



ODUMUNC 2024 Issue Brief
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The future of the World Trade Organization and international free trade

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Introduction

If the world trading system collapses, the results for everyone—all eight billion of us—is dire. Globalized trade maintains the livelihoods of billions of people, while keeping consumer prices low. It provides work, keeps consumers satisfied, and promotes political stability. But the world trading system faces greater stress today than any time since the 1930s.

A major problem for ODUMUNC 48 is how to preserve and promote every that is best about world trade. How to restrain states from acting only for their unique interests, at the expense of everyone else? How to restore the functioning of the World Trade Organization (WTO), which is intended to make the trade system work efficiently, when states are increasingly skeptical?



Container ports all look the same. And that's the whole point; extraordinary efficiency. Here: the Port of Los Angeles.

Ever since the era of post-cold war globalization began, a succession of shocks provoked prophecies of its demise. The 9/11 attacks, the global financial crisis of 2007-08, Covid-19 lockdowns 2020-22, Russia's invasion of Ukraine in 2022: each brought fears that sand would clog the wheels of global trade. Each time, the system has survived and thrived. Supply chains continue to encircle the world, while digital technology paves the way for new forms of globalization.

Global trade now faces its biggest challenge yet: the great-power rivalry between the US and China. In 2019, the former Australian Prime Minister Kevin Rudd said that declining trade, a 'fully decoupled world', would undermine 'the global economic growth assumptions of the last 40 years, heralding the return of an iron curtain between East and West.'¹

The most extreme threat to global trade comes from the US-China contest. Beijing and Washington are using subsidies, tariffs (taxes to stop imports, especially taxes by the United States on goods from China) and export controls (taxes and quota to stop exports of raw materials, such as rare earth elements required to make advanced batteries). China and the US are competing world-wide for critical minerals and technological advantages in semiconductors, clean energy, telecoms, electric vehicles, AI, and quantum computing. There is widespread

¹ Beattie, Alan. 2024. 'Can globalization survive?' *Financial Times*, 6 September 2024,

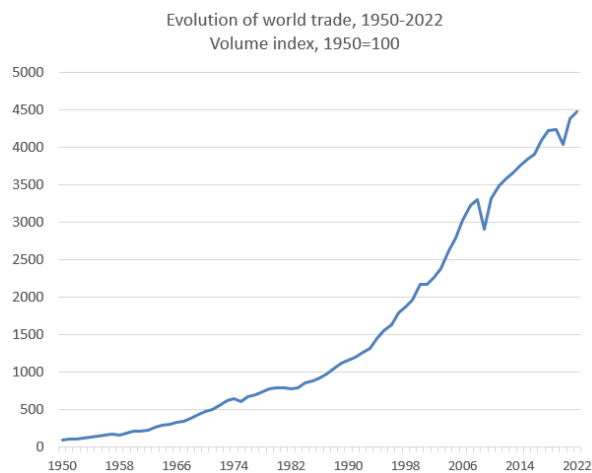
<https://www.ft.com/content/611a48d5-8c1a-40de-a062-f1286499c3f3>



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suspicion that free trade is their enemy, not their goal.²



Sustainable? An amazing global trend, world trade 1950-2022, now in danger

What is the WTO?

The global free trade system is supposed to be maintained by the World Trade Organization. International trade involves the exchange of goods and services and capital between countries. This allows countries to access products and services they might not produce efficiently themselves; it also enhances economic growth through cooperation and competition. Furthermore, trade contributes to global efficiency. Because when a country opens up to trade, capital and labor shift toward industries in which they are used more efficiently. As such, it provides society a higher level of economic welfare.³

The story begins with the General Agreement on Trade and Tariffs (GATT), created in 1948. This gave birth to World Trade Organization (WTO) which shaped international free trade agreements. The WTO is an international institution solely responsible for international trade agreements between countries trading in goods, services, and intellectual property along its fundamental objective of assisting countries in shaping the global trade landscape, which directly impacts economies, businesses, and consumers worldwide.

The WTO is responsible for resolving trade disputes, monitoring trade policies, facilitating negotiation, and providing technical assistance and training. The future of the WTO and international free trade will be to balance its advantages with national sovereignty and economic security, while ensuring equitable development.

In as much as international free trade and the WTO are critical to the global economy with the potential to promote economic growth, job creation, and development, the ability to adapt to challenges while maintaining the core principles of free and fair trade will be crucial for the continued relevance and success of the global trading system.

Further concerns on job displacement, environmental degradation, and the erosion of national sovereignty, among other issues, put the future of international free trade and the World Trade Organization at a critical juncture: of

² Ibid.

³ McDonald, B. 2009. 'Nations are almost always better off when they buy and sell from one another',

IMF Finance & Development Magazine, (December 2009):
<https://www.imf.org/en/Publications/fandd/issues/Series/Back-to-Basics/Trade#>



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Where trading stops? WTO headquarters, Geneva, Switzerland

trying to balance its key challenges and opportunities for policymakers and stakeholders in international trade negotiations.

Background

Since its establishment in 1995, the WTO has been instrumental in reducing trade barriers for goods and services, as well as providing a process for dispute resolution that reduces the threat of trade wars⁴. Although the WTO replaced the GATT, the GATT trading system provided the regular trading system's rules for the WTO. Where the GATT mainly dealt with trade in goods, the WTO and its agreements now cover trading gaps in goods and services, inventions, creations, and intellectual property.⁵ In general, its objective is to help its members

⁴ McBride, J., & A. Siripurapu, "What's Next for the WTO?" *Council on Foreign Relations*. (June 10, 2022): <https://www.cfr.org/background/whats-next-wto>

⁵ World Trade Organization (WTO), "World Trade Organization Annual Report 2014: A brief history WTO Ministerial Conference." *WTO*, (2014): 1-8. https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep14_chap3_e.pdf

use trade to raise living standards, create jobs, and improve people's lives.⁶ The WTO also handles trade in services, and its dispute settlement system is faster and more automatic than the GATT system. Its rulings also cannot be blocked.

