THE 12TH WTO MINISTERIAL CONFERENCE AND BRAZIL'S INTERESTS

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ABSTRACT: Between June 12 and 17, 2022, the 12th Ministerial Conference of the World Trade Organization (WTO) took place in Geneva. The five themes considered a priority for the Conference were agriculture and food security, WTO response to pandemic, fisheries subsidies, WTO reform and moratorium on custom duties on e-commerce transmissions. The conference took place at a time when the world is facing unprecedented challenges that, if not properly addressed, will reverse many of the achievements of the first two decades of the 21st century in important areas such as food security, fighting hunger, public health, and sustainable development. The increase in protectionism on the part of developed countries, the anti-globalization movement launched by the United States to isolate China from global supply chains, the effects of the Covid-19 pandemic on world trade, the lack of access to vaccines against Covid-19 in the poorest countries and, more recently, the War in Ukraine, have increased the uncertainties that surround the world economy.

KEYWORDS: WTO; Brazil; intellectual property rights; protectionism

Between June 12 and 17, 2022, the 12th Ministerial Conference of the World Trade Organization (WTO) took place in Geneva. The five themes considered a priority for the Conference were agriculture and food security, WTO response to pandemic, fisheries subsidies, WTO reform and moratorium on custom duties on e-commerce transmissions[1] The conference took place at a time when the world is facing unprecedented challenges that, if not properly addressed, will reverse many of the achievements of the first two decades of the 21st century in important areas such as food security, fighting hunger, public health, and sustainable development. The increase in protectionism on the part of developed countries, the anti-globalization movement launched by the United States to isolate China from global supply chains, the effects of the Covid-19 pandemic on world trade, the lack of access to vaccines against Covid-19 in the poorest countries and, more recently, the War in Ukraine, have increased the uncertainties that surround the world economy.

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[1] Moreira, A. Brasil busca frear na OMC o protecionismo agrícola. Valor Econômico, June 10, 2022 Avaible in: https://valor.globo.com/mundo/noticia/2022/06/10/brasil-busca-frear-na-omc-o-protecionismo-agricola.ghtml. Consulted on September 02, 2022.

The World Trade Organization (WTO), which with its rules on trade, patents, and investments, established a kind of "constitution" of the world economy that all member countries of the organization are obliged to comply with, has an important role to play in combating protectionism and the fragmentation of the world economy, as well as taking measures to make world trade fairer, facilitating access to food and medicine for the poorest.

Unfortunately, that's not what happens. Since its creation, in 1994, those who have dictated the rules for global trade in the WTO are rich countries and large multinational corporations, motivated exclusively by their own interests. The poorest countries end up, in general, as mere spectators of the agreements made by the major players in world trade, in the so-called "Green Room" of the WTO[2].

The creation of the World Trade Organization, in 1994, was itself motivated by the interests of rich countries and large multinational companies, in their effort to leveling the playing field at the world level. At a time of accelerating productive globalization, motivated mainly by the need to reduce production costs and expand markets, the old rules of world trade, established under the General Agreement on Tariffs and Trade (GATT), of 1947, focused only on in reducing tariffs, were no longer sufficient to protect the interests of large multinational corporations.

The advent of the so-called Third Industrial Revolution in the middle of the second half of the last century, focused on innovations in the area of microelectronics, microbiology, nanotechnology, information technology, brought important changes in intercapitalist competition. From then on, to know the value of a company, it was not enough to look at its fixed assets, but that other part of the balance sheet, where its intangible assets were recorded, that is, knowledge.

In the case of the pharmaceutical industry, for example, the development of a new drug became an activity that involved investments of hundreds of millions of dollars. Obviously, for a company that spent that amount to develop a new drug, recovering the invested money require thinking about dominating not five or ten percent of its national market, but of the world market. This has led to the unprecedented concentration of capital worldwide, affecting all sectors of activity. It is difficult to find any high-tech segment that is not dominated worldwide by a small group of companies.

In the six rounds of trade negotiations, held between 1947 and 1986, under the General Agreement on Tariffs and Trade (GATT), only customs tariffs were discussed. But in 1986, when the Uruguay Round began in Punta Del Este, the paradigm had changed. To "flatten the world"[3] it was necessary to establish global rules not only for trade, but for all economic activity, namely for the protection of investments abroad and a much greater rigor in the protection of knowledge.

