



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

INTERNATIONAL RELATIONS AND PROTOCOL DIVISION

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**REPORT OF THE SOUTH AFRICAN PARLIAMENTARY DELEGATION TO THE
WORLD TRADE ORGANISATION**

GENEVA, SWITZERLAND

12-15 SEPTEMBER 2023

WE, THE PEOPLE



1. INTRODUCTION

South Africa is one of the 164 members of the World Trade Organisation (WTO) and is among the 30 members of the Steering Committee on the Parliamentary Conference on the WTO.

The World Trade Organisation (WTO) hosts an annual Public Forum featuring the Parliamentary Session, which is the WTO's largest parliamentary event, which provides a platform for Parliamentarians, government, and civil society organisation to discuss; the latest developments in world trade, measures to enhance the multilateral trading system, and ways to address the challenges related to how trade impacts people and the environment. This is an important platform for parliamentarians to discuss issues on trade, as well as how to strengthen their role in respect of international agreements and their impact on citizens.

In addition, the Steering Committee of the Parliamentary Conference on the WTO meets twice a year in Geneva. The first of the two annual meetings is usually held in the first quarter of the year, it is a preparatory meeting for the WTO Parliamentary Conference, which is a platform through which Members of Parliaments (MPs) can exchange views on issues of international trade as well as get updates on WTO negotiations and trade-related matters. While the second meeting takes place on the side lines of the WTO Public Forum, the purpose is to receive updates on the next Parliamentary Conference and key developments in the WTO.

This year's Public Forum was organised under the theme ***"It's Time for Action"***. The Public Forum focused on how trade can contribute to a greener and more sustainable future. A total of 134 sessions were held to discuss various issues in line with this focus. While the Parliamentary Session was organised under the theme ***"Making trade work for the environment: The role of parliamentarians"***. The Parliamentary Session was held on the 14th of September 2023, and it allowed Parliamentarians an opportunity to discuss their role in relation to making trade work for the environment. The Steering Committee met to receive an update on the next Parliamentary Session which will be held in February 2024 in Abu Dhabi, United Arab Emirates.

This report provides an overview of meetings that the Delegation of the South African Parliament attended in their visit to Geneva, Switzerland. Firstly, it captures the Delegation's meeting with South Africa's Ambassador to the WTO on issues of importance for South Africa. Secondly, it provides a brief overview of the Public Forum sessions attended by the Delegation. Thirdly, it captures the engagement of the Steering Committee.

1.1. Delegation to the World Trade Organisation

The Delegation that attended the above-mentioned meetings comprised of the following members:

- (a) Ms Doris Dlakude, MP - Deputy Chief Whip, Joint Standing Committee on Financial Management of Parliament, Leader of the Delegation
- (b) Mr Happy Mbuyane, MP – Member of the Portfolio Committee on Trade, Industry and Competition, Parliament Representative to the Steering Committee



- (c) Mr Mandla Rayi, MP – Chairperson of Select Committee on Trade & Industry, Economic Development, Small Business Development, Tourism, Employment & Labour
- (d) Mr Dean Macpherson, MP – Member of the Portfolio Committee on Trade, Industry and Competition

Support to the Delegation was provided by:

- (a) Ms Zokwanda Madalane, Researcher – Parliamentary Research Unit
- (b) Ms Janine Paulsen, Logistical and administrative support - International Relations and Protocol Division

2. MEETING WITH AMBASSADOR TO THE WTO

On the 12th of September, the Delegation met with South Africa’s Ambassador to the WTO, Ms Xolelwa Mlumbi-Peter on key issues affecting South Africa at the WTO. Ambassador Mlumbi-Peter has been an Ambassador to the WTO since 2019. At the end of September 2023, her term will be coming to an end and another ambassador will be representing South Africa at the WTO. She was joined in the meeting by:

- (a) Mr Marumo Nkomo - Economic Counsellor and Deputy Permanent Representative to the WTO
- (b) Ms Kekeletso Mashego, Economic Counsellor - Trade office to the WTO, Geneva
- (c) Mr Tshifhiwa Mahosi - Economic Counsellor, Trade office to the WTO, Geneva

In the meeting with the Delegation, Ambassador Mlumbi-Peter raised the following issues:

2.1. Trade and the Environment

In terms of trade and the environment, there has been much debate over the past few years about how to balance economic growth through trade and the environment. Such debates have intensified recently, this has been evident from the discussions in forums such as COP27 held in Sharm El-Sheikh, Egypt in November 2022 and the WTO’s focus of this year’s Public Forum and Parliamentary Session which focuses on the relationship between economic development, trade and the environment.

