

## WTO 第 13 屆部長會議成果盤點

蔡汶憲 編譯

WTO 第 13 屆部長會議 (13th Ministerial Conference, MC13) 於今 (2024) 年 2 月 26 日於阿拉伯聯合大公國之首都阿布達比正式登場。WTO 雖迎來二新入會員 (葛摩 (Comoros) 與東帝汶 (Timor-Leste))<sup>1</sup>，惟在諸多重要議題上存有歧異，導致即便已延長會期至 3 月 2 日落幕 (原定為 2 月 29 日)，在漁業、農業等被視為本次部長會議優先議題的重要事項仍無法取得共識，淪為歹戲拖棚的無奈。以下將依本屆部長會議已作出決議之服務貿易—國內規章、對開發中國家與低度開發國家之特殊與差別待遇及發展議題、《與貿易有關之智慧財產權協定 (以下簡稱 TRIPS 協定)》下「非違反之訴」暫停適用、電子商務傳輸暫免關稅，以及尚未做出結論的電子商務及投資便捷化複邊談判、漁業補貼、農業談判以及爭端解決機制之改革等主題，分別摘述本次會議成果或進展如下。

### 服務貿易—國內規章 JSI 複邊談判

「服務之國內規章聯合倡議 (Joint Initiative on Services Domestic Regulation)」之複邊談判參與會員於 2021 年 12 月宣布完成談判<sup>2</sup>，並仿照「電信參考文件」之模式<sup>3</sup>，陸續更新各自在《服務貿易總協定》下之特定承諾表，將承諾事項納入其中作為額外承諾，以反映已完成談判之規範<sup>4</sup>，進而啟動承諾表修訂所需之認證 (certification) 程序<sup>5</sup>。在進入特定承諾表修改之認證程序後，若其餘 WTO 會員在 45 日內無表示異議，則相關特定承諾表之修正即告生效<sup>6</sup>。然而，印度即曾在 2023 年 2 月，以需要更多資訊與說明來評估其法律

<sup>1</sup> *Ministers Approve WTO Membership of Comoros and Timor-Leste at MC13*, WTO (Feb. 26, 2024), [https://www.wto.org/english/news\\_e/news24\\_e/acc\\_26feb24\\_e.htm](https://www.wto.org/english/news_e/news24_e/acc_26feb24_e.htm).

<sup>2</sup> *Declaration on the Conclusion of Negotiations on Services Domestic Regulation*, WTO Doc. WT/L/1129 (Dec. 2, 2021) [hereinafter *SDR Declaration*].

<sup>3</sup> *Telecommunications Service: Reference Paper — Negotiating Group on Basic Telecommunications*, WTO (Apr. 24, 1996), [https://www.wto.org/english/tratop\\_e/serv\\_e/telecom\\_e/tel23\\_e.htm](https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm).

<sup>4</sup> *SDR Declaration*, para. 4 (“The Participants intend to incorporate the disciplines in the Reference Paper as additional commitments into their GATS Schedules, in accordance with Section I of the Reference Paper.”).

<sup>5</sup> *Id.*, para. 5.

<sup>6</sup> Council for Trade in Services, *Procedures for the Certification of Rectifications or Improvements to Schedules of Specific Commitments*, para. 1, WTO Doc. S/L/84 (Apr. 18, 2000) (“The draft schedule containing the modifications shall enter into force upon the conclusion of a period of 45 days from the date of its circulation by the Secretariat, or on a later date specified or to be specified by the modifying Member, provided no objection has been raised by any other Member. At the end of the 45-day period, if no objection has been raised, the Secretariat shall issue a communication to all Members to the effect that the certification procedure has been concluded, indicating the date of entry into force of the modifications.”).