It was to meet these demands, which particularly interested large multinational companies, especially in the area of medicines and food, that two important agreements were imposed on all countries that wanted to join the WTO.

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[2] James, D. Why What's Going on Right Now at the WTO Matters. Institute for New Economic Thinking, June 10, 2022. Avaible in: https://www.ineteconomics.org/perspectives/blog/why-whats-going-on-right-now-at-the-wto-matters Consulted on September 2, 2022

[3] Thomas L. Friedman. The World is Flat. The globalized world in the twenty-first century. London: Penguin Books. 2005.

The first one was the Agreement on Trade-Related Investment Measures (TRIMS), which forced the members of the World Trade Organization (WTO), especially developing countries, to renounce the industrial policy mechanisms that allowed rich countries to protect their local industry and get where they are.

The second was the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), increasing the level of protection over knowledge. Among the various innovations introduced by pressure from the pharmaceutical industry, one was to extend the term of patent protection from ten to twenty years; the other was to create the so-called "import patent".

Until then, member countries of the World Intellectual Property Organization (WIPO), created in the 19th century, were required to recognize patents only for products produced in their territory. If a company wanted its product to be protected in other country, it had to produce it there. Otherwise, anyone could copy it. Countries were also not required to recognize patents in all sectors. Brazil, for example, until the creation of the WTO, did not recognize patents for medicines and seeds, precisely to prevent multinational companies in these areas from charging excessive prices, negatively affecting the popular economy.

With the change of control over the subject from the WIPO to the WTO and the creation of the import patent, this requirement disappeared. As long as a company guaranteed local supply through imports, it could have patent protection in any country, even without producing the product there. It was all the drug multinationals wanted.

These new rules, consolidated in the TRIPS agreement, completely distorted the purpose for which patents were created, making it the opposite of what it was created for. Instead of offering an incentive for inventors to share their knowledge with society, the TRIPS agreement, by extending the term of patents to 20 years and creating new legal figures, such as "import patents" became an instrument for the monopoly of knowledge in the hands of the large chemical and pharmaceutical industry oligopolies, based mainly in rich countries.

Since the implementation of TRIPS in 1994, drug prices have skyrocketed around the world, reaching prohibitive levels for most of the population. Every time a new pandemic arises, as was the case with AIDS in the 1980s and now with COVID-19, the large laboratories in the United States and the European Union earn billions of dollars, while countries and poorer populations are left behind. Almost three years after the beginning of the COVID-19 pandemic, only 20% of the population of the poorest countries has been fully vaccinated.

The same goes for the seeds. Human food depends today on a few varieties of grains – wheat, soy, corn, rice – produced on a large scale, whose genetically modified seeds are owned by giant multinational companies that control the entire food production chain in the world, from seeds to pesticides and fertilizers. A non-negligible part of humanity – around a billion people – is starving and an even greater number do not have access to sufficient food, a situation that has been made even worse by the COVID-19 pandemic and now, by the War in Ukraine.

What happened in this 12th Ministerial Conference of the WTO, the highest governance body of the organization, is more or less what had already been happening in the eleven previous conferences since the WTO was created, that is, a clash between rich countries and countries in development, where the discussion only advances on topics of interest to rich countries and big corporations. Issues that are of exclusive interest to poor countries are always left out since decisions must always be taken by consensus.

The most glaring case is the regulation of agricultural trade. One of the conditions for developing countries to accept, in 1986, the inclusion of the so-called new themes in the Uruguay Round – intellectual property, trade in services and investments – in the negotiating mandate was the inclusion of trade in agricultural products in multilateral trade rules. Since the signing of the General Agreement on Trade and Tariffs (GATT) in 1947, the issue of agricultural trade has been left out due to pressure from rich countries, which do not accept subjecting their agricultural subsidy policies to multilateral controls.

The result was that, while international trade in manufactures was gradually liberalized, with average tariffs falling from 50% to less than 5% in less than half a century, agricultural trade, of greater interest to developing countries, remained locked in place, subject to all kinds of obstacles: quotas, tariff peaks that in some cases exceed 1,000%, phytosanitary barriers imposed only for protectionist purposes, production, and export subsidies in rich countries, and so on.

On the occasion of the signing of the Marrakech agreement in 1994, which gave rise to the WTO, the so-called Blair House Agreement was signed, through which developing countries accepted the so-called "Peace Clause". Through this clause, developing countries accepted a period of 10 years for rich countries to withdraw agricultural subsidies and committed themselves, during this period, not to file any complaints with the WTO against these subsidies.

