



Task Force 1
Macroeconomics, Trade, and Livelihoods:
Policy Coherence and International
Coordination



TRANSFORMING THE WTO FOR INCLUSIVE AND RESILIENT GLOBALISATION

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Abstract




The global trading system centred around the World Trade Organization (WTO) is critical for fostering international cooperation. However, currently, the WTO is facing several challenges, including its effectiveness as a negotiating body, struggles in reaching a consensus, capacity to resolve trade disputes, and limited ability to address new trade barriers. As a result, many WTO members have turned to negotiating multiple Regional Trade Agreements that may or may not align with the multilateral trading system. This policy brief proposes five ideas

for the G20's consideration: (a) take a leadership role in catalysing a WTO reform framework and developing a multi-year guideline document; (b) take bold steps to reinvigorate the WTO's dispute settlement system; (c) promote focused reforms at the WTO, particularly in areas related to the decision-making process, encouraging greater transparency; (d) encourage WTO members to expedite discussion of new and emerging issues to maintain its relevance; and (e) ensure that RTAs become more consistent with WTO rules.



The Challenge

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Despite growing fragmentation amid unfavorable geopolitics and economic developments, the WTO has continued to remain an important global economic forum that shapes crucial policy ideas. Since its inception in 1947,^a the WTO has helped expand global trade and supported investment, employment, and growth. Besides limiting discrimination through its most-favoured nation principle, it also provides greater certainty for economic openness among member countries that together represent around 98 percent of global trade.¹ It also allows smaller countries to benefit, by including them in various preferential free trade agreements (FTAs).

However, currently the WTO is facing several challenges. The WTO's effectiveness as a negotiating body has come under fire. Members continue to struggle to reach consensus over issues like agriculture subsidies, state-owned enterprises, and intellectual property rights. The institution's capacity to resolve trade disputes has become questionable with an impasse on the appointment of new appellate body members. Moreover, many view

the system as cumbersome and time consuming. The WTO is struggling to address new trade barriers present in cross-border digital trade, including e-commerce. Such issues have become more prominent in recent years as digital commerce itself has become a priority for countries post the COVID-19 pandemic. It is felt that while global supply chains and advances in technology have transformed cross-border trade, the rules governing the same have failed to keep up with these changes.

As a result, many WTO members have turned to negotiating regional trade agreements (RTAs) among like-minded trading partners, covering agendas of market access for trade and investment, harmonising regulations and adopting best practices. It is increasingly becoming difficult for the WTO to monitor these flourishing number of RTAs to see whether they are consistent with the multilateral trading system (MTS). Many times, for new issues pertaining to digital trade or climate change mitigation, which are not covered by the WTO yet, RTAs pursued by a smaller number of countries, including the US and the EU, the rules may vary significantly.

a Since the establishment of the General Agreement on Tariffs and Trade, the WTO's predecessor.



Consequently, the WTO needs to undertake reform in five key areas: prepare a multi-year guideline document to undertake reform, reinvigorate the WTO's dispute settlement system,

improve the decision-making process and enhance transparency practices, expedite discussion of new and emerging issues, and ensure that RTAs become consistent with WTO rules.



The G20's Role



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The G20 was one of the early proponents of WTO reforms. The G20 leaders statement of 2016 emphasised the member countries' "determination to ensure a rules-based, transparent, non-discriminatory, open and inclusive multilateral trading system with the World Trade Organization playing the central role"² in global trade. In 2018, the G20 leaders took this further and acknowledged that the WTO multilateral system "is currently falling short of its objectives and there is room for improvement"³. In 2019, the leaders reiterated their support for WTO reforms and promised to collaboratively work with other WTO members to reach an outcome.

The last G20 Communique of 2022 clearly articulated the G20's support

for the WTO MTS. The leaders agreed that "reforming the WTO is key in strengthening trust in the MTS"⁴. They promised to "ensure a level playing field and fair competition to foster a favourable trade and investment environment for all"⁵. While congratulating the WTO on the successful conclusion of the 12th WTO Ministerial Conference (MC12), they promised to advance the positive momentum for further discussions on WTO reforms to improve its functions. This mirrored a similar pledge made by the G7 leaders to push for WTO reforms in time for MC13.


It is now up to India's G20 presidency to bring the G20 leaders together to translate this political message into real and tangible action, as we inch towards the MC13 in February 2024.



Recommendations to the G20



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The G20 members have the capacity to undertake a range of measures to support WTO reforms. The reforms should be seen as a continuing effort toward strengthening the MTS. The first two recommendations described below represent immediate actions that the G20 members can take to define the direction of the reforms and to address pressing concerns within the MTS. The subsequent recommendations embody essential measures that WTO members can execute, reinforced by political backing from the G20 members. The last recommendation may not be the main agenda when it comes to the WTO reforms, but it is still important as it supports building an effective MTS.

