

EXPERT ANALYSIS: SPECIAL EDITION

Reflections on WTO Reform

Lecture series by Ignacio Garcia Bercero

This special edition of our Expert Analysis presents four lectures (edited for publication) on World Trade Organization reform delivered by the author at LSE IDEAS during June-November 2022 and concluding in May 2023. The paper ends on a postscript reflecting on the perspectives on the different issues discussed in the lectures following the outcome of the 13th Ministerial Conference of the WTO in February-March 2024, as well as the November 2024 re-election of Donald Trump—on the basis of a disruptive trade policy agenda.

About the Author

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The LSE Global South Unit is a decentralised ideas hub aimed at investigating the changing role of the South in shaping the global order

I. Miracle on the Lake? - The 12th Ministerial Conference of the WTO¹

The World Trade Organization (WTO) was created in 1995 with two paramount functions: to administer a system of rules backed up by an independent and binding dispute settlement system, and to provide a forum for negotiations on rules and further market opening as well as for deliberation on global trade policy challenges.

A quick look at the history of WTO shows that until recently it has been more successful in its first function than in the second one. In more than 25 years of existence, the WTO only has delivered one new international agreement to facilitate customs procedures—the Trade Facilitation agreement concluded in 2013—and an agreement on one aspect of the agriculture reform agenda—the elimination of agriculture export subsidies in 2015. The attempt to conduct comprehensive negotiations focussed on ‘development’ failed in 2008, notably because of divergences as to the contribution to be made by the emerging economies—notably China. The Ministerial meeting of Buenos Aires in 2017 failed to agree on any multilateral outcome.

The crisis of the negotiating function of the WTO therefore predates the ongoing United States-China geopolitical conflict and is primarily focused on how the WTO should tackle development-related issues. There are deep rooted divergences on whether WTO rules excessively limit policy space for development and on how to define ‘Special and Differential Treatment’. Of course, the fact that China considers itself a developing country, and lack of trust on the effectiveness of rules to control trade distortive practices in a state-led economy, further aggravates this pre-existing development divide.

In any event, with the Trump Administration’s intensification of the US-China trade and geopolitical conflict, the WTO has also stopped performing its core dispute settlement function; since 2019, the absence of an Appellate Body implies that WTO members can no longer rely in a functioning system to adjudicate disputes.

Against this background, there was some scepticism toward the European Union’s decision in 2021 to place WTO reform at the centre of its trade policy strategy. And yet, despite the extremely tense geopolitical environment and the war of aggression in Ukraine, the Ministerial Conference held in Geneva (12-16 June 2022) counts as one of the most successful in the history of the WTO.

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1 Lecture given on 27 June 2022 at LSE Ideas.

To summarise the main outcomes:

Fisheries Subsidies agreement: Even if only a first phase agreement, its ambition is higher than that of existing bilateral (USMCA) or regional agreements (CTPP) dealing with fisheries subsidies. It therefore contradicts the narrative according to which WTO agreements can only be concluded on the basis of 'minimum common denominators'. The agreement implies real concessions by China by prohibiting any kind of subsidy for vessels operating in the unregulated high seas. It also prohibits subsidies in the case of illegal fishing or overfished stocks. For the first time the WTO has concluded a legally binding agreement based on sustainability concerns. While no agreement could be reached on disciplines on subsidies contributing to overfishing or overcapacity, negotiations to conclude a second phase agreement will continue.

Waiver for COVID-19 vaccines: This responds to a request from South Africa and other African countries, with the aim to facilitate the production of COVID-19 vaccines without the agreement of the patent holder. The decision also includes a legally binding commitment through which China commits not to avail itself of the waiver. This could be an important precedent for future discussions on Special and Differential Treatment.

Ministers also decided to launch a process of negotiations on WTO reform that includes all aspects of the functioning of the WTO, including how to tackle development issues. Crucially, there is a commitment that by 2024 negotiations should result in a fully functioning dispute settlement system. This puts WTO reform at the centre of the agenda, which was the EU's priority for the Ministerial Conference.