The structure of the WTO is dominated by the highest authority, which includes the Ministerial Conference, the General Council, Councils for Trade, Committees and Working Groups, and the Secretariat. The Ministerial Conference is the highest decision-making authority in the WTO, which generally consists of all member states, represented by their trade minister. They are expected to meet at least every two years and can take decisions on any matter under any of the multilateral trade agreements.⁷

Day-to-day work of the WTO is handled by three bodies: the General Council, Council for Trade, and the Secretariat. The General Council is composed of all WTO members and is required to report to and represent the Ministerial Conference. It's also expected to carry out its routine tasks. The Council for Trade oversees the implementation of all WTO agreements covering trade in goods.⁸

The Secretariat, consisting of over 500 people, provides technical support to various councils, committees, and conferences, as well as providing technical assistance to developing countries. It also provides basic information on

⁶ WTO, (2023) "World Trade Report 2023." *WTO*, (September 1, 2023): 1-129. <https://www.wto-ilibrary.org/content/books/9789287074102/read>

⁷ WTO, "Understanding the WTO." *WTO*, (2015): 1-116. https://www.wto.org/english/thewto_e/whatis_e/tif_e/understanding_e.pdf

⁸ World Trade Organization (WTO) (2024)(a). "History of the multilateral trading system." *WTO*, https://www.wto.org/english/thewto_e/history_e/history_e.htm



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the operations of the WTO to help governments, the public, and the press. The Secretariat helps in the settlement of disputes by providing legal advice and assisting governments that are seeking to become a member of the WTO.⁹

The Secretariat is funded from the regular budget of the WTO, to which all members contribute. Its annual funding demand amounts to approximately \$135 million, to which the United States is the top contributor. The WTO budget also supports the International Trade Center, a capacity-building organization supported by the WTO and the United Nations Conference on Trade and Development (UNCTAD).



Never easy: trade negotiations between the Prime Ministers of India and the United Kingdom

The WTO ruling document consists of over 25,000 pages of rights and obligations of its members in three main areas: goods, services, and intellectual property. Some of the agreements covers multiple aspects under the WTO, including the GATT, the General Agreement on Trade in Services (GATS), Trade Related Intellectual Property Rights (TRIPS), Trade Related Investment Measures (TRIMS),

the Agreement on the Application of Sanitary and Phytosanitary Standards (SPS), the Financial Services Agreement (FSA), and the Agreement on Agriculture (AoA).

These rules have helped to facilitate negotiation and have collectively contributed to an open, fair, and efficient global trading system and provided technical assistance and training to member states. The agreements cover a wide range of topics, including trade-related intellectual property rights, food safety and health protection measures, financial services, trade-related investment measures, and agricultural products. Some of the current crises surrounding the WTO's dispute settlement function are rooted in the failure of collective action and intergovernmental negotiation function, protectionism from major powers, and systemic transparency, among other things. Some policies, including the trade policy review mechanism (TPRM), the Uruguay Round, the Doha round, and others have addressed some of these issues.

Trade policy review mechanism (TPRM) is the most institutionalized form of trade regime information system for the WTO, which was put in place to enhance transparency and understanding of trade policies and practices among member countries¹⁰. The goal of TPRM is to promote members, by their continued collective review and assessment of each other's policies and practices in light of agreed commitments, towards greater conformity with rules. This mechanism allows for regular reviews of national trade policies, providing a comprehensive analysis and fostering a better understanding among members. This helps to ensure that trade policies are consistent with

⁹ World Trade Organization (WTO), "WTO in Brief." *WTO*, (2023): 8.
https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.pdf

¹⁰ World Trade Organization, "Understanding the WTO." *WTO*, (2015): 1-116.
https://www.wto.org/english/thewto_e/whatis_e/tif_e/understanding_e.pdf.



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WTO rules and promote a more predictable trading environment.¹¹

The TRIP negotiations developed a framework to deal with international trade in counterfeit goods, which entitled the contracting parties to take necessary measures to protect patents, trademarks, and more. It also made provisions for adequate standards and principles concerning the availability, scope, and the use of trade-related intellectual property right.¹² The negotiation finally tackled agricultural protectionism on a broader scale and erased the quotas for textiles and clothing. This resulted in substantial tariff reduction and improved market access for goods and services that boosted global trade. While the rounds established a more robust dispute resolution mechanism that enhanced its ability to resolve trade conflicts, the future strategies remain unclear.

On the other hand, the outcome and the effect of the Uruguay round very much influenced the launch of the Doha round. The Doha round introduced a new set of negotiations that brought agricultural products closer to the basic principle of the GATT/WTO, making them tariff only and replacing all quantitative restrictions with tariffs. The Doha Round has made significant progress in addressing agricultural product challenges and promoting sustainable agricultural practices. The focus was to solve the problems of developing countries, and so it made a central effort to integrate them into a global trading system by reducing agricultural subsidy and tariffs for developing economies. The tariffication process

involves member countries cutting the newly committed tariffs by an average of 36% in equal steps over six years, while developing countries make 24% cuts over ten years.

The Doha Round is the latest round of trade negotiations among the WTO members. Its goal is to achieve major reforms in the international trading system by introducing lower trade barriers and revised trade rules. The work program addresses roughly 20 trade areas. The Round is also known as the Doha Development Agenda because its fundamental objective is to improve developing countries' trading prospects. The Doha Round was to be an ambitious effort that followed on the heels of the failed 1999 talks at Seattle's WTO Ministerial Conference.

The WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001 officially launched the Round. The Doha Ministerial Declaration provided the mandate for the negotiations, including on agriculture, services, and an intellectual property topic that began earlier.¹³ In Doha, ministers also approved a decision on how to address the problems developing countries face in implementing the current WTO agreements.

Even with Doha stalled, WTO talks have continued through plurilateral negotiations, which are agreements among subsets of WTO members. These deals are easier to negotiate as they are narrower in focus and not all members are bound by their terms. Examples include the 2015 Nairobi talks, the Trade in Services

¹¹ Ghosh, A. "Developing countries in the WTO trade policy review mechanism." *World Trade Review* 9(3), (June 25, 2010): 420. <https://doi.org/10.1017/S1474745610000261>

¹² Kleen, P., "So alike and yet so different: A comparison of the Uruguay Round and the Doha Round." *European Centre for International Political Economy*. (February 2008): 10. [https://ecipe.org/wp-](https://ecipe.org/wp-content/uploads/2014/12/so-alike-and-yet-so-different-a-comparison-of-the-uruguay-round-and-the-doha-round.pdf)

[content/uploads/2014/12/so-alike-and-yet-so-different-a-comparison-of-the-uruguay-round-and-the-doha-round.pdf](https://ecipe.org/wp-content/uploads/2014/12/so-alike-and-yet-so-different-a-comparison-of-the-uruguay-round-and-the-doha-round.pdf)

¹³ Monge, E.F. "Fisheries Subsidies Agreement: What's the Big Deal?" *PEW*, (May 10, 2023): <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2023/05/fisheries-subsidies-agreement-whats-the-big-deal>



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Agreement (TiSA), the Government Procurement Agreement (GPA), and the Environmental Goods Agreement (EGA). Many countries have also turned to bilateral free trade agreements (FTAs) or larger regional ones.¹⁴



A meeting of WTO member states at the organization's headquarters in Geneva, Switzerland.

Current situation

The WTO has been widely criticized for its slow decision-making and inability to adapt to the structure of negotiated outcomes, and faces challenges in controversial issues such as tariff and trade barriers, labor standards, environmental standards, intellectual property rights, and food security. These issues are crucial for maintaining free and fair trade, ensuring the stability of global economic

governance, and preventing trade wars and unilateral actions that could disrupt global trade.

This further reinforces the reputation of the WTO as being ineffective and biased in favoring developed countries over developing countries. It is the most significant barrier to pursuing and achieving its goal due to its broken dispute settlement systems, ineffective negotiation mechanisms, and ambiguous policies leading to gross self-interested exploitation. This could undermine the legitimacy of WTO governance and question the equity of WTO rules and practices, thus destabilizing international trade relations and economic growth.¹⁵

The WTO also faces criticism as an institution that is too weak and functionally incapacitated. A sense of structure strong enough to maintain a stable and predictable trading environment is crucial if it wishes to retain credibility. More so, considering other aspects like global governance and international cooperation at large, the future will have even bigger stakes. In a world of dynamic change, shared endeavor is key to promoting global trade and keeping the trading system stable and predictable in order to accommodate the new international reality. The crises confronting the WTO are burdensome and require reform, with specific attention to enhancing negotiation processes, improving dispute settlement mechanisms by addressing factors such as US-China competition, security, and societal concerns.¹⁶

In the US-China trade conflict, the United States has been particularly critical of the WTO's inability to counter unfair trading practices by

¹⁴ WTO (2024)(b), "The Doha Round." *WTO*, https://www.wto.org/english/tratop_e/dda_e/dda_e.htm

¹⁵ Burke, R., "Trade Troubles: Do We Still Need the WTO? The WTO injects more tension than trust into the international system." *The Diplomat*. (September

2, 2022): <https://thediplomat.com/2022/09/trade-troubles-do-we-still-need-the-wto/>

¹⁶ Shi, J., "The Quest for the Future of the WTO: From the Perspective of World Order." *Yale Journal of International Law*. (June 1, 2024): <https://www.yjil.yale.edu/the-quest-for-the-future-of-the-wto/>



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China and other countries, mostly regarding China's overproduction of steel and aluminum being a threat to U.S. national security. And thus, it justifies the imposed import tariffs levied on Chinese goods.¹⁷ Other countries have also criticized the WTO's slow-moving system for settling trade disputes and that the panel often overreaches in its rulings. It is also seen as ill-equipped to deal with the challenge posed by the Chinese economy's unconventional blend of capitalism and state control.

Due to the WTO's incapability of dealing with China's unfair trade practices, the US was willing to bypass the WTO, which could have led to the end of the institution, under former President Donald Trump.¹⁸ The WTO-led tariff reductions are a prime example, as import competition has negatively impacted US jobs and wages. They criticize Chinese state-led development policy, arguing that while the U.S. has adhered to global trade rules, China has gained an advantage by ignoring global trade rules. President Biden has largely maintained this approach by imposing unilateral tariffs.¹⁹ The US is the most active participant in the WTO, filing 124 complaints and serving as a defendant in 156 cases.²⁰ The US has increasingly used the WTO to challenge Chinese government support for domestic industries, import restrictions, and intellectual property abuse.

Likewise, the WTO dispute settlement mechanism is on the brink of collapse as the US continues to block appointments to the WTO's

Appellate Body, effectively disabling its ability to enforce rulings and leaving disputes unsolved. The WTO has a dispute settlement mechanism where WTO-appointed trade experts can deliver binding rulings and others endorse efforts at reform. When a member files a complaint against another, countries must first sort the matter through consultation. If the issue is not resolved, a panel chosen by the WTO's Dispute Settlement Body will hear the case.