Take the Lead in Catalysing a WTO Reform Framework and a Multi-Year Guideline Document

The G20 should continue to take a leadership role in convincing its members to support WTO reforms. The G20 economies together account for 75 percent of international trade and 85 percent of global GDP.⁶ The forum covers both high- and medium-income countries from regions across the world. The G20's constructive role

in strengthening the MTS will signal the constituent countries' willingness to keep markets open and predictable, while emphasising their intention to address supply chain bottlenecks to create cost-effective global value chains (GVCs).

This will be crucial at a time when unpleasant geopolitics is fragmenting the global economy, jeopardising domestic growth prospects. Worries over future supply chain resilience may lead to a reconfiguration of GVCs, reflected in discussions over reshoring, nearshoring and friendshoring. This may result in global GDP losses. Some recent studies estimate⁷ that the cost of trade fragmentation could range from 0.2 percent of global output to almost 7 percent in a severe scenario. Adding technological decoupling to this, some countries may see losses up to 12 percent of GDP. Developing countries will suffer more than their advanced counterparts. In light of these possibilities, stronger cooperation through the MTS is a wiser way to tackle common challenges rather than adhering to strategic competition.

The G20 can take an initiative to propose a Common Framework and




Guideline for WTO Reforms, leading up to the WTO MC13 in 2024. While there is a shared understanding that the WTO does need reforms, there are many proposals from member countries that carry wide-ranging issues depending on the interests of each country or group. There is also a lack of clear modality and approach to reforming the WTO. Therefore, it is important to restore a sense of common purpose before modernising some rules and principles, in addition to developing the appropriate modality. The framework should discuss the subjects and areas of WTO reforms, while also proposing the mechanisms to facilitate said reforms.

The G20 members might be pressed for time to come up with a common framework during India's ongoing presidency. However, the leaders have the power to authorise relevant international organisations to develop a draft to be discussed during the Trade and Investment Working Group meetings under the G20 next year. It should be included in the Trade and Investment Ministerial Declaration and mentioned in the G20 Summit Leader's Declaration this year.

Take Bold Steps to Reinvalidate the WTO's Dispute Settlement System

The dispute settlement body (DSB) at the WTO has, over the years, effectively supported the formation of a multilateral trading system. However, there are several issues that are often raised by members. The process of dispute resolution at the DSB and the appeal process that follows, often take too long. There are also criticisms of the decision-making procedures within the DSB. In addition, the absence of strong decision-making at the DSB is often because of a weak jurisprudential framework in trade remedies. The failure to appoint new appellate body members since 2019 has effectively put the dispute settlement mechanism into disarray since most decisions being appealed cannot get a final ruling.

The situation needs to be resolved promptly to recover confidence in the DSB and in the multilateral trading system in general. In the short term, the G20 should promote two proposed solutions to other WTO members. First, the G20 should encourage WTO



members to accept decisions by the DSB as a final ruling, without the need to bring the decision to the Appellate Body. Alternatively, the G20 can encourage more WTO members to join the Multi-Party Interim Appeal Arbitration Arrangement, a plurilateral approach that could serve as an alternative to the non-functioning WTO Appellate Body.

These two approaches would likely be resisted by the United States, since it has heavily criticised the dispute settlement process for frequently overstepping its limits and often going beyond the WTO agreement itself. India, however, should take a bold step to include these suggestions in this year's Leaders' Declaration. This, however, should not overshadow efforts to reform the WTO's dispute settlement mechanism as proposed by some WTO member countries.

Promote Focused WTO Reforms

The G20 is in a good position to support a multilateral trading system that functions well and delivers effective results. It could start by advancing three main functions of the WTO.

Revisit the WTO decision-making process and adopt plurilateral negotiation

Given the concerns over the WTO's capability as a negotiating body, it seems unlikely that WTO members can bridge their differences in multilateral negotiations over new issues, such as subsidies to state-owned enterprises, inclusion of decarbonisation commitments in trade, and data localisation and cross-border data flow in an increasingly digitised society. Drafting new rules for the WTO is also complicated by the stalled reforms at the WTO's dispute settlement body. In this scenario, there are two possibilities:

- Incorporating a plurilateral process based on sectoral cooperation, instead of relying on the current single-undertaking approach: Plurilateral negotiations, involving subsets of WTO members rather than all members should become the new norm to tackle newer issues on the trade agenda. It can be carried out by refining the procedures of plurilateral negotiations to make them more accommodative to the multiple interests of the membership.