Apart from the above, there were also a number of Decisions and Declarations linked to food security, the WTO response to the pandemic and to the extension of the moratorium on the application of duties to e-commerce.

So, this Ministerial delivered not only one high profile result but a broad package of meaningful multilateral outcomes, including a fully-fledged international agreement that covers both sustainability and level playing field issues—the Fisheries Subsidies agreement—and two legally binding decisions—the waiver and the exemption of supplies to the World Food Programme from export restrictions).

The EU played a critical role in pushing for an ambitious outcome. Of particular importance in this connection was also the role of the Director General and a coalition of countries committed to multilateralism and WTO reform: the so-called *Ottawa Group*.

The US and China took a backseat during most of the negotiations. The US was, however, important for securing an ambitious outcome on fisheries, and the US and China negotiated a systemically important formula to exclude the latter from the TRIPS waiver—the last element agreed in the Ministerial Conference.

African/ Organisation of African, Caribbean and Pacific States (OACPS) countries were key players on all the areas of negotiations. The OACPS group was instrumental in reinforcing the commitment to negotiate on those aspects of fisheries subsidies not covered by the phase one agreement. Negotiations between the EU and South Africa were the basis for the compromises reached on the waiver and on the extension of the e-commerce moratorium.

India took initially a rather disruptive approach, which led to the extension of the Ministerial Conference by one day; in this final day of the conference, India showed readiness to compromise. The fact that India chose to present the outcome in a positive light may signal a readiness to play a more constructive approach that corresponds to its increasing economic weight and capacity to exercise influence in the reform of the Organisation.

What lessons can we draw from the outcome of MC12 and what are the prospects for WTO reform?

The successful outcome of MC12 illustrates that there is a strong geopolitical case to have a functioning rule-based multilateral trade institution. Its main function would be to avoid a total fragmentation of the global trading system resulting from the US-China geopolitical conflict. While competition for technology supremacy will continue and some degree of decoupling may be unavoidable, it is important that such competition takes place within an overall system of rules. The readiness to compromise shown by key players in MC12 is a signal that there is a general recognition of the costs of a collapse of the institutions created in 1995. Moving forward on the WTO reform agenda will, however, be much tougher and require continued strategic investment by the EU with support from the like-minded, as well as dialogue with key emerging economies—notably India and those within Africa.

A key point for any reform effort is the acceptance that the framework of rules agreed in 1995 continues to be valid, even if an update with new rules is needed. However, those rules are of limited value if they are not backed by a dispute settlement system that is effective and legitimate. Here the position of the US will be key. In the new geopolitical environment, an important issue for dispute settlement reform will be how to acknowledge the reality that WTO members will need to retain significant policy space regarding both the use of trade defence instruments and security-related restrictions.

WTO reform will need to confront head on the discussions about what is its proper role in support of 'development'. The key question here is on what role the WTO rules and procedures can play in supporting the better integration of the more vulnerable developing countries into the global economy, including global value chains and developing digital economies.

An important factor behind the conclusion of the Fisheries Subsidies agreement is that such an agreement combined two critical dimensions: a sustainability dimension, i.e., linked to the protection of the global commons, and a 'level playing field' dimension due to the concern about subsidisation by major fishing nations. A difficult question is to what extent similar dynamics can be used to generate support for multilateral or plurilateral outcomes on other forms of subsidies (agriculture, industry); another is on the trade related aspects of climate change. This would be the topic on which I will focus for the next Conference.

II. The WTO after MC12: In search of a common purpose. What are the tools available to develop a trade and climate agenda?²

The agreement on Fisheries Subsidies and other outcomes of MC12 (e.g., trips waiver, food security declaration) show that negotiated outcomes in the WTO increasingly need to be presented as contributing to broader sustainability goals. It is therefore logical that there is increasing interest on how the WTO can contribute to the transition towards climate neutrality, which is the more existential of the global environmental challenges of our time.

