required number of notifications (two thirds of WTO Members) for it to enter into force by MC13 and for the implementation process to begin. This would be a very important signal in favor of multilateralism, as it is the first multilateral agreement negotiated at the WTO since the Facilitation Agreement concluded in 2013. The only WTO agreement that incorporates elements of sustainability, the Agreement on Fisheries Subsidies prohibits certain subsidies linked to fishing activity in order to protect ocean life.

Another tangible step forward for MC13 on this issue is the conclusion of the second phase of negotiations on fisheries subsidies, unblocking the main obstacles in the areas of special and differential treatment and exceptions to certain subsidies.

In December 2023, the chair of the negotiations presented a new document of the Fisheries Subsidies Agreement that tries to gather suggestions from members mainly related to the provisions prohibiting subsidies that contribute to overcapacity and overfishing ([here](#)).

### *CNI recommendations*

- Ensure that the Agreement on Fisheries Subsidies enters into force as soon as possible.
- Conclude the second phase of negotiations on fisheries subsidies.



## 7.4 TRADE AND DEVELOPMENT

### *Context*

The rules on special and differential treatment for developing countries and LDCs are an integral part of the WTO and its agreements, and should also feature in all discussions on WTO reform.

In this sense, Brazil should not renounce special and differential treatment (SDT) in WTO negotiations, either with regard to the rules of existing WTO agreements or with regard to ongoing or future negotiations. It is even suggested that Brazil should explicitly and unequivocally state that it does not renounce the differential treatment given to developing nations. This need is justified in light of the Brazilian government's official statement in April 2019 to the contrary<sup>8</sup>.

With regard to the work underway at the WTO on this issue, after a major step by the General Council in October 2023 - which adopted a decision<sup>9</sup> to guarantee support for LDCs that are moving out of this graduation category - WTO Members are expected to make further progress on this agenda during MC13.

It is important that at MC13 there are substantial developments with regard to at least some *Agreement-Specific Proposals* (ASPs) presented by the G90, especially with regard to the TBT and SPS Agreements, as well as developments with regard to the Small Economies Working Group and possibly the adoption of a Ministerial Decision for MC13<sup>10</sup>.

Finally, discussions on trade and development should include *policy space* for development and industrialization, as well as dealing more efficiently with the challenges of climate change and food security.

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<sup>8</sup> See [https://www.gov.br/mre/pt-br/canais\\_atendimento/imprensa/notas-a-imprensa/2019/tratamento-especial-e-diferenciado-e-a-omc](https://www.gov.br/mre/pt-br/canais_atendimento/imprensa/notas-a-imprensa/2019/tratamento-especial-e-diferenciado-e-a-omc).

<sup>9</sup> GENERAL COUNCIL DECISION ON EXTENSION OF UNILATERAL DUTY FREE AND QUOTA FREE PREFERENCES IN FAVOR OF COUNTRIES GRADUATED FROM THE LDC CATEGORY, ADOPTED ON 23 OCTOBER 2023. Document [WT/L/1172](#).

<sup>10</sup> The Secretariat's most recent compilation on the subject can be found in document [WT/COMTD/SE/W/22/Rev.11](#), of November 2023, as well as the proposal for a decision on MC13 presented by Guatemala in November 2023 in document [WT/COMTD/SE/W/46](#).

### *CNI recommendations*

- Make it explicit and unequivocal at the WTO that Brazil does not renounce the differentiated treatment given to developing nations.
- Ensure that discussions on trade and development include policy space for development and industrialization and actions on climate change and food security.
- Advance the discussions of the Small Economies Working Group.

## **7.5 MICRO, SMALL AND MEDIUM-SIZED ENTERPRISES**

### *Context*

Although micro, small and medium-sized enterprises represent the vast majority of companies in the world, they still face countless obstacles in international trade. The impact of the costs associated with complying with complex regulations and bureaucratic requirements is proportionally inverse to the size of the company and its scale of production.

CNI's latest study on the challenges of Brazilian export competitiveness, available [here](#), also includes micro and small businesses.

At the WTO, the issue has been dealt with in the Informal Working Group on Micro, Small and Medium-sized Enterprises, whose coordinator was given a mandate to prepare a draft document for MC13 reiterating the importance of facilitating trade for micro, small and medium-sized enterprises and including some high-level commitments discussed within the group.

Brazil is a member of this group ([INF/MSME/2/Rev.11](#)). It is worth remembering that Brazil, along with other WTO Members, signed a Declaration at MC11 (2017) making official its intention to create an Informal Working Group on Micro, Small and Medium-sized Enterprises to explore ways in which WTO Members could better support their participation in global trade.

As per the first version of its 2023 annual report, the Informal Group on Micro, Small and Medium-sized Enterprises ([INF/MSME/W/49](#)) reports on the fourth open meeting ([INF/MSME/CN/23](#)) at which it discussed preparations for MC13 and welcomed the draft Coordinator's Report ([INF/MSME/W/45](#)), which summarizes the work carried out since the Group's creation in December 2017, including the six-package recommendations

and statements from December 2020 ([INF/MSME/4/Rev.2](#)). The report also presents a summary of the discussions the group has had over the last two years, highlighting the main ideas that have emerged from these discussions to help structure the work after MC13.