If the country fails to respond, the plaintiff can take retaliatory measures such as blocking imports or raising tariffs. During the Obama administration, the US refused to re-appoint a US Appellate Body member for a second term and objected to the reappointment of a South Korean Appellate Body member. However, the Trump administration refused to agree to the appointment of any Appellate Body members as their terms expired. This resulted in the absence of an Appellate Body to hear appeals.²¹ This move was part of a broader strategy to challenge what the US saw as the WTO's failure to address China's unfair trade practice and constraints on US sovereignty. The Biden administration has continued some of these policies, emphasizing the need for WTO reform while maintaining a tough stance on China.

¹⁷ Keaten, J., and P. Wiseman, "World trade without rules? U.S. shuts down WTO appeals court." *Associated Press*. (December 9, 2019):

<https://apnews.com/general-news-8e0accfe7fb3fc10b97c87c2b7e00cd8>

¹⁸ McBride, J., & A. Siripurapu, 2022.

¹⁹ World Trade Organization (WTO) (2024)(a). "History of the multilateral trading system." *WTO*,

https://www.wto.org/english/thewto_e/history_e/history_e.htm

²⁰ McBride, J., & A. Siripurapu, 2022.

²¹ Lester, S., "Ending the WTO Dispute Settlement Crisis: Where to from here?" *International Institute for Sustainable Development*. (March 2, 2022): <https://www.iisd.org/articles/united-states-must-propose-solutions-end-wto-dispute-settlement-crisis>



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When domestic politics overpower world trader obligations. And easy way to lose the next election or lose your job as a negotiator: irritate your country's commercial fishermen. They'll tell you what they think.

China has failed to fulfill the WTO commitment on intellectual property (IP) theft. The WTO Technical Barriers to Trade principles explain that China's violations have significantly reduced, yet technology standards developed are not transparent. As such, the WTO has lacked tools to discipline many of China's most effective mercantilist practices, including currency manipulation, IP theft, and the forced technology transfer carried out by administrative guidance rather than formal rules. Neither the WTO itself nor its member countries have ever had the political courage to take on China's misdeeds in a serious and sustained way.²²

WTO membership has helped stimulate China's phenomenal trade and economic growth. It has additionally prompted substantial domestic

policy changes in China, as the Chinese leadership sought domestic reforms to comply with multilateral trade disciplines and opposing WTO rulings in areas such as agricultural trade and intellectual property rights (IPR) protection.

In the latter case, for example, the WTO's agreement on the Trade-related Aspects of Intellectual Property Rights (TRIPS) has generated many benefits and incentivized the Chinese leadership to improve its IPR regime in an effort to encourage indigenous innovation.²³ Nevertheless, WTO rules on drug patents limit the drugs available to poorer nations. Emerging economies, led by India and South Africa, are advocating for a Trade-Related Aspects of Intellectual Property Right (TRIPS) waiver on Covid vaccines and treatments, a proposal some wealthier countries opposed.

The World Trade Organization's (WTO) intellectual property waiver for Covid vaccines drew mixed responses. The agreement authorizes eligible WTO members to use patented ingredients and processes for the production and supply of Covid vaccines without the right holder's consent.²⁴ Others argue that WTO rules overrule national sovereignty and erode environmental and labor protections, while labor unions in the United States argue that the WTO is insufficient for protecting US wages from unfair labor practices abroad.²⁵

²² Ezell, S., "False Promises II: The Continuing Gap Between China's WTO Commitments and Its Practices." *Information Technology & Innovation Foundation*. (July 26, 2021): 4.

<https://itif.org/publications/2021/07/26/false-promises-ii-continuing-gap-between-chinas-wto-commitments-and-its/>

²³ Gao, H., D. Raess, & K. Zeng, "China's 20-year engagement with the WTO: Opportunities, challenges, and responses." *World Trade Institute*.

(September 15, 2023): 1-18.

<https://www.wti.org/research/publications/1406/introduction-chinas-20-year-engagement-with-the-wto-opportunities-challenges-and-responses/>

²⁴ Siripurapu, A., "The Debate Over a Patent Waiver for COVID-19 Vaccines: What to Know?" *Council on Foreign Relations*. (May 26, 2021):

<https://www.cfr.org/in-brief/debate-over-patent-waiver-covid-19-vaccines-what-know>

²⁵ McBride, J., & A. Siripurapu, 2022.



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Role of the United Nations

The United Nations, particularly the *United Nations Conference on Trade and Development* (UNCTAD, pronounced ‘unk-tad’) is the body addressing economic and developmental issues affecting global trade. UNCTAD provides research, analysis, and policy recommendations on trade and development issues, focusing on how trade policies affect economic development and promoting fair and sustainable practices. It helps developing countries participate more equitably in the global economy and supports their efforts to use trade, investment, finance, and technology for inclusive and sustainable development. UNCTAD works with member states, international organizations, academics, non-governmental organizations, media, civil society, and youth.²⁶

Since the inception of UNCTAD, the goal has been to integrate developing countries into the multilateral trading system. Despite the massive expansion of trade and investment, effective integration remains challenging for many developing countries. Free trade has become a prominent engine for growth and development in an open, rules-based multilateral trading system, creating millions of jobs and boosting prosperity.