In the meeting the Ambassador noted that balancing economic growth and environmental sustainability, is the common goal for the international community. In trying to balance these, targeted economic policies including those on financing mechanisms, technology innovation and transfer, and development-oriented trade rules are required to ensure that this balance is achieved. However, such policies require a multilateral approach rather than unilateral measures. In this regard, the Ambassador noted that the Africa Group has tabled a paper on principles which should form the foundation of discussions on trade and climate. It further called for a “multilateral dialogue to ensure that environmental measures are not arbitrary, unilateral, protectionist and are WTO-consistent”¹.

In terms of the upcoming Ministerial Conference (MC13), she said that MC13 must agree on a multilateral approach that would have a significant impact on reducing

¹ Mlumbi-Peter, X. (2023)



carbon emissions and that takes into “account common but differentiated responsibility” in addressing the challenge of climate change. “Common and differentiated responsibility” takes into account that countries’ contribution to carbon emissions differ therefore, the responsibility to implement measures to address climate change should differ.

2.2. Carbon Boarder Adjustment Mechanism

Related to the issue of trade and the environment, the Delegation was briefed on South Africa’s position on the Carbon Boarder Adjustment Mechanism (CBAM). In May 2023, the European Union’s (EU’s) Carbon Border Adjustment Mechanism regulations came into force following an approval by the European Parliament in June 2022. According to the European Commission, the CBAM is a tool for addressing climate change by putting a price on carbon emitted in the production of certain products which are exported to the EU. It is said that the purpose of the CBAM is to “encourage cleaner industrial production in non-EU countries”. CBAM is part of measures introduced by the EU to reduce greenhouse gas emissions. CBAM essentially means that the EU will impose a carbon border tax on products entering its market based on the extent of carbon intensity of the product during the production process.

It was acknowledged that it is necessary to take measures to protect the environment. However, such measures should not be unilateral in nature as has been with the CBAM. Instead, there is a need for a multilateral discussion on how to deal with environmental challenges rather than the implementation of unilateral measures. As a result, South Africa is of the view that the CBAM is a unilateral measure which is protectionist in its implementation. The result of which will be:

- (a) Costly for South African producers to comply with, therefore, will make South African products less competitive in the EU market; and
- (b) South Africa will lose market access to the EU for the identified products.

South Africa is therefore advocating for measures that aim to address climate change to be multilateral and that such measures should take into account developmental objectives, as well as “the principle of common but differentiated responsibilities”. This means that while all countries have a responsibility in addressing climate change, that responsibility should differ depending on the extent of contribution to CO₂ emissions. In essence, countries which contribute more to carbon emissions should have more responsibility in addressing climate change than those who contribute less.

2.3. Trade-Related Aspects of Intellectual Property Rights Waiver

In terms of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Waiver, the Delegation was briefed about the waiver which was agreed on at the MC12. In particular, that:

- The Decision was mostly clarification of existing TRIPS flexibilities, except for the new provision of the waiver in Paragraph 3(b) of the TRIPS Decision which allows for the exportation of products produced under compulsory license. While the 2005 amendment to the TRIPS Agreement (Article 31bis) allowed for such exports, the provision was for the production for domestic consumption. Meaning



that products produced under the provision would not be for exportation but rather for domestic consumption.

- The waiver only applies to COVID-19 vaccines for a period of five (5) years.

However, at MC12, the decision was only on vaccines, therefore, Ministers had agreed to further engage and decide on the extension of the TRIPS flexibilities in relation to therapeutics and diagnostics. Ministers had agreed to make this decision by 17 December 2022. However, that decision had not yet been made and it depends on the United States International Trade Commission's (USITC's) domestic processes which are currently being conducted. The Ambassador emphasised that while the World Health Organisation has declared an end to the COVID-19 public health emergency, the threat of the global health pandemic is not over particularly with the emergence of the SARS-CoV-2. As a result, the International Health Regulations Emergency Committee recommended that the world should transition to long-term management of the COVID-19 pandemic.