基礎以及提案改善之效果為由<sup>7</sup>，針對每個參與會員所更新的內容提出異議<sup>8</sup>，使此項複邊談判之結果無法順利生效；而南非亦同樣持反對立場<sup>9</sup>。

為使談判結果順利生效，參與會員指派歐盟作為談判代表，並在確保已談妥事項的同時，提供印度與南非所需的保證 (assurance)。而在今年 2 月 27 日也終於傳來捷報，儘管歐盟執委會執行副主席 Valdis Dombrovskis 並未詳盡說明向兩國具體的保證為何，但其表示談判過程中參與各方展現了彼此妥協、具建設性的精神，使談判最終得以找到解決方案<sup>10</sup>，推動國內規章 JSI 複邊談判之結果順利生效<sup>11</sup>。

## 發展議題

本屆部長宣言強調了開發中國家及低度開發國家 (LDCs) 之發展議題在 WTO 的重要性<sup>12</sup>，並肯認 WTO 作為多邊貿易體系在促進聯合國永續發展目標方面可發揮的作用<sup>13</sup>。針對小型經濟體，本屆部長決議即重申對小型經濟體工作計畫的承諾<sup>14</sup>；就低度開發國家而言，會員亦達成共識，以減輕會員從低度開發國家畢業的負擔<sup>15</sup>。

與此同時，MC13 的決議中亦針對減少技術性貿易壁壘，肯認 TBT 委員會就 TBT 協定與貿易發展之貢獻，以及加強監管合作之重要性<sup>16</sup>。

---

<sup>7</sup> Hannah Monicken, *India, South Africa Object to Plurilateral Services Rules Update at WTO*, INSIDE U.S. TRADE, Vol. 41, No. 6, Feb. 6, 2023.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Hannah Monicken, *WTO Plurilateral Effort on Services Regulation Enters into Force*, INSIDE U.S. TRADE (Feb. 27, 2024), <https://insidetrade.com/daily-news/wto-plurilateral-effort-services-regulation-enters-force>.

<sup>11</sup> *New Disciplines on Good Regulatory Practice for Services Trade Enter into Force*, WTO (Feb. 27, 2024), [https://www.wto.org/english/news\\_e/news24\\_e/serv\\_27feb24\\_e.htm](https://www.wto.org/english/news_e/news24_e/serv_27feb24_e.htm).

<sup>12</sup> WTO, Abu Dhabi Ministerial Declaration of 2 March 2024, paras. 7, 13, WTO Doc. WT/MIN(24)/DEC (“7. We reiterate the centrality of the development dimension in the work of the WTO. We recognise that the full integration of developing Members, including least-developed countries (LDCs) . . . . 13. We reaffirm our commitment to the Work Programme on Small Economies and to facilitate the integration of small, vulnerable economies (SVEs) into the multilateral trading system. . . .”)[ hereinafter *Abu Dhabi Ministerial Declaration*].

<sup>13</sup> *MC13 Ends with Decisions on Dispute Reform, Development; Commitment to Continue Ongoing Talks*, WTO (Mar. 1, 2024), [https://www.wto.org/english/news\\_e/news24\\_e/mc13\\_01mar24\\_e.htm](https://www.wto.org/english/news_e/news24_e/mc13_01mar24_e.htm). (“The Ministerial Declaration underlines the centrality of the development dimension in the work of the WTO, recognizing the role that the multilateral trading system can play in contributing towards the achievement of the UN 2030 Agenda and its Sustainable Development Goals.”).

<sup>14</sup> *Abu Dhabi Ministerial Declaration*, para. 13; WTO, Ministerial Decision of 2 March 2024 on Work Programme on Small Economies, WTO Doc. WT/MIN(24)/33, WT/L/1188 (Mar. 4, 2024).

<sup>15</sup> WTO, Ministerial Decision of 2 March 2024 on WTO Smooth Transition Support Measures in Favour of Countries Graduated from the LDC Category, WTO Doc. WT/MIN(24)/34, WT/L/1189 (Mar. 4, 2024).

<sup>16</sup> *See* WTO, Ministerial Declaration of 2 March 2024 on Strengthening Regulatory Cooperation to Reduce Technical Barriers to Trade, WTO Doc. WT/MIN(24)/35, WT/L/1190 (Mar. 4, 2024).

## 開發中國家與低度開發國家在 SPS 協定與 TBT 協定之特殊與差別待遇

本屆部長會議中通過一項部長決議，針對 LDCs 之特殊與差別待遇條款進行檢討，使其更精確、有效與得以運作<sup>17</sup>，以回應 2001 年 MC 4 之決議。其中包括<sup>18</sup>：要求改善 WTO 技術援助與培訓計劃 (WTO Technical Assistance and Training Plan) 所提供之培訓與技術支援、改善會員對有關 SPS 與 TBT 措施之通知的評論期限、加強實施開發中國家，包括 LDCs，在 SPS 與 TBT 協定中的特殊與差別待遇、持續改善在貿易與發展委員會特別會議 (Committee on Trade and Development in Special Session) 與 WTO 其他相關場域中特殊與差別待遇的應用。

