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# country report

Multilateral Dialogue Geneva



## Geneva Barometer

### Developments in Geneva's International Organisations Mid-November 2019 – Mid-February 2020

*Olaf Wientzek, Sarah Ultes, Rena Geis*

**The "Geneva Barometer" takes an occasional look at a few selected developments amongst the international organisations based in Geneva.**

**The turn of the year was marked in Geneva by a contradictory dynamic: On the one hand, several international organisations were con-fronted with severe crises, while on the other hand, ambitious promises for the future were made in many places. At the WHO, the handling of the Corona virus (COVID-19) has dominated the agenda since January. In the WTO the focus has been on the crisis arising from the Appellate Body crisis in December. But there were also glimmers of hope: There was guarded optimism at the conclusion of the UNHCR's first Global Refugee Forum. Also at the margins of Davos positive signals with respect to the future of the WTO dispute settlement mechanism could be heard – though these should be treated with caution and some healthy scepticism.**

#### **World Trade Organisation – between the Appellate Body crisis and Nur-Sultan**

Since 11 December the Dispute Settlement role of the World Trade Organisation (WTO) is effectively suspended, after the USA continued to block the appointment of new members of the Appellate Body. This development had been looming for quite some time. And yet the failure of mediation attempts, which were

made until literally the last minute, generated disappointment. It is now uncertain what will happen next. Statements made by US President Donald Trump at the margins of the World Economic Forum in Davos in January caused a stir, suggesting as they did that there might be a possible solution to the crisis in the not-too-distant future. When it comes to the specific details, however, there is still fundamental disagreement. That was made clear once again in a report by the US Trade Representative Robert Lighthizer, published on 11 February, which represented a reckoning with the function of the Appellate Body, even going so far as to deny its legitimacy<sup>1</sup>. No agreement is now expected before the Ministerial Conference in the Kazakh capital Nur-Sultan in June. In order to fill this vacuum, the EU and 16 other WTO members (see map) signed a political declaration at the margins of the meeting in Davos, creating a temporary solution for dispute settlement until agreement is reached on a reformed Appellate Body<sup>2</sup>. Notably: the signatories include China, Brazil and Australia, some of the WTO heavy-weights and regular users of the WTO's dispute settlement function. However, the (difficult) details of such an interim solution have yet to be worked out.

So while one pillar of the WTO is in crisis, meetings on other dossiers continue unchanged, in order to be able to present some

<sup>1</sup> US Trade Representative: Report on the Appellate Body on the World Trade Organization: [https://ustr.gov/sites/default/files/Report on the Appellate Body of the World Trade Organization.pdf](https://ustr.gov/sites/default/files/Report%20on%20the%20Appellate%20Body%20of%20the%20World%20Trade%20Organization.pdf)

<sup>2</sup> Political declaration in Davos, 24.01.2020: [https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc\\_158596.pdf](https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158596.pdf)

results in Nur-Sultan. These include in the first instance the successful conclusion of fisheries negotiations that have lasted for more than 20 years. This would be significant for two reasons: first, the heads of states and governments committed to reaching an agreement in 2020; a successful negotiation would send an important signal about the WTO's capacity to act. Second, with a view to the sustainable development agenda, an agreement would be of essential significance in the fight against over-fishing (Sustainable Development Goal 14 "Conserve and sustainably use the oceans, seas and marine resources for sustainable development"). Some negotiators stress that, without an agreement in the fisheries dossier, one cannot speak of a successful ministerial conference. It remains to be seen whether any consensus can be reached. After many months were wasted in 2019 due to a dispute on the nomination of a chairperson between several member states, talks are currently progressing only slowly. On 6/7 February the EU, together with Taiwan, Japan and the Republic of Korea, presented a new text containing, among other things, a promise to grant longer transition periods to developing countries for the dismantling of fishing subsidies. The reactions of the ACP countries, India and China were cautiously positive, however the discussions are still likely to be difficult. Other topics on the agenda in Nur-Sultan are also not free from conflict, such as the extension of the moratorium on electronic trade. No agreement is expected on the plurilateral initiative regarding electronic trade, in which 82 member states now participate. A joint public declaration by the participating countries on this matter could already be considered as a success. Other issues: small and medium-sized businesses, and the difficult ongoing topic of agriculture. In many of these dossiers, the USA is a constructive partner; however, there are unsettling reports that the Trump administration is seeking an increase in tariff ceilings, and plans to leave the Agreement on Government Procurement.

In light of this difficult political environment, the Kazakh government is faced with the challenge not only of cutting a good figure logistically at the Ministerial Conference, but also of achieving some conclusions, or at least some progress in negotiations, also in the complex dossiers.