South Africa and the co-sponsors of the waiver continue to call for the extension of the TRIPS Decision to include therapeutics and diagnostics, as a matter of agency. In this regard, in the Africa Group, it remains important that issues of intellectual property (IP) barriers related to COVID-19 diagnostics and therapeutics be addressed to promote diversification of production. Promoting diversification of production of diagnostics and therapeutics would ensure affordable and equitable access for the long-term management strategy for SARS-CoV-2.

2.4. Fisheries subsidies Agreement

This proposal is aimed at addressing the challenge of over-fishing, as well as illegal fishing. However, to make this proposal stronger, the countries proposing highlighted that the elimination of subsidies will also contribute towards achieving Sustainable Development Goal (SDG) 14.6 which mandates countries to "By 2020, prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies, recognizing that appropriate and effective, special and differential treatment for developing and least developed countries should be an integral part of the World Trade Organization fisheries subsidies negotiation". The proposal made four provisions:

- A provision to identify the types of subsidies that would be allowed and for which fishing activities.
- A provision for obligations of members to notify the WTO to enable surveillance of subsidies elimination.
- A provision for technical cooperation to help developing countries and least developed countries (LDCs) fulfil their commitments; and
- A provision for an annual review of the implementation progress.

At MC12 there was an agreement on fisheries subsidies. The agreement prohibits the provision of subsidies to:

- (a) Vessels or operators undertaking illegal, unreported and unregulated fishing (IUU);



- (b) Fishing of overfished stock, unless they aim to rebuild stocks to sustainable levels; and
- (c) Fishing in unregulated high seas.

The Ambassador noted that South Africa advocates for a balanced agreement that safeguards food security and livelihoods while enabling developing countries to use their marine resources for their development. In addition, provisions should be made for special and differential treatment for developing countries. She added that South Africa has not ratified the agreement on fisheries subsidies, but the relevant Ministries were reported to be working on this.

2.5. E-commerce work programme and the moratorium

In 1998, at the second Ministerial Conference (MC2), a declaration was made on Global Electronic Commerce. The declaration mandated the WTO to:

- (a) Develop a Work Programme on Electronic Commerce; and
- (b) Make a provisional moratorium on customs duties on electronic transactions.

The Work Programme was renewed at each Ministerial Conference while the moratorium remained in place. However, around 2017, some member countries began to make proposals with respect to e-commerce, specifically, China. MC12 also agreed to revive the work done under the Work Programme on Electronic Commerce and to end the moratorium on customs duties on electronic commerce by MC13 or March 2024 (whichever comes first).

Two challenges were noted which sparked the recent debates around this issue:

- (a) Firstly, the 1998 moratorium was on the basis that there was uncertainty on how to tax e-commerce transactions. However, India has showed that there are ways to do this in a manner that brings certainty.
- (b) Secondly, the scope and definition of the moratorium is yet to be clarified. The impact of removing tariffs on revenue through the moratorium has been a matter of concern for developing countries.

The Ambassador noted that South Africa's position is that by MC13, the moratorium should be allowed to lapse unless there is a meaningful package of measures that addresses e-Commerce capacity in developing countries. That package should address the development divide, technology transfer and effective integration of developing countries in e-commerce, including Medium, Small and Micro enterprises (MSMEs).

2.6. World Trade Organisation Reform

In terms of WTO reforms, the following issues were highlighted:

- The need for the WTO to adjust trade rules to provide policy space to promote industrialisation in Africa.
- The emergence of Joint Statement initiatives (JSIs) emanate when "like minded" members discuss on the side issues of interest to them thereafter bring those issues to the WTO as key issues. This is problematic because it is fragmenting the multilateral trading system, putting the issues of development at abeyance and delays implementation of decisions.