## TRIPS 協定下「非違反之訴」暫停適用

本屆部長會議亦延續 MC12 部長決議，展延 TRIPS 協定下「非違反之訴 (non-violation complaint)」之暫停適用至 MC14<sup>19</sup>，亦即會員間同意就 TRIPS 協定，在會員採行之措施未違反 WTO 涵蓋協定時，受害會員不因其利益遭受剝奪或減損，而提起控訴。

## 電子商務傳輸暫免關稅

自 1998 年起，WTO 會員即以暫停課徵 (moratorium) 電子傳輸關稅達成共識，每兩年決議是否展延，而最近一次展延係由 MC12 決議所作成。然而，儘管已有多年做成暫停課徵的決議，但會員在 MC13 舉行前就此議題的討論卻充滿歧見。部分會員對於暫停課徵與電子傳輸範圍的定義缺乏明確性，以及其可能因此而喪失潛在的財政收入表達關切，並表示希望在科技日新月異帶來不確定性之下，保留政策空間<sup>20</sup>。

今年 2 月 14 日的總理事會會上，Dwarka-Canabady 大使仍表示會員無法就

<sup>17</sup> WTO, Ministerial Declaration of 14 November 2001, para. 44, WTO Doc. WT/MIN(01)/DEC/1 (“We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational.”).

<sup>18</sup> See WTO, Ministerial Declaration of 2 March 2024 on Declaration on the Precise, Effective and Operational Implementation of Special and Differential Treatment Provisions of the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade, WTO Doc. WT/MIN(24)/36, WT/L/1191 (Mar. 4, 2024).

<sup>19</sup> WTO, Ministerial Decision of 2 March 2024 on TRIPS Non-violation and Situation Complaints, WTO Doc. WT/MIN(24)/39, WT/L/1194 (Mar. 4, 2024). 有關 TRIPS 協定下「非違反之訴」展延之討論，請參見李如蘋，TRIPS 協定下「非違反之訴」暫停適用之展延，經貿法訊，186 期，頁 5-7，2015 年 11 月 25 日，<https://www.tradelaw.nccu.edu.tw/epaper/no186/2.pdf>。

<sup>20</sup> *E-Commerce: In the Lead-up to MC13*, WTO, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/briefing\\_notes\\_e/ecommerce\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/ecommerce_e.htm) (last visited Mar. 8, 2024).

MC13 決議的草案達成共識<sup>21</sup>。其中，針對電子商務傳輸免關稅的適用主要分為兩派：一派為多數國家所主張，維持既有的電子商務傳輸免關稅至 MC14；另一派則是印度、南非與印尼，不是未提及電子商務傳輸免關稅之內容，就是主張應終止之。直至 MC13 會期間，印度與南非仍堅持反對展延電子商務傳輸免關稅<sup>22</sup>，而巴西甚至試圖將此議題作為籌碼，欲在農業談判上取得具體成果<sup>23</sup>。

鬧劇直至會期結束前最後一刻，歷經部長們徹夜搶救，以及 MC13 主席 Thani bin Ahmed Al Zeyoudi 親自向印度請求 (request) 之下<sup>24</sup>，此議題才迎來會員間的共識<sup>25</sup>，同意維持既有的電子商務傳輸免關稅至 MC14 或 2026 年 3 月 31 日 (取日期較前者) 到期<sup>26</sup>。

### 電子商務複邊談判

電子商務複邊談判於去年十月已達 90 個參與會員<sup>27</sup>。而就此複邊談判之討論，由去年 11 月底最後一回合之電子商務複邊談判結果來看，「早割」儼然成為會前的定論，三主席國為促成及時於第 13 屆部長會議完成談判，當時即建議參與會員仿效《漁業補貼協定》分階段談判的做法<sup>28</sup>，收割已實質完成談判的 13 項條文，並在當時表示，參與會員應聚焦於電子商務協定所需的水平條款，譬如協定的範圍、例外，以及如何回歸 WTO 多邊架構之法律問題<sup>29</sup>。

<sup>21</sup> *Id.*

<sup>22</sup> *Reporter's Notebook, Day 5: Fishing for a Deal, Hoping for a Resurrection*, INSIDE U.S. TRADE (Mar. 1, 2024), <https://insidetrade.com/daily-news/reporter-s-notebook-day-5-fishing-deal-hoping-resurrection>.