## Global health – Focus on "COVID-19"

Since January 2020, the main focus has been on "COVID-19" (the official name of the Corona virus): After the People's Republic of China made the first cases public at the beginning of January, the World Health Organisation (WHO) decided on 30 January to announce a so-called Public Health Emergency of International Concern (PHEIC). The reason for this was the rapid spread of the virus – also outside China – and efforts to better protect countries with weaker healthcare systems. According to the International Health Regulations (IHR) of 2005, such a "public health emergency" occurs when an illness is "a public health risk to other States through the international spread of disease and to potentially require a coordinated international response", when it is evaluated to be serious, unusual or unexpected, and where the situation demands immediate, international action<sup>3</sup>. Member states are free to act as they see fit, the WHO has no leverage with which to enforce them to take certain actions. However, the WHO – and in particular Director General Tedros Ghebreyesus – has warned repeatedly against adopting excessively drastic measures, disseminating inaccurate information, and taking unnecessary action that could impair international traffic and trade. Some countries were accused of not having provided proper notification of such restrictive measures. Germany's reaction was praised for being level-headed and appropriate. At the meeting of the Executive Board of WHO at the beginning of February there was criticism of China's continued exclusion of Taiwan from the exchange of information, and from WHO committees: Many countries (including Germany) warned that, irrespective of political matters, there should be no "blank spots" on the prevention map, with the most stinging criticism coming from the USA and some smaller countries.

As of mid-February the number of deaths had already reached more than 2,000, although the death rate still remains below that of SARS (around 9% at the time). To date the WHO has been very reticent in making possible forecasts of the further spread of the virus; as yet, its representatives are not speaking of a "pandemic". The priority is to prevent the virus reaching countries that already have fragile

<sup>3</sup> <https://www.who.int/ihr/procedures/pheic/en/>

healthcare systems, especially in sub-Saharan Africa. Most recently, 13 African countries have been equipped with special tests for detecting the virus.<sup>4</sup> In addition, on 11/12 February the WHO organised a "Global Research and Innovation Forum" in Geneva, at which researchers discussed a coordinated approach for possible treatments. The objective was to define a joint agenda for researching the virus, its transmission, and the development of therapies and vaccines. At present around 30 different antiviral medicines are being tested. It is likely that clinical tests for possible vaccines can begin as early as the beginning of April.

What was conspicuous in recent weeks is the repeated and explicit praise given by Tedros Ghebreyesus to China for its efforts. Critics - particularly but not exclusively from the US side - accuse him of being too indulgent of Beijing, especially with regard to the suppression of reports about the virus in the first few weeks, and a lack of transparency. Other observers praise precisely the "diplomatic" tone of the WHO Director General, to which there had been no alternative and which had contributed decisively to the cooperative stance of China.

The WHO was positive in its assessment of the progress in fighting Ebola in the DR Congo: only very few new cases have been registered recently. Nevertheless, the WHO resolved on 12 February to maintain for the time being the classification "Public Health Emergency of International Concern". There is still a risk that the epidemic will re-emerge. The focus is on attempts to strengthen the healthcare system. Since its outbreak, the epidemic has claimed more than 2,000 lives.

The future of emergency preparedness is also currently being discussed at the WHO. One consideration is the introduction of a kind of traffic-light system that would provide more room for manoeuvre than the current regulation, which only provides for the possibility to declare a "health emergency".

Other topics at the WHO Executive Board: medication prices, preparations for the World Health Assembly in May. At the margins of the

Executive Board of the WHO, the Belgian Hans Kluge was elected the new regional director for Europe.

On 25 January the 51 year-old WHO Director for Universal Health Coverage, the Australian Dr. Peter Salama, died unexpectedly.

### **First Global Refugee Forum – a hopeful start**

Exactly one year after the acceptance of the Global Compact on Refugees (GCR) on 17 December 2018 by 181 states at the UN General Assembly in New York<sup>5</sup>, around 3.000 representatives from governments, international organisations, foundations, multinational companies, development organisations, civil society and more than 70 refugees came together in Geneva from 16-18 December 2019 for the first Global Refugee Forum (GRF). The prominent guests at the Palace of Nations included the heads of state and government of Turkey, Pakistan, Costa Rica and the Dominican Republic. The UN High Commissioner for Refugees, Filippo Grandi, and UN General Secretary Antonio Guterres called for a decisive turnaround in the new decade that will provide long-term support to the ca. 70 million displaced persons, including 25.9 million refugees.

In the unanimous view of several observers, the forum, organised by Germany, Turkey, Pakistan, Costa Rica and Ethiopia, exceeded the (admittedly modest) expectations. As well as the surprisingly high number of participants, more than 893 pledges<sup>6</sup> of a material and technical nature, more than 10 billion US dollars of financial aid, and 400 best-practice projects prompted a generally positive mood. The primary objective was to ensure improved access for refugees to education and the employment market. A further positive surprise was the great interest shown by the private sector. Even though some heads of state (Turkey and Pakistan) used the forum, as expected, for heavily ideological declarations, the level of politicisation was generally lower than previously feared.