- Reform of the WTO is a concern for South Africa. South Africa is of the view that reform of the WTO should be inclusive and developmental based on the multilateral trading system.
- The Dispute Settlement System (DSS) is currently not functional. Therefore, there is a need for the urgent development of a clear roadmap to restore the DSS. For South Africa and the Africa Group, a restored DSS should (i) adhere to and uphold multilaterally agreed WTO rules, promote predictability and certainty, enable the efficient resolution of disputes including effective enforcement of rights and obligations, and (ii) protect Members from power dynamics.

2.7. Other WTO issues

The Ambassador also highlighted the following as other key issues in the WTO discussions:

- (a) **Food security package:** to support net food importing developing countries and least developed countries to deal with rising food insecurity; to provide a permanent solution on the public stockholding programme for domestic food security purposes and with necessary safeguards to avoid spillover effects into the international market.

2.8. Administrative Matters

In the Delegation's engagement with the Ambassador, it was revealed that her term had come to an end and would be returning to South Africa on the 30th of September 2023. The Delegation raised concerns with the fact that the new Ambassador had not yet arrived in Geneva. The Delegation's concerns were mainly that:

- (a) There wouldn't be a proper hand over process between the current Ambassador and the newly appointed Ambassador. Members had thought that part of the handover process would be that the current Ambassador would formally introduce the new Ambassador to key stakeholders and well as orientate him on the working systems of the WTO in Geneva prior to her departure.
- (b) There may be a gap in South Africa's representation at the WTO. The length of time between departure of the Ambassador and the arrival of the new ambassador is unknown. This was a concern because there are critical negotiations taking place currently in which South Africa would not be represented if the new Ambassador does not arrive timeously. Notwithstanding the fact that there are three (3) Economic Counsellors representing South Africa at the WTO, the need for an ambassador remains.
- (c) Continuity is critical, however, if the new Ambassador does not arrive timeously, South Africa would be adversely affected in its upcoming engagements. Particularly given that there are executive meetings taking place in October in preparation for the 13th Ministerial Conference (MC13) set to take place in February 2024.

3. WTO PUBLIC FORUM

The Public Forum is comprised of a plenary session and more than 134 parallel sessions. The Delegation attended several sessions. The South African Delegation, collectively and as individuals attended the following sessions:



Tuesday, 12 September 2023

- Meeting with the Ambassador
- Launch of the World Trade Report 2023
- Presidential Lecture
- Conversation with the WTO Director-General

Wednesday, 13 September 2023

- Forging Trade for a Sustainable Future
- Book Launch - The Trade Handbook: Making Trade Work for Prosperity, People and Planet by Arancha González Laya
- The Route to Transport Decarbonisation
- Critical Minerals Extraction, Processing and Trade: North and South Perspectives
- CBAM Smackdown - The Green Trade Debate
- Green energy investments in Africa: Opportunities and challenges for scaling-up

Thursday, 14 September 2023

- Global Environmental Challenges – Inclusive Solutions
- Inclusive Strategies for Sustainable Trade
- How can Developing Economies Best Attract Climate Action Foreign Direct Investment
- The Digital Boost to Green Innovation
- Ally-shoring Critical Minerals for A Green Transition: Reimagining the WTO's Role in Managing Confrontations and Disruptions
- Trade Finance for a Sustainable Future: Overcoming Challenges and Fostering Inclusive Global Trade

As can be seen from the titles of most of these sessions, the focus was on balancing trade and the environment, particularly the impact of climate change. There was also emphasis on restoring the WTO's dispute settlement system to ensure that the WTO returns to being fully functional and effective.

4. IPU STEERING COMMITTEE ON THE WTO

The 52nd session of the Inter-Parliamentary Union (IPU) Steering Committee on the World Trade Organisation (WTO) took place at the IPU Headquarters in Geneva, Switzerland parallel to the WTO Public Forum on the 15th of September 2023.

Members of Parliament from the following countries attended the meeting:

- People's Republic of China
- Republic of Côte d'Ivoire
- Republic of India
- Republic of South Africa
- Republic of Türkiye
- The United Arab Emirates (UAE)
- Republic of Uruguay
- European Parliament (representing various countries in the EU)

Organisations represented included:



- The World Trade Organisation
- Inter-Parliamentary Union
- Parliamentary Assembly of the Council of Europe

The United Arab Emirate's ambassador to Belgium, Ambassador A. Philip also attended to give an update on the UAE's readiness to host the WTO Parliamentary Session in Abu Dhabi in February 2024.