### *CNI recommendations*

- Approve a document in defense of the interests of micro, small and medium-sized enterprises.

## **7.6 TRADE AND GENDER**

### *Context*

Men and women can be affected by trade policies in different ways, and women have greater barriers to participation in international trade and the global economy. In this context, the initiatives of the Informal Working Group on Trade and Gender aim to encourage women's involvement in international trade and integrate gender issues into WTO operations. The Group, created in September 2020 by the participants of the Buenos Aires Joint Declaration on Trade and Women's Economic Empowerment ([WT/L/1095/Rev.1](#)), has Brazil as a participant.

In February 2023, the group already began discussions on the 2023 work plan drawn up by the chairs, which will serve as the basis for an outcome on trade and gender at MC13. This plan seeks to carry out mapping and evidence-gathering exercises focusing on areas such as research, trade and gender policies, data collection processes and methods, and capacity-building programs and initiatives.

The agendas dealt with during the last meeting of the Group ([INF/TGE/CN/16](#)), in November 2023 included a communication from the chairs on the preparation for MC13 and the implementation of the work plan; gender equality in agriculture and the gender equality label for public institutions.

In this sense, it is hoped that MC13 will make progress in implementing the work plan of the Informal Working Group on Trade and Gender.

In October 2023, the Ministry of Development, Industry and Foreign Trade (MDIC) announced Brazil's accession to the Global Arrangement on Trade and Gender (GATS).

*Global Trade and Gender Agreement (GATGA)*, as set out in both the agenda (here) and the deliberations ([here](#)) and the deliberations ([here](#)) of the 207th ordinary meeting of the Executive Management Committee (Gecex). The MDIC reported on the Brazilian government's opportunity to join the Global Arrangement on Trade and Gender, whose main objective is to promote mutually supportive trade and gender policies to improve women's participation in trade and investment and promote women's economic empowerment and sustainable development. The idea for [GATGA](#), which began in 2020 with Canada, Chile and New Zealand as participants, was born with the *Inclusive Trade Group (ITAG)* on the margins of a meeting of leaders of the *Asia-Pacific Economic Cooperation (Apec)*.

### *CNI recommendations*

- Advancing the work of the Informal Working Group on Trade and Gender.
- Increase the number of participants in the Global Arrangement on Trade and Gender.

## **7.7 MC12 MANDATE ON THE TRIPS AGREEMENT**

### *Context*

At MC12, Members adopted the Ministerial Decision on the TRIPS Agreement confirming the right of technology transfer to take direct measures to diversify the production of vaccines against covid-19 through clarifications of existing flexibilities and a waiver over the next five years.

This same decision determined, in its paragraph 8, that WTO Members would decide, within six months, on its extension to cover the production and supply of diagnostics and treatments for covid-19.

### *CNI recommendations*

- Do not extend the extension of paragraph 8 of the Ministerial Decision on the TRIPS Agreement to diagnostics and treatments for covid-19.

## 8 CONCLUSION

The Brazilian industry, committed to global trade based on transparent rules, highlights its strategic priority: the continued strengthening of the WTO. This approach reflects its commitment to promoting a more equitable trading environment conducive to sustainable development.

In the search for improvements, the industry's priorities for MC13 cover various issues. With regard to WTO reform, industry proposes strategies such as maintaining the *single undertaking* principle for specific issues, strengthening the secretariat and restoring the dispute settlement system.

The interface between trade and sustainability is highlighted, with MC13 being urged to address environmental sustainability as a priority. The interaction between trade and sustainable development is emphasized, including the defense of fundamental environmental principles. Brazilian industry advocates greater market access for sustainable products, as well as a Trade and Environmental Sustainability Tool under the TESSD.

Reform of the WTO's Agreement on Subsidies and Countervailing Measures is another priority, aimed at enabling developing countries to support the decarbonization of their industries. Proposals include increasing the transparency of industrial subsidies and creating a green subsidy notification platform. In the context of TBT, the committee should play a crucial role in harmonizing standards and regulations related to the calculation of greenhouse gas emissions from products.

In addition, the main deliverables expected for MC13 include progress on e-commerce, with the conclusion of the agreement on e-commerce and the permanent renewal of the moratorium on customs duties on electronic transmissions and the elimination of barriers. In Investment Facilitation, the approval of the Investment Facilitation Agreement is key to promoting an environment conducive to sustainable economic growth, with support for developing countries.

Finally, progress is expected on other priority issues, such as agriculture; SPS; fisheries subsidies; trade and development; micro, small and medium-sized enterprises; and trade and gender. With regard to the MC12 mandate on the TRIPS Agreement, industry is against the extension of paragraph 8 of the Ministerial Decision on the TRIPS Agreement to diagnostics and treatments for Covid-19.

Faced with these goals, the industry reinforces its confidence in the benefits of a multilateral trading system and its willingness to contribute to shaping a more equitable and sustainable future by strengthening the WTO.

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