<sup>23</sup> *Id.*

<sup>24</sup> Brett Fortnam & Hannah Monicken, *No Deals on Fish, Agriculture at MC13; E-Commerce Moratorium Extended*, INSIDE U.S. TRADE, Vol. 42, No. 9, Mar. 8, 2024.

<sup>25</sup> Brett Fortnam & Hannah Monicken, *WTO Members Salvage E-Commerce Moratorium*, INSIDE U.S. TRADE (Mar. 1, 2024), <https://insidetrade.com/daily-news/wto-members-salvage-e-commerce-moratorium> (“The MC13 talks appeared to break down during an informal heads-of-delegation meeting but the moratorium was salvaged moments before the closing ceremony was scheduled to begin at 10 p.m. local time.”).

<sup>26</sup> WTO, Ministerial Decision of 2 March 2024 on Work Programme on Electronic Commerce, WTO Doc. WT/MIN(24)/38, WT/L/1193 (Mar. 4, 2024) (“We agree to maintain the current practice of not imposing customs duties on electronic transmissions until the 14th Session of the Ministerial Conference or 31st March 2026, whichever is earlier. The moratorium and the Work Programme will expire on that date.”).

<sup>27</sup> *E-Commerce: Joint Statement on E-Commerce*, WTO, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/briefing\\_notes\\_e/ecommerce\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/ecommerce_e.htm).

<sup>28</sup> *E-Commerce Co-Convenors Set out Roadmap for Concluding Negotiations in Early 2024*, WTO (Nov. 30, 2023), [https://www.wto.org/english/news\\_e/news23\\_e/jsec\\_30nov23\\_e.htm](https://www.wto.org/english/news_e/news23_e/jsec_30nov23_e.htm).

<sup>29</sup> JAPAN METI, CO-CONVENORS OF THE WTO JOINT STATEMENT INITIATIVE ON E-COMMERCE ANNOUNCE SUBSTANTIAL CONCLUSION OF NEGOTIATIONS ON A NUMBER OF GLOBAL DIGITAL TRADE RULES (2023), <https://www.meti.go.jp/press/2023/12/20231220004/202312004-1.pdf> (“Annex A: ... As of 20 December 2023, participants have substantially concluded negotiations on 13 articles, viz. E-authentication and E-signatures; E-contracts; Paperless trading; Open government data; Online consumer protection; Unsolicited commercial electronic messages; Transparency; Electronic transactions framework; Cybersecurity; Open Internet access; E-Invoicing; Single Windows; Personal data protection . . . Looking ahead in 2024, the JSI Membership will focus on resolving outstanding

儘管考量到 MC13 的即時性，主席國也在會前一個月提出整理的草案文本，以協助談判的進展<sup>30</sup>，不過，在多邊談判的電子商務傳輸免關稅都如此舉步維艱下，更遑論是完成複邊談判的結果。目前，參與會員仍以小團體 (Small groups) 的方式，持續就使用加密技術之資訊科技產品、電信服務與電子支付等方面達成共識，並針對在上述爭論不休的電子商務傳輸免關稅，以及開發中與低度開發國家參與之「發展」進行討論，暫停資料跨境傳輸自由、禁止要求資料在地化與開放原始碼等議題的討論<sup>31</sup>。

## 投資便捷化協定

自 2017 年起，已有超過 110 個 WTO 會員參與投資便捷暨發展聯合聲明倡議 (Joint Statement on Investment Facilitation for Development)，並於去年 7 月參與會員取得重大進展，參與會員就協定文本達成共識，提出「投資便捷暨發展協定 (Agreement on Investment Facilitation for Development, IFD 協定)」，並於同年 11 月完成 IFD 協定之文本內容，冀望於 MC13 以 WTO 協定附件四之複邊協定方式回歸 WTO 多邊架構<sup>32</sup>。

然而，在回歸至 WTO 多邊架構的討論上，便涉及了 WTO 協定之修改，會員必須以共識決將 IFD 協定納入 WTO 協定附件四之複邊協定。儘管參與會員已在 2 月 29 日公布 IFD 協定，並向部長會議提出將該協定納入 WTO 協定附件四之請求<sup>33</sup>，惟在缺乏共識的情況下，並未能使該協定順利回歸。

## 漁業補貼

---

issues, including those related to horizontal provisions (e.g. preamble and exceptions) and legal architecture, in relation to the integration of the JSI outcome in the WTO framework. The JSI Membership will strive to conclude negotiations in a timely manner in 2024.”)