Agenda of the 52nd Session of the IPU Steering Committee on the WTO

The Co-Chairperson welcomed members and introduced new representatives from three (3) countries, namely South Africa (Hon. Happy Mbuyane), Türkiye and Uruguay.

The main objective of the Steering Committee Meeting was to plan for the upcoming Parliamentary Conference and Ministerial Conference to be held in Abu Dhabi, United Arab Emirate in February 2024. The Co-Chairperson noted that the aim is to mobilise Parliamentary action leading up to COP28 in Dubai. Further, it was stated that challenges facing the international community require the leadership of the Parliamentary Community.

The agenda items discussed in the meeting were as follows:

4.1. Update on preparation of the 13th Ministerial Conference (MC13) in the United Arab Emirates (UAE)

Practical arrangements for the session: Ambassador Philip provided an update on the UAE's readiness to host the WTO Ministerial Conference as well as the Parliamentary Session in February 2023. In this regard, he highlighted the venue, proximity to hotels and transportation. It was also noted that the Parliamentary Session will take place alongside the Ministerial Conference.

Members of the Steering Committee welcomed this update. In addition, emphasised that Parliaments should join their Executives in the upcoming Ministerial Conference.

4.2. Update on recent developments at the WTO

In terms of the update to the recent developments at the WTO, the following issues were highlighted:

- (a) Protectionism and climate change are some of the major challenges facing the WTO currently.
- (b) WTO is building on the success of MC12 particularly in respect of the Fisheries Subsidies Agreement. New Zealand was reported to be the 17th Member State to ratify the Fisheries Subsidies Agreement. Furthermore, it was reported that the second round of the Fisheries negotiations was taking place.
- (c) In terms of WTO's dispute settlement, it was stated that a functional dispute settlement treaty was required. Members of Parliament should push to resolve the Dispute Settlement.
- (d) With regards to TRIPS, negotiations are taking place to extend the scope of the TRIPS flexibilities.



- (e) The WTO is considering a large-scale investment agreement, however, reported that currently there is no multilateral stance with regards to this.
- (f) COP28 in December 2023 will include a trade day, this was highlighted as important given the need to balance trade and the environment.

Members of the Steering Committee raised the following:

- **People's Republic of China Parliament:**
 - The reform of the Dispute Settlement system of the WTO is a key priority.
 - Investment facilitation for development is an important milestone for WTO and its rule book.
- **European Union Parliament:**
 - An active role of Parliaments is required to support the work of Ambassadors and Ministers.
 - The focus leading up to MC13 should be on the role of Parliaments.
- **Republic of Côte d'Ivoire Parliament:**
 - Given the challenges faced by African countries, African countries need to benefit from international trade.
- **Republic of India Parliament:**
 - There is a need to enhance SMEs' access to information and integrating SMEs to the global trade economy.
 - WTO aid for trade is important to eliminate hunger and ensure food security.
 - Expansion of the TRIPS waiver/ flexibilities is critical.
- **Republic South Africa:**

Hon. H Mbuyane -

- South Africa welcomes the progress the WTO has made since the last Ministerial Conference and is looking forward to the outcomes of the current negotiations and outcomes of the upcoming Ministerial Conference in February 2024. Particularly in relation to the second phase on fisheries subsidies, as well as intellectual property in relation to the expansion of TRIPS flexibilities, e-commerce and climate change.
- Further welcome the WTOs continued efforts of keeping and reviving the multilateral trading system despite the challenges.
- In terms of the investment agreement, issues of environmental protection, and any measures implemented to address the global challenges should be multilateral in nature and take into account developmental objectives.

Hon. M Rayi –

- Emphasised the issue of food security, in particular that an agreement is critical and urgent to support net food importing developing countries and least developed countries so as to address the current food insecurity challenge.
- Further articulated South Africa's position with respect to e-commerce. In particular, that the moratorium should be allowed to lapse unless there is a significant package of measures that addresses e-Commerce capacity in developing countries. Such a package should take into account the differences between countries in respect of the development divide, the need for technology transfer and effective integration of developing countries in e-commerce, and consider issues pertaining to Medium, Small and Micro enterprises (MSMEs).