The success of economic transformation varies across regions and countries. Countries in Asia have seen substantial growth, but this is less true for other regions. Some developing countries managed to partake in the global economy through their commodity exports, yet were

unable to diversify. This highlights the importance of diversifying, producing higher value-added goods, and enhancing the sustainability and resilience of their economies.²⁷

Trade tension between China and the United States, the two largest economies in the world, altered their trade patterns, which has led to global trade fragmentation. Since the Ukrainian-Russian war, trade reorientation toward friend-shoring has become more sensitive to geopolitical distance. Due to this war, international trade has become more sensitive to geopolitical distance, defined as dissimilarity in voting in the United Nations General Assembly. This has led to trade flows between hypothetical geopolitical blocs growing 4-6% more slowly than within these blocs as international trade becomes more sensitive to voting distance in the UN General Assembly.²⁸

The United Nations has been involved in broader efforts to address human rights and trade-related concerns in China, which can indirectly impact IPR practices, particularly in the Xinjiang Uyghur Autonomous Region. The UN Human Rights Office has issued assessments and reports highlighting serious human rights violations against Uyghurs and other Muslim communities. The UN has called on China to address these concerns and fulfill its international obligations. However, the UN has not passed any specific resolutions directly

²⁶ UN 15th Session (2021)(a). “United Nations Conference on Trade and Development: The Bridgetown Covenant From inequality and vulnerability to prosperity for all.” *United Nations*, (October 3-7, 2021): 1-24.
https://unctad.org/system/files/official-document/td-l-435_en.pdf

²⁷ UN 15th Session (2021)(a).

²⁸ UN General Assembly. “International trade and development. Resolution adopted by the General Assembly on 19 December 2023 under item 71(b) A/RES/78/134.” *UN*, (December 19, 2023): 1-7.
<https://research.un.org/en/docs/ga/quick/regular/>



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addressing China's intellectual property rights (IPR) and trade abuses.²⁹

UN resolutions

The World Trade Organization has approved a patent for the production and supply of Covid vaccines without the consent of the right holder to address the pandemic, in accordance with Article 31 of the TRIPS Agreement. The decision also calls for enhancing the multilateral trading system's capacity to increase pandemic and disaster preparedness and resilience through a multifaceted response, including strengthening global supply chains and rapid vaccine production expansion.³⁰

The World Trade Organization has not imposed export restrictions on foodstuffs purchased by the World Food Program for non-commercial humanitarian purposes. The organization urges members to start the effective implementation and monitoring of the Marrakesh Ministerial Decision on measures concerning the possible negative effects of the Reform Program on Least Developed and Net Food-Importing Developing Countries. Emergency measures introduced to address food security concerns must minimize trade distortions, be temporary, targeted, transparent, and implemented in accordance with World Trade Organization rules.

The WTO plays a big role helping countries fulfill the UN's Sustainable Development Goals, the UN structure to guide global development.³¹

For example, SDG 17 "Partnership for the Goal" focuses on trade. The SDGs mandate UN member states to promote meaningful trade liberalization over 15 years to maximize trade's contribution to sustainable development goals, with international trade expected to play a crucial role in achieving these goals.³²

Major country positions

China: China has agreed to a WTO deal aimed at limiting harmful fishery subsidies. The minister of China commerce, Wang Wentao, hailed the agreement as "the first WTO agreement aimed at achieving the goal of environmentally sustainable development" and a "significant agreement to boost the confidence of all members in multilateralism." China's support for the implementation of this agreement is critical to multilateral efforts to safeguard oceans, food security, and livelihoods. This announcement was made at the World Economic Forum's 14th Annual Meeting of the New Champions in Tianjin, China.³³

China has endorsed the negotiations on vaccines. Western-made mRNA vaccines are the most effective and in-demand vaccines due to their wealth and geographic distribution. These vaccines were reserved early during the pandemic, shutting out lower-income countries. As of March 23, 2021, the United States had vaccinated 28 percent of its population, while

²⁹ Feingold, S., "China formally accepts WTO agreement on harmful fisheries subsidies at AMNC23." *World Economic Forum*. (June 28, 2023):

<https://www.weforum.org/agenda/2023/06/amnc23-china-formally-accepts-wto-agreement-on-harmful-fisheries-subsidies/>

³⁰ UN (2024)(b).

³¹ UN (2024)(b).

³² UN (2024)(b).

³³ UN News (2021)(b).



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low-income countries currently have a 28% vaccination rate.³⁴

European Union: The EU opposes India and South Africa's proposal to temporarily waive certain intellectual property rules, which would expand access to lifesaving vaccines and health products. Human Rights Watch and hundreds of other civil society organizations are urging support for the TRIPS waiver.³⁵ WTO negotiations are slow and could take months to reach an agreement, especially over a TRIPS waiver. Decisions are usually unanimous, and a TRIPS waiver could be granted by a three-quarters vote of WTO members.

The European Union is open to negotiations, but Germany opposes a waiver, and other EU and WTO members are skeptical. The EU is pushing its own plan to boost vaccine production, increase exports, and improve compulsory licensing.³⁶

The European Parliament adopted a resolution to address the Covid challenge, urging for a temporary TRIPS waiver to improve global access to Covid-related medical products. The resolution also addresses the trade-related impacts of Covid, urging the Commission to revisit the global framework for intellectual property rights and open a constructive dialogue on the TRIPS waiver to prevent retaliation over patent infringements.³⁷

WTO members, including Australia, Japan, Norway, Singapore, South Korea, Switzerland, and Taiwan, are considering text-based negotiations on a temporary TRIPS waiver. The Ottawa Group, including the EU, has proposed a WTO trade and health initiative, including trade facilitation and liberalization of tariffs for pharmaceutical and medical products (Borges, 2023).