<sup>30</sup> 文件由 bilaterals.org 所流出。WTO *Electronic Commerce Negotiation*, WTO Doc. INF/ECOM/85 (Jan. 15, 2024), available at [https://www.bilaterals.org/IMG/pdf/wto\\_electronic\\_commerce\\_negotiations-jan\\_2024.pdf](https://www.bilaterals.org/IMG/pdf/wto_electronic_commerce_negotiations-jan_2024.pdf).

<sup>31</sup> *E-Commerce: Joint Statement on E-Commerce*, WTO, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/briefing\\_notes\\_e/ecommerce\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/ecommerce_e.htm) (last visited Mar. 8, 2024).

<sup>32</sup> *Investment Facilitation for Development*, WTO, [https://www.wto.org/english/tratop\\_e/invfac\\_public\\_e/factsheet\\_ifd.pdf](https://www.wto.org/english/tratop_e/invfac_public_e/factsheet_ifd.pdf) (last visited Mar. 8, 2023) (“[P]articipants aim to incorporate the plurilateral IFD Agreement, which is open to all Members wishing to join, into Annex 4 of the WTO Agreement as soon as possible. . . .”); Marrakesh Agreement Establishing the World Trade Organization art. X:9, Apr. 15, 1994, 1867 U.N.T.S. 161 (“The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. . . .”).

<sup>33</sup> *Communication from the members Parties to the Investment Facilitation for Development Agreement, Draft Ministerial Decision on Adding the Investment Facilitation for Development Agreement to Annex 4 of the WTO Agreement*, WTO Doc. WT/MIN(24)/W/25 (Feb. 29, 2024).

第 12 屆部長會議正式通過《漁業補貼協定》<sup>34</sup>，禁止會員補貼從事「非法、未報告及不受規範 (IUU)」之捕撈的漁船或營運者，亦禁止對已過度捕撈之魚種所進行之捕撈活動進行補貼<sup>35</sup>，然當時參與會員對於聯合國永續發展目標 14.6 所要求處理的「產能過剩及過度捕撈」問題始終存有歧異<sup>36</sup>，因此將此議題擱置於第二波談判續行協商。

參與會員欲在 MC13 達成之成果有二：《漁業補貼協定》生效以及完成第二波談判<sup>37</sup>。以前者而言，在 MC13 會前，已有 61 個會員（生效門檻 110 個會員）批准並交存其接受書，因此會員對於協定生效抱持樂觀<sup>38</sup>；至於後者，由於主席古納爾松（Einar Gunnarsson）在去年 9 月所提出的文本草案已收到廣泛支持<sup>39</sup>，而參與會員亦在今年 1 月至 2 月期間緊鑼密鼓地進行討論，就如主席所言，是否能順利完成談判則需端視參與會員能否作出達成協議的必要妥協<sup>40</sup>。

在會期間，參與會員迎來 10 個會員的加入，其中包含 3 月 1 日加入的南非，目前距離生效門檻尚需 39 個會員<sup>41</sup>；至於第二波談判之討論，談判代表們在 3 月 1 日晚間仍傾注全力希望完成此談判，試圖尋求最後一刻的共識。不過，根據官員的說法，主要障礙是與特殊與差別待遇條款（B 條）有關<sup>42</sup>，尤其是開發中國家過渡期間的長度<sup>43</sup>。正當談判有所進展，印度即在一場部門談判代表會議（HODs meeting）上發言，表示不會接受其認為是對其專屬經濟海域（exclusive economic zone）的干預，而最後會議也隨即解散。儘管談判代表於會後持續推展協議，但仍在印度與巴西持續反對協議之下告終<sup>44</sup>。

## 農業談判

全球農產品貿易規則之與時俱進是 WTO 會員長期以來最重要的談判優先事

<sup>34</sup> WTO, Ministerial Decision of 17 June 2022 on Agreement on Fisheries Subsidies, WTO Doc. WT/MIN(22)/33, WT/L/1144 (June 22, 2022).