A policy brief proposed during T20 Indonesia in 2022 titled, “Exploration of New Methodologies and Configurations for an Effective WTO and to Strengthen the Multilateral Trading System” suggests a hierarchical framework for the discussion of certain trade issues, like e-commerce, that can provide sufficient flexibility to WTO members, especially those from developing countries.⁸

- Giving up consensus-based decision making and adopting majority voting or the ‘minus X’ formula: The ‘minus X’ formula, adopted by The Association of South East Asian Nations, implies that countries that are not ready to join immediately can do so in the future. The WTO is not unfamiliar with this practice. One example is the reference paper on telecommunication services that set common guidelines for a regulatory framework to support the transition of the telecommunications sector to a competitive marketplace. It was initially adopted by 61 members while others implemented it later.⁹

Increasing transparency of trade policies

Transparency of trade policies and measures is one of the main factors that determine the success of the WTO. Several mechanisms have been formulated to support a transparency norm, such as the Trade Policy Review (TPR) where member countries can ask questions to other members who are undergoing a review period, or the notification obligation for various trade policies that affect other members. However, many members find it difficult to carry out these obligations and mechanisms. The G20 can support the two recommendations below for a more effective monitoring, review, and notification mechanism at the WTO.

- All changes in policy that are introduced by a country and influence international trade and investment should be notified. This would involve a combination of an improvement of the G20 self-notification process that is already undertaken twice a year and an interim report under the more comprehensive TPR mechanism undertaken every few years (depending on the country).

- This improved notification and review process should be linked with a technical assistance set-up for less developed countries. Such assistance could focus on strengthening the capacity of the review and notification process in those countries, but can also be directed towards more general trade capacity building and facilitation.
- Subsidies, including those in agriculture and fisheries
- Competitive neutrality, including transparency to support state owned enterprises
- Digital trade, e-commerce, and free cross-border data flow
- Environment and climate-related trade policies and measures

Encourage WTO Members to Expedite Discussion of New and Emerging Issues to Maintain its Relevance

There are numerous contentious issues that could take a long time to be resolved but require a clear direction from the G20. Agreement on the direction for reforms based on a thorough discussion of these issues could help ease tensions between different economies. Some of these issues have been tackled in regional and bilateral agreements in the absence of a multilateral framework. Some of the important areas that need to be included under WTO's multilateral trading system are listed below.

- Intellectual property rights

Frank and good faith discussions of these issues present G20 members with an opportunity to realistically set the direction and formulate principles for reforms at the WTO. Agreement among the G20 members on a strategic direction will help to bring on board the broader WTO membership through a transparent and inclusive process. WTO members can then deal with issues which are clearly better dealt with in a multilateral context rather than through regional or bilateral arrangements.

Ensure that FTAs Become More Consistent with WTO Rules

Regional trade agreements that serve as building blocks for the MTS are essential for effective global trade governance. The G20 should promote greater




consistency between rules made by the RTAs and those enforced by the WTO. This is particularly important since Asia and the Pacific region are covered by two mega-regionals, namely the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Transpacific Partnership (CPTPP) Agreements. Both these agreements cover a substantial proportion of the global GDP and international trade, which are expected to be higher as new members join the groupings. The G20 should ensure that the international trade rulebook at the global level should not be hijacked by mega-RTAs, advancing trade fragmentation and strategic competition among major economies.

It is crucial that RTAs support the WTO's MTS. Till recently, RTAs have permeated like-minded countries to commit to rules and commitments that go beyond rule-making capacities at a multilateral level. In fact, many rules at the RTA level have helped shape agreements at the WTO. These include, services, intellectual property, environmental goods and standards, investment and competition policies, and others. The WTO does recognise that RTAs can benefit countries and accordingly has established The

General Agreement on Tariffs and Trade Article 24 that allows RTAs to be set up under special circumstances, subject to the RTA meeting a certain set of conditions. The Article says that RTAs should promote free trade among the participating countries without barriers being raised on trade with non-participating members, thus implying that RTAs should complement the MTS and not threaten it. However, the WTO also understands that under certain circumstances, RTAs could also hurt the trade interests of non-participating countries as they violate the WTO's principle of equal treatment for all trading partners ("most-favoured-nation").

The WTO has established the Regional Trade Agreements Committee to examine RTAs and understand their extent of consistency with WTO rules. Transparency mechanisms for RTAs were enhanced to provide for early notification by WTO members of RTA negotiations. However, with the proliferation of RTAs since the early 2000s, it has become difficult for the WTO to efficiently monitor the consistency of FTAs with WTO rules. Some countries, including the US and the EU, have pursued RTAs based on new issues as discussed above, leading



to varied rules and policies. Now with the RCEP and the CPTPP, similar fears prevail. The G20 should ensure that the mega-regionals play the role of building

blocks to the MTS and the new issues covered under them should find place for larger discussion at the WTO.

Attribution: Yose Rizal Damuri and Sanchita Basu Das, “Transforming the WTO for Inclusive and Resilient Globalisation,” *T20 Policy Brief*, July 2023.

Endnotes

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