The EU, alongside other countries, are making efforts to solve the appellation body since its blockage beginning in 2019. To mitigate this, the EU established a multiparty interim appeal arbitration arrangement (MPIA) in 2020, and the sole objective of MPIA is to ensure the participating members can still function in an independent and impartial appeal stage as a two-step dispute settlement system.³⁸

India and South Africa: As leaders of the 120 Member States Non-Aligned Movement, these two carry great weight. The initial proposal put forward by South Africa and India in October 2020, backed by over 100 countries, called for a waiver of TRIPS protections for Covid medical products, including vaccines, medicines, diagnostics, personal protective equipment, and ventilators. A WHO official said that the draft proposal does not cover copyrighted information and trade secrets to produce vaccines, treatments, and devices to treat Covid, and excludes many countries. The proposal stipulates that only developing countries in the

³⁴ UN. "UN human rights experts urge China to allow them 'full access.'" *UN News*, (June 10, 2022): <https://news.un.org/en/story/2022/06/1120172>

³⁵ Akhtar, H., & I. Fergusson, "Potential WTO TRIPS Waiver and COVID-19." *Congressional Research Service Insight*. (June 4, 2021): 1-3. <https://crsreports.congress.gov/product/pdf/IN/IN11662>

³⁶ So, A., "WTO TRIPS Waiver for COVID-19 Vaccines." *John Hopkins: Bloomberg School of*

Public Health. (May 10, 2021): <https://publichealth.jhu.edu/2021/wto-trips-waiver-for-Covid-19-vaccines>

³⁷ Titievskaia, J. "International trade dispute settlement: WTO Appellate Body crisis and the multiparty interim appeal arrangement." *European Parliamentary Research Service*, (April 14, 2021). [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2021\)690521](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2021)690521)

³⁸ Titievskaia, J. April 2021.



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WTO that exported less than 10% of world exports of Covid vaccines in 2021 would be eligible, which excludes countries such as China.³⁹ A measure to allow countries to temporarily override patent rights for pandemic-related medical products was proposed at the World Trade Organization by India and South Africa in October and has since been backed by almost 60 countries.

Amid concerns over access to Covid vaccines and treatments, India and South Africa proposed a waiver of certain provisions of the TRIPS Agreement to allow for increased manufacture and distribution. Following initial opposition from leading developed countries and ambivalence from key developing countries, the proposal gained momentum when the United States announced it supported waiver negotiations, a move which China quickly followed.

Several WTO Members remain opposed to a waiver, most notably the European Union (EU), and it remains uncertain whether negotiations will conclude and a waiver will come into effect. With the EU and others remaining opposed to a waiver, arguing for revisions to the TRIPS provisions on compulsory licensing and greater use of other flexibilities to address the challenges of Covid it may be unrealistic to expect that the waiver will be completed in the short to medium term.⁴⁰



Inspection time. ‘Are you evading trade restrictions, quotas and tariffs?... Yes, this could take a while, sorry.’

Russia, like other members of the World Trade Organization, is bound by the WTO Agreement on Fisheries Subsidies, which was concluded in 2022. This agreement aims to curb harmful fisheries subsidies that contribute to overfishing and illegal, unreported, and unregulated fishing.⁴¹ The agreement establishes binding global rules to prohibit subsidies for IUU fishing and overfished stocks, marking a significant step towards sustainable fishing practices.⁴² While Russia has not been highlighted specifically in recent discussions, as a WTO member, it is expected to comply with these international regulations and work towards implementing the necessary measures to reduce harmful fishing subsidies. Similarly, following the Biden administration's support for a waiver, Russia has been proactive in vaccine diplomacy, having

³⁹ Siripurapu, A., 2021.

⁴⁰ Human Right Watch (HRW), “Seven Reasons the EU is Wrong to Oppose the TRIPS Waiver.” *HRW*. (June 3, 2021):

<https://www.hrw.org/news/2021/06/03/seven-reasons-eu-wrong-oppose-trips-waiver>

⁴¹ Titievskaja, J. April 2021.

⁴² Mercurio, B., & P.N. Upreti. "The legality of a trips waiver for Covid-19 vaccines under

international investment law." *International & Comparative Law Quarterly* 71(2), (May 2, 2022): 323-355.

<https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/legality-of-a-trips-waiver-for-Covid19-vaccines-under-international-investment-law/C5065D1883F85B0655593BC7BDC5B8DD>



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also publicly announced that they support talks on a waiver at the WTO.⁴³

Russia emphasizes the importance of resuming the operation and resolving of the appellate body. It encouraged that, without resolving the appellate body issues, other procedural improvements would be of limited value, and WTO members filing appeals are being counterproductive to restoring dispute settlement procedure. It also supports increasing opportunities for developing countries to participate in discussion and negotiation.

United States: Other countries and stakeholders argue that intellectual property rights (IPR) facilitate innovation and access to Covid treatments, and that the waiver would constrain production ability and discourage future advances. U.S. based stakeholders argue that the waiver would give China a competitive advantage, and that little evidence exists to show IPR is delaying vaccine production and distribution. Other barriers include supply chain disruptions, lack of manufacturing capacity, know-how, financing, and inadequate distribution networks in low- and middle-income countries.⁴⁴

High-income countries, including those within the EU, the UK, Japan, and Australia, have not joined the US in supporting negotiations for a TRIPS waiver.⁴⁵ Multinational pharmaceutical companies have strongly opposed the waiver, with over 100 lobbyists enlisting to oppose it. The main arguments are to protect the incentive for future pharmaceutical innovation, as companies may be reluctant to invest in new

technology if they cannot reap full financial benefits from their successes.⁴⁶



Trade negotiation: What are you going to give me? Take your time. I can wait.