- **Republic of Türkiye:**
 - The reform of the WTO should be top of the agenda.
 - In terms of Special and Differential Treatment, developing countries should be benefiting from these provisions.
 - The Fisheries Subsidies Agreement is a step in the right direction, Türkiye is looking forward to the second phase of the negotiations.

4.3. 2024 Annual Session of the Parliamentary Conference on the WTO

Provisional programme: Members discussed the programme including the theme of the Parliamentary Session, Speakers, and the outcome document.

- (a) It was agreed that the theme of the Parliamentary Session will be: ***Abu Dhabi and beyond: Shaping/Strengthening a multilateral trading system that delivers for all***
- (b) For the inaugural session, the Steering Committee agreed that Speakers would as follows:
 - **Mr. Saqr Ghobash**, Speaker of the Federal National Council (FNC) of the United Arab Emirates (UAE)
 - President of the Inter-Parliamentary Union (IPU)
 - **Ms. Roberta Metsola**, President of the European Parliament
 - **Ms. Ngozi Okonjo-Iweala**, Director-General of the WTO
 - **Ms. Athaliah Lesiba Molokomme**, Chairperson of the WTO General Council
- (c) **Interactive dialogue with senior WTO negotiators and officials:** the proposal for speakers in this session to include Trade Ministers from the previous hosts of the WTO Ministerial Conferences (Kenya and Argentina) and EU Trade Commissioner Mr. V. Dombrovskis (Latvia). The Steering Committee agreed that in addition to the negotiators and officials above, parliamentarians and civil society representatives should be included in the session.
- (d) **Interactive debate:** the Committee agreed on the debate theme - ***Scale up food security through trade.***
- (e) **Discussion:** the Committee agreed on the discussion theme - ***Digital trade in the era of resilient economy***
- (f) **Speakers:** it was noted that the nominations of Speakers for the discussion will be open until the 30th of September 2023, for members to submit nominations.
- (g) **Adoption of the outcome document:** the Steering Committee Secretariat stated that: a draft document will be sent to all members on the 6th of November 2023 to allow the individual Parliaments to make inputs. The last day of inputs will be the 19th of January 2024. During the Steering Committee meeting planned for the 24th of February 2024, the final document will be discussed.

5. CONCLUSION

The Steering Committee meeting and Public Forum provided a platform to discuss the latest developments in world trade and to propose ways of enhancing the multilateral trading system. It further allows Parliamentarians to discuss issues on trade, particularly with respect to their role of ratifying international agreements. This year it focused on balancing trade and the environment.



The discussions encouraged Parliaments to play their part in addressing issues pertinent to their citizens and in support of their governments. For South Africa these relate to intellectual property, food security, the environment, and fisheries subsidies, among others.

6. RECOMMENDATIONS TO PARLIAMENT

Informed by its meeting with South Africa's Ambassador to the WTO, the Steering Committee meeting and the WTO Public Forum, the Delegation drew the following recommendations, the Delegation recommends that Parliament considers ensuring that:

- 6.1.** The Ministers of Trade, Industry and Competition and the International Relations and Cooperation facilitate that the newly appointed Ambassador starts work in Geneva as soon as possible.
- 6.2.** The Fisheries Subsidies Agreement is ratified. This is a 2022 agreement which South Africa has not ratified.
- 6.3.** It determines how it would play active role to support the work Ambassadors and Ministers as recommended by the IPU Steering Committee.
- 6.4.** Should ensure that the Delegation attends the Steering Committee meeting and the WTO Parliamentary Forum taking place in Abu Dhabi, UAE in February 2024.
- 6.5.** The Ministry of Trade, Industry and Competition briefs the Delegation prior to the Ministerial Conference (MC13) on its priorities and positions for MC13.
- 6.6.** The Delegation attends the biannual Steering Committee meetings. One meeting can be attended virtually and the other physically. This would allow South Africa to keep abreast with the developments and to be part of the decision making.