<sup>4</sup> <https://www.healthpolicy-watch.org/containment-is-objective-says-who-head-as-new-coronavirus-clusters-emerge-in-france-who-team-lands-in-china/>

<sup>5</sup> For voting behaviour see Map of the Month December 2019: <https://www.kas.de/de/web/multilateraler-dialog-genf/map-of-the-month/detail/-/content/migration-3>

<sup>6</sup> For more details on the pledges: <https://globalcompactrefugees.org/channel/pledges-contributions>

However, the question of the sharing of responsibility among the states remained by and large untouched. To date, ca. 1/4 of the 193 UN member states bear primary responsibility as host or donor countries. Germany is the only country that belongs simultaneously to the most important host and donor countries. Therefore, one of the main tasks in the future remains ensuring the stronger involvement of the countries of the so-called "missing middle", as well as the coordination of humanitarian aid, development aid and peace promotion to combat the causes of flight and displacement. It remains to be seen in the coming months to what extent the pledges will be followed by actions. The refugee relief agency plans to publish an initial analysis of the results by March, with the first intermediate report to come in 2021. The second forum is scheduled for 2023.

## Human rights

In the Palace of the Nations, not only have numerous elevators been out of order for months – the liquidity crisis is also considerably impairing the Council's human rights mandate, the mechanisms and the treaty bodies. Not only have employees been dismissed and meetings cancelled, there is generally a pessimistic mood regarding this year's council meetings, as to whether the agenda can be addressed successfully in the timeframe provided. Even the UN Special Envoys, who investigate human rights infringements worldwide, are also impaired in their work. The Commission of Inquiry on Syria, which is currently also following the attacks on Idlib and recording breaches of international law, is still waiting for most of its money. This problem was also referred to by the former Austrian UN ambassador Tichy-Fisslberger, who was elected as the new President of the Human Rights Council on 6 December, in a personal letter to the UN General Secretary. He is expected to make a programmatic keynote address at the start of the February conference. As well as the strengthening of women's rights, climate change, new technologies and global migration, Tichy-Fisslberger wants to make the work of the council more accessible to a wider

audience. She will also advocate for a stronger integration of the Geneva topics in New York.

Between the council meeting of September 2019 and the meeting of February 2020 there were two Universal Periodic Reviews (UPRs). Since 2007, all council members subject themselves, using this mechanism, to a mutual review of their human rights situation based on the UN Charter, the Universal Declaration of Human Rights, the ratified human rights instruments, and in some cases also international humanitarian law. By far the most proposed changes were received by Egypt, followed by Iran. Beyond the routine reviews, the publication of a long-suppressed report caused a stir: On 12 February, the office of the High Commissioner for Human Rights, Michelle Bachelet, complied with a demand by the Council, made in March 2016, to create a database of companies that are active in Israeli settlements<sup>7</sup>. This resolution was passed at the time with 32 yes votes, no votes against, and 15 abstentions. The EU – including Germany – abstained, since a databank cannot adequately address the comprehensive problem. The Israeli mission in Geneva condemned the publication as discriminatory, as support for the "boycott, divestment and sanctions (BDS) movement", and declared that the High Commissioner lacked legitimacy.

The UN Human Rights Committee made what is possibly a groundbreaking decision on 21 January 2020, after many years of debate among scientists and politicians on the status of climate refugees. The committee, which monitors compliance with the International Covenant on Civil and Political Rights of 1996, as well as its supplementary protocols, concluded in the case of a claim by a citizen of the Pacific island of Kiribati that climate change can also serve as a basis for the right to claim asylum, i.e. states may not deport or refoule such people if there is a danger to life and limb<sup>8</sup>. Although this claim was rejected with the reference that there are still measures available that can yet be taken to improve the life of citizens on the Pacific island, the decision is regarded as a precedence-setting judgement nevertheless. The issue of climate refugees is already playing an increasing role

<sup>7</sup> The resolution A/HRC/RES/31/36 from 2016 can be accessed at: <https://documents-dds-ny.un.org/doc/UN-DOC/GEN/G16/082/57/PDF/G1608257.pdf?OpenElement>.

The current report A/HRC/43/71 is available at:

<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Pages/ListReports.aspx>

<sup>8</sup> The decision can be accessed at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25542&LangID=E>



in Geneva's organisations, especially in the UN's refugee agency.

This year, Germany is represented on both the UN Security Council and the Human Rights Council. As well as the cross-sectional topic of women's rights, Germany regards the rights to sanitary provision and water, the fight against human trafficking and privacy protection in the digital age as priorities.