<sup>35</sup> Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization (Agreement on Fisheries Subsidies) arts. 3-4, June 17, 2022, WTO Doc. WT/L/1144 (June 22, 2022) [hereinafter AFS].

<sup>36</sup> G.A. Res. 70/1, at 24, Transforming Our World: The 2030 Agenda for Sustainable Development (Sept. 25, 2015).

<sup>37</sup> WTO Senior Officials Meeting, *Chairpersons' Summary and Oral Reports by the Facilitators*, WTO Doc. TN/C/22/Rev.1, para. 4.1 (Oct. 28, 2023).

<sup>38</sup> *Members Submitting Acceptance of Agreement on Fisheries Subsidies*, WTO, [https://www.wto.org/english/tratop\\_e/rulesneg\\_e/fish\\_e/fish\\_acceptances\\_e.htm](https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_acceptances_e.htm) (last visited Mar. 8, 2024).

<sup>39</sup> *Chairpersons' Summary and Oral Reports by the Facilitators*, *supra* note 37, para. 4.2.

<sup>40</sup> *Id.*

<sup>41</sup> *South Africa Formally Accepts Agreement on Fisheries Subsidies*, WTO (Mar. 1, 2024), [https://www.wto.org/english/news\\_e/news24\\_e/fish\\_01mar24\\_e.htm](https://www.wto.org/english/news_e/news24_e/fish_01mar24_e.htm).

<sup>42</sup> Ministerial Conference, *Additional Provisions on Fisheries Subsidies: Draft Text*, art. B, WTO Doc. WT/MIN(24)/W/10 (Feb. 16, 2024).

<sup>43</sup> *Reporter's Notebook, Day 5: Fishing for a Deal, Hoping for a Resurrection*, *supra* note 22.

<sup>44</sup> Fortnam & Monicken, *supra* note 24.

項之一<sup>45</sup>。自 2000 年起，會員即根據《農業協定》第 20 條展開談判<sup>46</sup>，不過由於糧食與農業具高度政治敏感性，故相關的改革工作進展緩慢。直至今日，談判代表仍未就改革議程上的部分議題達成協議。其中，如何解決基於糧食安全目的而保價收購之公共儲糧計畫問題即為本次部長會議最重要的議題之一<sup>47</sup>。

據消息指出，參與會員間自今年 2 月起即展開以文本為基礎的密集談判與磋商<sup>48</sup>，而農業談判小組主席——土耳其大使 Alparslan Acarso 亦於 2 月 16 日根據談判進展情形，提出有關農業談判之部長決議草案<sup>49</sup>，作為會議中討論之基礎。惟會員間之立場依舊分歧，草案中就公共儲糧之討論採兩案併陳方式進行。印度及 G33 集團等開發中國家主張就公共儲糧提出永久解決方案，參照 2013 年峇里部長會議通過的「和平條款」<sup>50</sup>；美國、歐盟等其他會員則認為在解決其他議題之前不宜做出決定，承諾在第 14 屆部長會議時通過永久解決方案<sup>51</sup>。

果不其然，在 MC13 結束前會員未能就農業談判達成共識，最主要的原因與之前預期無異，即印度於會期間仍持續要求基於糧食安全目的而保價收購之公共儲糧計畫的永久方案，而美國與其他開發中國家拒絕該提案<sup>52</sup>。據消息指出，許多官員將這次未能達成共識的結果歸咎於印度在公共儲糧方面的既定立場，使農業談判陷入停滯<sup>53</sup>。

儘管由 MC13 的結果而言，會員就此次談判之兩大議題：農業與漁業補貼，

---

<sup>45</sup> *Food and Agriculture*, WTO,

[https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/briefing\\_notes\\_e/agriculture\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/agriculture_e.htm) (last visited Mar. 8, 2024) (“Background: Updating global rules on trade in food and agricultural goods is a top negotiating priority for WTO members.”).

<sup>46</sup> *Id.* (“Negotiations in this area began in 2000 under a mandate set out in Article 20 of the Agreement on Agriculture, which was adopted in 1994 at the end of the Uruguay Round.”).

<sup>47</sup> Brett Fortnam, *Ag Director: Public Stockholding, Linkages Complicate MC13 Talks*, INSIDE U.S. TRADE, Vol. 42, No. 9, Feb. 26, 2024.