Some Proposals for Action

Disband the current WTO and call for a global conference of GATT/WTO member states to allocate its trade-economic dispute settlement responsibilities to other international bodies, which have adequate resources to efficiently handle this commitment, such as the ICC, IMF, World Bank, and UN ECOSOC. Better yet, make them a unified collective in this process.

Examples of countries that favor this proposal: Argentina, Brazil, South Africa

Examples of countries that oppose this proposal: China, Egypt, European Union member states, Saudi Arabia, United Kingdom,

A new round of trade negotiations: Another avenue that the UN and WTO can pursue through negotiations is to hold another round

⁴³ Zarocostas, J., "Mixed response to COVID-19 intellectual property waiver." *The Lancet* 399(10332), (April 8, 2022): 1292-1293.

[https://doi.org/10.1016/S0140-6736\(22\)00610-9](https://doi.org/10.1016/S0140-6736(22)00610-9)

⁴⁴ Feingold, S., 2023.

⁴⁵ So, A., 2021.

⁴⁶ Wang, K., M.N. Reimer, & J.E. Wilen, "Fisheries subsidies reform in China." *Proceedings of the National Academy of Sciences* 120(26), e2300688120, (May 24, 2023): 1-8.

<https://pubmed.ncbi.nlm.nih.gov/37339217/>



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conference, much like Doha, in a developing world city, such as Addis Ababa, Dhaka, or Kinshasa. With this Round in mind, its purpose is to give global South countries a larger say in issues hampering this region, such as a lack of technological capacity, or the global North's failure of implementing their commitments promised within various Agreements. Such a summit can help promote plans to strengthen these fast-growing cities and stabilize the region to boost surviving economic growth and harmony.

Examples of countries that favor this proposal: Ethiopia, Bangladesh, Democratic Republic of the Congo, and Uganda.

Examples of countries that oppose this proposal: United Arab Emirates, China, Russia, and Hungary.

Restore confidence in the WTO: The last proposal in mind is for the global community to regain its confidence in the WTO and boost their broad compliance to its adjudications. This recommendation would necessitate a partial deglobalization process, where instead of enhanced integration of the world economy, countries and the IGO community put into motion the creation of new commercial trade routes that enable the fruition of a BRICS Banking System to serve as a secondary source of international trade financing and settle trade disputes on a global scale.

A positive aspect generated by this proposal is that it can keep the WTO operational and integrated with this new system to allow for mutual checks-and-balances. This outcome will make the WTO more efficient and popular, especially in situations where it is spread too thin, or engaged in dispute settlements with no resolutions on the horizon. It can also enhance

the standing of emergent regional middle powers, like Kenya and Ethiopia, that will certainly have influence in global trade routes and can join the BRICS apparatus. This proposal will also be widely supported by the rapidly growing BRICS economies, which can yield more cooperation on international trade.

Some negative outcomes that may arise from this strategic plan is that the U.S. and EU countries might feel threatened by such a proposal, and this will create worldwide friction, which will adversely impact the WTO's image. China's position as a global actor will be elevated to a point where its vision for global hegemony will be well secured by the BRICS Banking System and new established trade routes. This will work against the other multinational WTO members, which will have devastating effects for the WTO as well.

Examples of countries that favor this proposal: Australia, China, European Union member states, India, Thailand,

Examples of countries that oppose this proposal: Argentina, Brazil, South Africa.

Conclusions

The United Nations has been actively involved in negotiation with the WTO to address trade liberalization, assisting developing countries in their efforts to integrate into and benefits from the multilateral trading system. It promotes macroeconomic policies that promote environmental and development, fostering a mutually beneficial relationship between trade and the environment.⁴⁷

⁴⁷ International Institute for Sustainable Development (IISD), "The WTO Agreement on Fisheries

Subsidies: What it means and why it matters?" *IISD*. (December 6, 2022):



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For example, the UN agencies responsible for agriculture, environment, and trade have pledged to promote sustainable fishing trade, with a commitment that requires funding up to \$35 billion. This aims to reduce detrimental fisheries subsidies, possibly in part by requiring countries to disclose their subsidies and banning those that contribute to overfishing. There is also a need to adopt a call to action to protect the world's oceans and seas with more funding.⁴⁸

On our other major example, compulsory licensing for Covid patents will depend on procedural refinements, technological and manufacturing capabilities in developing countries, and the importance of pharmaceuticals among life-saving drugs. The Covid pandemic could redefine flexibility and enabling wider use. The TRIPS waiver extension for Covid diagnostics and therapeutics could potentially undermine global IP protection and norms, as these technologies may build upon platform technologies with applications beyond the Covid context.

The final negotiation on the TRIPS waiver for Covid vaccines will involve government investment in technology transfer, hiring new and existing manufacturing facilities, procuring materials, pooling UNICEF's procurement facilities with the Pan American Health Organization's Revolving Fund for Vaccine Access, and prioritizing second-generation vaccines that address new variants or are better suited for delivery in places without ultra-cold

chain freezers.⁴⁹ Members advocating for strong IP protection would need to propose legal text that limits the impact on the future development of revolutionary technologies like the CRISPR gene editing process (WTO, 2021). In the near future, the U.S. should commit to sharing and exchanging Covid vaccination mechanisms, especially as commitment decreases. The world must take quick action in scaling up public sector investment in the supply chain, from manufacturing to logistical delivery of these vaccines.⁵⁰

For the WTO to reach a new agreement on fisheries subsidies, all 109 members, two-thirds of its membership, must formally accept to provide detailed information about their subsidy programs, including policy objectives, form, duration, and amount. Countries must also specify the type of fishing they are subsidizing, considering factors such as fish stock status, conservation measures, catch data, and their fisheries oversight structure. Some WTO members, including Canada, the Seychelles, Singapore, Switzerland, and the United States, have already completed this process, while other members still need to follow suit.⁵¹ WTO members will continue negotiations on outstanding issues, particularly overfishing and overcapacity, to address the harmful effects of fisheries subsidies. These subsidies support fishing activities in a country's waters, transferring environmental pressures to countries

<https://www.iisd.org/articles/policy-analysis/wto-agreement-fisheries-subsidies>

⁴⁸ Yu, M., & X. Liu. "A new approach to combating illegal, unreported, and unregulated fishing: analysis of the WTO Agreement on Fisheries Subsidies." *Marine Development* 2(1), (April 7, 2024): 1-13.

