

The New DG of the WTO: Hopes and Expectations



Jongduk Kim

Ph.D., Research Fellow, Trade and Investment Policy Team
Korea Institute for International Economic Policy

On March 1, 2021, Dr. Okonjo-Iweala, Nigeria's former finance minister and former vice-president of the World Bank, started her first day in office at the WTO as Director-General. Most articles and news coverage in the media with regard to her inauguration are filled with a myriad of worries and challenges ahead along with brief congratulatory remarks. Of course, it is not her but the title itself and the current global trade environment that call for worrisome attention. Around the world, the protectionist sentiment incited by sluggish global economic recovery since the global financial crisis is not about to vanish in the near future. Acute trade conflicts and protectionist policies have left undesirable economic and political impacts in their wake. As for the WTO, the long-standing stalemate of the Doha negotiation for the last eighteen years has driven the “rule-based” system ineffective and irrelevant with an outdated rulebook. Recently the WTO Appellate Body lost its quorum following the failure to appoint new appellate body members last year. The state of dissensus rather than consensus during the nine-month DG selection process reminds us of how far we are from global solidarity. Above all these muddles, the pandemic

situation has made it almost impossible for governments to think of anything other than national health care related to COVID-19. In fact, the “moribund WTO”¹ is not regarded as a subject of urgent attention, notwithstanding its long-term importance.

Then, the question is what the new Director-General can do to save the organization from its existential crisis? In her inaugural statement,² she laid out imminent challenges the global economy faces and urgent tasks that need to be addressed by the WTO: faltering performance of the global economy due to the COVID-19 pandemic, vaccine nationalism and protectionism, the agreement on fisheries subsidies, reform of the dispute settlement system, update of the WTO rulebook fit to 21st-century economic realities, support for the green and circular economy, improvement of disciplines for subsidies and Special and Differential Treatment (SDT), and procedural reforms enhancing transparency of the organization and its decision making. Tackling these issues is quite ambitious as most of them have remained unresolved since the beginning of the WTO. Now it is more so with the tremendous complexity added by the pandemic.

Under the circumstances, however, what the multilateral trading system needs most is the restoration of confidence and trust in trade and intergovernmental cooperation based upon this, not tackling the set-out agenda one by one. Regardless of a plethora of evidence proving the benefits of trade, it is an irony that trade has been constantly blamed as a major culprit of inequality, and the WTO has been criticized for not creating a level playing field for developed and developing countries alike.

On the appointment of the Director-General, the twelfth Ministerial Conference in 2021 is now under discussion and thus deliverable outcomes are expected. In the perspective of desperate urgency and long-term importance, the resumption of the Appellate Body at the Dispute Settlement Body (DSB) would be not only a great deliverable but the significant first step toward reviving the multilateral trade system as well. The DSB has been the most acclaimed and criticized feature of the WTO at the same time. So far, it has been regarded as rather virtuous by most members. But, in recent years the United States has become a vocal critic of the system, especially since the Trump administration and last December the WTO Appellate Body has ceased to function due to the opposition of the U.S. against appointing new members. A vast void in the system is created in consequence. Legal experts express concerns that, lacking appropriate alternatives, the current situation could be purposefully exploited; for instance,

¹ “Reviving the WTO” by Ngozi Okonjo-Iweala, Project-Syndicate. (Jun 22, 2020)

² “Appointment of the next Director-General,” JOB/GC/250. (WTO, Feb 16, 2021)

parties may appeal losing cases in this void. In order to avoid burgeoning confusion and minimize any possible negative impacts there have been a variety of provisions suggested by members and parties. These include pursuing fundamental overhaul of the DSB and other temporary solutions, dealing with concerns raised by members, e.g. the U.S. in particular. As for a temporary solution, interim appeal arbitration based on the general arbitration mechanism in Article 25 of the Dispute Settlement Understanding (DSU), initiated by the EU and joined by 22 other economies, is now at the front in this regard. Disappointingly, the new Biden administration of the United States, the largest shareholder of the WTO, has not shown any indications of deviating from the previous stance Trump took with regard to the WTO and is still yet to agree to the appointment of new Appellate Body members. However, it may be too early to lose our hope. The Biden administration has constantly sent signals that the United States would come back to the multilateral table and cooperate with allies. Indeed, it withdrew its opposition against the appointment of Dr. Okonjo-Iweala as Director-General.

The dispute settlement is one of the core functions of the WTO created by the Marrakesh Agreement and closely linked with the trust in the system. Furthermore, the Appellate Body was one of the most innovative legacies of the WTO originating from the GATT framework. We cannot afford any delays to the resumption of functions at the Dispute Settlement Body. Hopefully, the new Director-General will take actions to establish a common ground across members to move forward in this imperative matter as soon as possible. **KIEP**