<sup>48</sup> *Food and Agriculture*, *supra* note 45 (“Current Status of the Talks: Members have been engaging in intensive text-based negotiations in February and organizing small-group consultations on the margins.”).

<sup>49</sup> Committee on Agriculture, *Draft Text on Agriculture*, WTO Doc. WT/MIN(24)/W/13 (Feb. 16, 2024).

<sup>50</sup> Hannah Monicken, *U.S. Says Public Stockholding Solution 'Not Possible' for MC13*, INSIDE U.S. TRADE, Vol. 42, No. 4, Jan. 26, 2024; *Agriculture Negotiations Enter Final Straight as MC13 Approaches*, WTO (Jan. 17, 2024),

[https://www.wto.org/english/news\\_e/news24\\_e/agng\\_17jan24\\_e.htm](https://www.wto.org/english/news_e/news24_e/agng_17jan24_e.htm) (“Some developing country members at the meeting called for an MC13 outcome based on the joint submission JOB/AG/229, which would expand the scope and coverage of an interim solution that was agreed at the Bali ministerial conference in 2013. While the Bali agreement shields certain programmes from legal challenge, under certain conditions, the proposal would extend this to all developing countries, include more products and programmes and provide additional policy space to provide domestic support.”) (JOB/AG/229 為非洲集團、非洲、加勒比海及太平洋集團及 G33 集團對公共儲糧之提案，為未公開文件)。

<sup>51</sup> Fortnam, *supra* note 47; *Draft Text on Agriculture*, *supra* note 49, at 6.

<sup>52</sup> *Reporter's Notebook, Day 5: Fishing for a Deal, Hoping for a Resurrection*, *supra* note 22.

<sup>53</sup> Fortnam & Monicken, *supra* note 24.

均未能達成共識，但 MC13 主席 Al Zeyoudi 在閉幕時仍敦促會員持續就此二議題進行推展，強調總理事會仍可在下屆部長會議之前通過相關的結果<sup>54</sup>。

### 爭端解決機制之改革

於 MC12 當時，會員即肯認當前解決爭端解決機制挑戰之重要性與急迫性，承諾於 2024 年恢復一完整功能之爭端解決機制的共識<sup>55</sup>。自 2023 年 2 月，瓜地馬拉常駐 WTO 代表團之代表 Marco Molina 即開始召集會員進行非正式談判進程，並定期向爭端解決機構回報。自當時起，WTO 會員間即針對爭端解決機制提出諸多改革之提案，其中涵蓋包括解決爭端、簡化程序、降低成本並使其更具透明性、課責性，使開發中國家及低度開發國家會員更易於使用該機制等議題，以及有關上訴審機制遲遲停擺的問題<sup>56</sup>。

不過論 MC13 的談判結果，其實由提交的草案文本即可窺知一二。儘管部分會員竭力推動，惟會員對於爭端解決機制全面改革的套案仍缺乏共識，草案中簡短之內容即是用以肯認部長們在非正式討論中所取得的進展，並重申 MC12 所做出的承諾，以期在 2024 年使爭端解決機制恢復完整且良好之運作<sup>57</sup>。可見若要看出具體的實質產出，可能只能期待會員如 MC12 所達成之共識，於 2024 年底前恢復具完整功能之爭端解決機制<sup>58</sup>。

---

<sup>54</sup> *Id.*

<sup>55</sup> WTO, MC12 Outcome Document Adopted on 17 June 2022, para. 4, WTO Doc. WT/MIN(22)/24, WT/L/1135 (June 22, 2022) (“4. We acknowledge the challenges and concerns with respect to the dispute settlement system including those related to the Appellate Body, recognize the importance and urgency of addressing those challenges and concerns, and commit to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024.”)

<sup>56</sup> *WTO Reform*, WTO, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc13\\_e/briefing\\_notes\\_e/reform\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/reform_e.htm) (last visited Mar. 8, 2024).

<sup>57</sup> WTO, Ministerial Decision on Dispute Settlement Reform Adopted on 2 March 2024, WTO Doc. WT/MIN(24)/37, WT/L/1192 (Mar. 4, 2024) (“Recalling our commitment made at our Twelfth Session to conduct discussions with the view to having a fully and well-functioning dispute settlement system accessible to all Members by 2024, we take note of the work done thus far.”).

<sup>58</sup> *Id.*