After 10 years, in 2003, at the Cancun Ministerial Conference, rich countries once again said that they could not withdraw subsidies and demanded another 10 years of deadline. In the meantime, a new round of negotiations had begun, the WTO Doha Round, ironically called the "Development Round", since its supposed objective would be to resolve once and for all the agricultural issue, which so afflicted developing countries.

However, another ten years went by without anything being resolved until, in 2015, at the Nairobi Ministerial Conference, the rich countries again said that they would not withdraw agricultural subsidies, that they had no deadline to do so and simply ended the Doha Round, which had dragged on for more than 15 years, without achieving any concrete results. Ironically, during these more than 20 years of postponement, agricultural subsidies not only were not withdrawn, but, on the contrary, increased.

We have now arrived, in 2022, at the 12th WTO Ministerial Conference, and the problems not only remain the same, but were further aggravated by the decision of the United States, during the Trump administration, to boycott the functioning of the body, as it has become an obstacle to the new protectionist and anti-globalization orientation of the United States. After the six days of the conference initially planned and another dawn to try to reach an agreement, once again nothing substantive was resolved. As Indonesian Trade Minister Muhammad Lutfi recently said: "It is a waste of time to have to go to that ministerial meeting in Geneva, because nothing is going to happen"[4],

The package of agreements signed at 4:59 am on June 18, 2022, once again left out, for lack of consensus, Brazil's top priority, which was the approval of a new work program to advance

[4] Moreira, A. Brasil busca frear na OMC o protecionismo agrícola. Valor Econômico, June 10, 2022. Avaible in: https://valor.globo.com/mundo/noticia/2022/06/10/brasil-busca-frear-na-omc-o-protecionismo-agricola.ghtml Consulted on September 02, 2022.

the reform of global agricultural trade[5]. Even among developing countries there was no consensus on the matter, with Brazil and India being on opposite sides. India and Indonesia vetoed the work programs for failing to achieve a permanent solution to public food stocks, which was not accepted by Brazil, the US, the Cairns Group made up of 17 agricultural exporters, and several Latin American countries[6].

Brazil is not opposed to poor and developing countries that import large amounts of food from offering subsidies for the production of food for local consumption, but it does not accept India's proposal to allow the export of public food stocks formed with the support of subsidies, as this would result in serious losses for Brazilian agricultural producers who compete in the world market without any type of state subsidy.

With regard to the breach of patents for vaccines, diagnostic tools, and therapies to combat COVID-19, the agreement signed was what, in the face of enormous world pressure, was the maximum acceptable for large pharmaceutical companies in the United States and Europe. A complete waiver of intellectual property for vaccines, therapies, and diagnostic tools, as originally proposed by some developing countries including South Africa, India, and Pakistan, as well as more than 150 humanitarian organizations such as Doctors Without Borders, has been challenged by some countries, including the UK, Switzerland, and the European Union[7].

The agreement signed in the early hours of June 18th, and left out[8].

[5] Moreira, A. Conferência Ministerial da OMC deixa de fora a maior prioridade do Brasil. Valor Econômico, June 17, 2002. Avaible in: https://valor.globo.com/brasil/noticia/2022/06/17/conferencia-ministerial-da-omc-deixa-de-fora-a-maior-prioridade-do-brasil.ghtml . Consulted on September 02, 2022.

[6] Moreira, A. Subsídio e estoque agrícola opõe Brasil e China na OMC. Valor Econômico, June 01, 2022. Avaible in: https://valor.globo.com/mundo/noticia/2022/06/01/subsidio-a-estoque-agricola-opoe-brasil-e-india-na-omc.ghtml Consulted on September 02, 2022

[7] Kaveri, M. WTO Ministerial: Civil Society Groups Urge Ministers to Reject TRIPS waiver text. Geneva Solutions, June 15, 2022. Avaible in: https://genevasolutions.news/global-health/wto-ministerial-civil-society-groups-urge-ministers-to-reject-trips-waiver-text. Consulted on September 02, 2022.

[8] Moreira, A. Quebra de patentes de vacina se complica. Valor Econômico, June 07, 2022. Avaible in: https://valor.globo.com/mundo/noticia/2022/06/07/quebra-de-patente-de-vacina-se-complica.ghtml. Consulted on September 02, 2022.