## Setbacks in international humanitarian law

Since 1867 the International Committee of the Red Cross (ICRC) has regularly brought its national Red Cross and Red Crescent societies together with representatives of the contractual parties of the Geneva Convention (GC), in order to set the agenda for the future of international humanitarian law and for humanitarian aid in general. The debates at the conference held on from 9-12 December in Geneva were surprisingly politicised, and alarming to observers. Although resolutions were accepted on new thematic areas such as data protection, climate change, mental health and pandemics, the classical resolution on international humanitarian law<sup>9</sup> came strongly under fire. For the first time in the history of the ICRC, a passage had to be completely deleted, which obligated the contractual parties to ensure respect for and comply with the Geneva Convention in all circumstances. Although the resolutions passed are not legally binding, they represent the reference framework for the community of states. Observers therefore warn that international humanitarian law is under considerable fire from various sides, and may possibly have been set back several decades.

## Mediation efforts

After the Berlin Conference, mediation talks began in Geneva in February on the Libya conflict, in the 5+5 format, chaired by the UN Special Envoy for Libya, Ghassam Salamé. As before, this first four-day round did not concern direct talks. Salamé expects that political discussions on a peaceful solution in Libya will

commence on 26 February in Geneva. Observers judged this initial rounds of talks positively – albeit with great caution.

In contrast, the talks of the constitutional committee for Syria have stagnated. No further round of talks has taken place since the first one at the end of October 2019. Despite intensive pressure from Russia, the camp of Bashar al-Assad has little or no interest in serious discussions, and the only separation of powers that could come about at the end of such a process would be merely cosmetic.

## Personnel merry-go-round

Lively personnel-related discussions are currently ongoing in some institutions in Geneva. Some examples:

The battle to succeed the retiring Australian General Director of the World Intellectual Property Organisation (WIPO), Francis Gurry, is particularly intensive. China is proposing Wang Binying, a Deputy General Director of the WIPO. Several countries, primarily western, regard her possible election critically, on the one hand due to doubts about her independence from Beijing, on the other hand due to worries about excessive Chinese influence on multilateral organisations. Of the other candidates, Daren Tang from Singapore is seen to have good prospects. China, it is being reported, is conducting a very offensive campaign and is strongly courting votes from the African group. Observers expect that the Chinese candidate will reach the final voting round. The nominations will be decided on 4/5 March.

After the appointment of Director Arancha Gonzalez to the Spanish foreign ministry in January 2020, the Zambian Dorothy Ng'ambi Tembo has been named temporary Director of the International Trade Centre.

Candidates are already positioning themselves to succeed the WTO General Director, Ricardo Azevedo, which will not occur until 2021: These include the Swiss-Egyptian Hamid Mamdouh. The African group is trying to run a joint candidate; however, no agreement could be reached so far (reportedly, i.a. candidates from Nigeria and Benin are in the mix).

<sup>9</sup> The resolutions are accessible at: <https://rcrc-conference.org/about/33rd-international-conference/documents/>

There was a thunderbolt at UNAIDS: The female leadership trio, completed by the new Executive Director Winnie Byanyima (Uganda) at the end of last year, did not last long. The Swedish Deputy Executive Director Gunilla Carlsson left the organisation at the beginning of 2020. The step was a surprise to observers, after Carlsson had guided the organisation through a restructuring process as Interim Director.

## Comment & outlook

Early in the new year it can already be seen that 2020 is likely to be an important for the multilateral organisations in Geneva. Both the WHO and

to focus attention on selected thematic areas (with different partners). It is too soon for an assessment of the influence of this as-yet fresh initiative. At any rate, political leadership will be required from Germany in order to counteract the questioning of established humanitarian and human rights standards.

Recent months induce us to focus solely on the crises of the global order. Yet the existing glimmers of hope should not be forgotten: whether due to the Refugee Forum or advances in the improvement of healthcare in several countries. In light of the 75<sup>th</sup> anniversary of the United Nations, it is important to also highlight the small successes and the significance of seeking solutions. As far as expectations of quick answers are concerned, the last 75 years have taught us humility – and the need for a lot of patience.

the WTO must deal with different kinds of crises. At the same time, international standards continue to be under pressure, be they human rights standards, international humanitarian law, or a rules-based trading order. Germany has an important role to play in many respects: on the one hand due to its seat on the UN Human Rights Council, but also due to the EU Council presidency, which is also likely to play a role in various topics in Geneva. With its Alliance for Multilateralism, Germany aims

## Konrad-Adenauer-Stiftung e. V.

Dr. Olaf Wientzek  
Director of Multilateral Dialogue Geneva  
European and International Cooperation  
[olaf.wientzek@kas.de](mailto:olaf.wientzek@kas.de)



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