



Large French companies' priorities for the 12th WTO ministerial conference in Geneva (MC 12)

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French Association of
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AFEP, the French Association of Large Companies, represents about 113 large French companies overwhelmingly operating in global markets and strongly reliant on international trade and investment flows to expand their business. Therefore, **AFEP is supportive of a rule-based robust international trading system** with the WTO enabling worldwide sustainable growth and employment **through secured market access opportunities and the facilitation of direct investment in third countries.**

The upcoming twelfth Ministerial Conference (MC 12) has raised renewed expectations among stakeholders as it occurs after almost two years spent combatting against the covid 19 sanitary crisis and a partial lowering of international trade tensions.

Large French companies take the opportunity of the on-going preparation of the MC 12 to **convey key messages on the topics to be prioritised to comfort the WTO in its essential missions.**

• A multilateral trade agenda for all

Across the summer, it has surfaced that the MC 12 is likely to focus first on the Trade and Health initiative (including tackling the uneven access to vaccines and other medical supplies,) a decision package aimed to unlock negotiations on agriculture and the formal conclusion of the agreement on fishery subsidies, and, secondly, the endorsement of some hanging fruits in active plurilateral negotiations such as the agreement on domestic regulations in services.

Such important issues deserved to be acted upon during the conference and a success in these three main areas would undoubtedly improve confidence in the capacity of the multilateral system to deliver on critical and timely topics, as did the Agreement on Trade Facilitation some years ago.

Nonetheless, large French companies insist that the MC 12 should also pave the way for a **much more comprehensive upgrade of the WTO** to make it fit for **all economies** (developed countries, emerging economies and developing countries) and **all types of stakeholders** (Member States and their domestic and international policies objectives, businesses, other non-governmental organisations and other citizens).

This requires **setting steppingstones** (including by other means than binding ministerial decisions such as ministerial declarations or even further joint initiatives by like-minded partners) in **at least four directions not yet considered for the MC 12 agenda as priority items:**

1. **the reform of WTO functioning and dispute settlement mechanism,**
2. **the inclusion of "competitive neutrality" disciplines,**
3. **a better connexion between trade and environmental policies and**
4. **a full range of trade disciplines supporting the move towards a digitalised economy.**

• WTO functioning and dispute settlement mechanism

Without altering the essence of the WTO as a Member-driven organisation, a number of functioning features could be modified to significantly improve its functioning as a negotiating, monitoring and dispute settling body. This includes inter alia revising the connection between plurilateral and multilateral agreements or enhancing transparency. But, at a very short term, **the Membership should prioritise the reform of the dispute settlement mechanism and notably the refoundation of the appellate body.** As meaningful steps have been made to reflect Parties' concerns with the current setting and DSU rules, Members **should at least agree upon a roadmap toward the adoption of decisions necessary to translate the expected reform into WTO legal order and mark an agreement on key directions for this refoundation.**



• The inclusion of “competitive neutrality disciplines”

Beyond the criticism about interpretative powers devoted to the dispute settlement mechanism as it stands, numerous trade tensions have arisen from the **inability of WTO substantive rulebook to cope with the coexistence of market economies and largely state-driven economies**, especially when the later have reached an important level of development. Tackling existing competitive distortions based on this discrepancy between two economic models has become urgent to maintain cross-regional trade and investment flows. Members should **agree to set up a binding framework for rule-based discussions** at least on the two main contentious areas: **industrial subsidies and the behaviour of state-owned companies on international and domestic markets**. As far as industrial subsidies are concerned, parties should **sketch a roadmap to strengthen the Agreement on subsidies and countervailing measures (ASCM) both on transparency and on the elimination of most harmful subsidies**. Likewise, Members should initiate a review of WTO disciplines (GATT, GATS but also TRIPS) to identify **further disciplines to be imposed on state-owned enterprises or to the relationship between them and the owning state to make sure that they are competing on an equal footing with other businesses**.

• A better connection between trade and environment

To take up challenges posed by the climate crisis and the transition towards a green economy, the WTO rulebook should rapidly enable greener trade and investment flows. Without putting into question GATT and GATS core principles on MFN and non-discrimination, Members should agree on a **working agenda to revitalise discussions on a better connection between WTO rules and multilateral environment agreements and a jointly agreed interpretation of operating principles such as rules on production processes and methods (PPMs) to dispel uncertainty on a large spectrum of green trade policies** (carbon content or circular economy for instance) and **better set the boundaries with unjustified discriminations against foreign products**.

In parallel to this legal clarification, Members or like-minded parties should **commit on a roadmap toward the inclusion of updated trade disciplines to foster green trade: a circular economy path, a fossile fuel subsidies notification scheme and an enabling framework to set the requirements for a possible relaunch of the EGA negotiations or the launch of an “environmental services agreement”** for instance. As far as the latter is concerned, a good way to prevent new stalemates would be to first focus on an **objective definition of environmental performance, non-tariff barriers and international standards on green goods and carbon content measurement** to impose a level-playing field and allow businesses to come up with **interoperable environmental solutions based on best technologies available**, precluding any regulatory dumping on such products. Such working program should **go hand in hand with the agenda on sketching competitive neutrality rules**, to make sure that the liberalisation of trade in environmental goods and services does not increase unfair practices based on dumping and distortive subsidies.

• A full range of trade disciplines supporting the move towards a digitalised economy

The private sector is very appreciative of efforts made by Members parties to the Joint Statement Initiative (JSI) on e-commerce to move forward on-going negotiations and to cast progresses on its different subcomponents (consumer protection, mutual recognition of electronic contracts and certificates and data flows). Large French companies insist however on the need to **rapidly adopt a wide spectrum of multilateral trade disciplines to further enable cross-border digital services at a scale required by an increasingly digitalised economy**. Members should therefore work on a roadmap to find a negotiating path on more thorny issues such as data flows or the exemption of duties on electronic transmissions and explore these complementary elements to be added in **the negotiations such as market access commitments on digital and IT services, including further work on the basis of the reference paper for telecommunication services, or the handling of regulatory barriers and interoperability requirements**.



About AFEP

Since 1982, AFEP brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions, and international organisations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalisation is AFEP's core priority. AFEP has around 113 members. More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

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