<https://link.springer.com/article/10.1007/s44312-024-00023-4>

⁴⁹ Zarocostas, J., "What next for a COVID-19 intellectual property waiver?" *Lancet: London, England* 397(10288): (May 22, 2021): 1870-1873.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8137306/>

⁵⁰ UN (2024(b).

⁵¹ Monge, E.F. 2023.



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without the means to monitor and enforce basic fisheries protections.⁵²

Furthermore, for the protection of human rights and fair competition in trade matters, there should be certain provisions, like considering some China related trade abuse resolutions that can make human life smooth. The next best course of action would be to develop and compile a comprehensive list of China's unfair trade practices, like-minded countries producing catalogs of Chinese enterprises, entities and individuals who have attempted or wittingly affected IP theft for the purpose of further investigation.

The trading system's primary purpose is to maintain peace, stability, and maximize benefits from world trade. Without a reform of the WTO's role in global trade order, all members could face severe consequences. In the absence of a robust multilateral system, member countries will increasingly rely on bilateral and regional trade agreements, resulting in a fragmented global trade landscape. The WTO is crucial in negotiating trade rules and addressing global challenges, like digital trade and climate change, but without reforms, it may struggle to adapt to these evolving issues, leaving gaps in global trade governance. The lack of a cohesive global trade framework could slow down

economic growth, reducing the global GDP by 5.1% by 2030 and significantly impacting exports from developing economies.⁵³

The most significant challenge to WTO dispute settlement stems largely from increasing political and economic tensions between the United States and China, and similar conflicts involving many other member states. The voting procedure system of the WTO shares power through the consensus voting of its members.⁵⁴ However, the United States and China, who are the biggest voting bodies in the WTO, have significant influence within the WTO due to their control of major market, active participation, and strategic alliances, while also deliberately retreating from some contentious trade dispute processes.

China is imposing strictly controlled raw material export taxes, but the United States, which imports more steel than any other country in the world, will now tax billions of dollars on all sorts of goods from China to make up for it. Before levying tariffs, any member should bring their case to the WTO. If both countries ignore the WTO, it could make the organization irrelevant.⁵⁵ A continuous improvement of the voting procedure is required through periodic

⁵² Athreye, S., L. Piscitello, & K.C. Shadlen, "Twenty-five years since TRIPS: Patent policy and international business." *Journal of International Business Policy* 3, (October 12, 2020): 315–328. <https://doi.org/10.1057/s42214-020-00079-1>

⁵³ Denton, J., "WTO reform key to driving digital trade." *Hinrich Foundation*. (July 2, 2024): <https://www.hinrichfoundation.com/research/article/wto/wto-reform-key-to-driving-digital-trade/>

⁵⁴ Hale, W. "Decision Making in the World Trade Organization: Is the Consensus Practice of the World Trade Organization Adequate for Making, Revising and Implementing Rules on International Trade?"

Wilmer Cutler Pickering Hale & Dorr LLP. (September 23, 2005): 3. <https://www.wilmerhale.com/insights/publications/decision-making-in-the-world-trade-organization-is-the-consensus-practice-of-the-world-trade-organization-adequate-for-making-revising-and-implementing-rules-on-international-trade-autumn-2005>

⁵⁵ Amadeo, K., "How the WTO Resolves Trade Disputes: Trump's Tariffs Flout the WTO's Process." *The Balance*. (February 8, 2021): <https://www.thebalancemoney.com/how-does-the-wto-resolve-trade-disputes-3306363>



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reviews and reforming the rules and procedures to address imbalances.⁵⁶

Replacing the WTO with a new forum would be a complex but potentially transformative step that could help address many contemporary and future global trade challenges. It could lead to more inclusive and sustainable economic growth globally, where all countries have equal right to participation and gains from international trade. The new forum should discuss modern trade issues such as digital trade, climate change, and sustainable development.

To make a new forum sustainable, it might be made easier for members to exercise their vote if they have confidence in a transparent negotiating and decision-making process an

efficient dispute resolution mechanism, with clear timelines and procedure to ensure prompt resolution.⁵⁷ Special and differential treatment provisions will be added to help least-developed countries, while other developing countries would receive capacity-building support, allowing them to participate more effectively in global trade.

This forum will address contemporary issues, facilitate predictable trade practices that are more sustainable, and create rules and standards related to digital trade so countries can navigate through the uncertainties of a new economy. Finally, this forum would reduce hegemonic countries from having an upper hand over others and create fair trading system between nations.

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⁵⁶ Manak, I., & M.C. Miller (2024). "Responsible Consensus at the WTO Can Save the Global Trading System." *Council on Foreign Relations*. (January 22, 2024): <https://www.cfr.org/blog/responsible-consensus-wto-can-save-global-trading-system>

⁵⁷ Farge, E., "Exclusive-Reform Proposals Emerge to Fix WTO by Early 2024 – Document." *Reuters*. (October 26, 2023): <https://money.usnews.com/investing/news/articles/2023-10-26/exclusive-reform-proposals-emerge-to-fix-wto-by-early-2024-document>



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