At the same time, it is important to be pragmatic and conscious of the difficulty of developing a 'normative consensus' in an organisation affected by geopolitical and development divides.

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Firstly, the word 'climate' initially appeared in a WTO Ministerial document in MC12, and this only after difficult negotiations. Until recently some countries opposed having any discussion on climate change in the WTO Committee on Trade and Environment and many still consider that fossil fuel subsidies reform is an issue falling outside the WTO's mandate.

Secondly, many countries are concerned about the impact on their trade of the autonomous sustainability measures being adopted by the EU and others. It is therefore difficult to imagine how a normative consensus could be developed on the articulation between such measures and WTO rules.

Finally, there is also a need to acknowledge the limits of the WTO expertise and mandate; the WTO cannot be the forum to develop consensus on a global carbon price—even assuming that such a goal is realistic.

After 20 years of negotiations—on the basis of an explicit SDG mandate—WTO members could agree on a legally binding partial deal to discipline fisheries subsidies. This is a remarkable achievement, but when it comes to climate, we don't have an explicit SDG mandate and cannot afford to continue negotiations for 20 more years. We need to be pragmatic and look into all the tools available in the WTO. A legally binding multilateral agreement is at the highest end of the spectrum, but there are many other actions through which the trading

2 Lecture given on 26 October 2022 at LSE Ideas

system can contribute towards climate neutrality. Within the WTO, there are at least nine tools that could contribute towards a trade and climate agenda:

1. Improved transparency through the early discussion of environmental measures with an impact on trade.
2. Enhanced thematic deliberation and dissemination of knowledge on issues in the trade and climate interface.
3. Non-binding instruments such as principles or codes of good practice.
4. Support for capacity building in areas related to compliance with environmental requirements.
5. Time limited waivers.
6. Authoritative interpretations of WTO provision.
7. New multilateral agreements.
8. Plurilateral MFN critical mass agreements.
9. Plurilateral Annex 4 agreements.

In this talk I discuss what can be done on three key trade and climate challenges, and how those actions may relate to the nine tools available for WTO members. The aim is to suggest an agenda that combines realism with ambition based on the old-time wisdom that the best is the enemy of the good.

The WTO Trade and Climate agenda could encompass three areas of work:

1. Trade related climate measures (TRCMs)

The issue

Decarbonisation of trade intensive high emission sectors will result in countries adopting different types of TRCMs to respond to 'carbon leakage'. These may take the form of price-based measures such as the Carbon Border Adjustment Mechanism (CBAM), regulations, labelling, subsidies, etc. Some of these measures increase costs for industry, while others are cost reducing. This creates risks both of trade conflicts and of lack of coherence in the approaches followed by different countries.

The EU has been in the forefront with the CBAM proposal that has been subject to intensive discussions in different WTO Committees. In designing CBAM, the EU had to address a number of key questions: the limitation of CBAM to trade intensive sectors with have a high risk of carbon leakage; designing the measure so that the cost imposed on the importers is not higher than the cost imposed on domestic producers; establishing a fair system of 'credit' to take into account carbon pricing schemes in the country of exportation; and having sufficient lead time before the CBAM is applied. This last element is essential to have the opportunity to develop trade facilitating tools through cooperation with third countries and, in particular, to facilitate compliance by developing countries. It could also help to promote coherence between different TRCMs that are likely to be developed by other countries.

What can be done in the WTO?

The Committee for Trade and Environment could be an important forum for deliberation on Trade Related Climate Measures. It could fulfil four functions:

Ensuring transparency of TRCMS. The CTE should provide a forum for dialogue on how such measures can be designed and implemented in a manner that achieves climate goals while limiting unnecessary impact on trade.

Facilitating the flow of information about initiatives being developed outside the WTO. This could include discussions in the G7 on an open and inclusive 'climate club'.

Discussion on elements common to different TRCMs, such as methodologies for measuring carbon emissions. Ideally this discussion could facilitate the emergence of consensus on common methodologies and avoid a proliferation of inconsistent national schemes.

Identification of means to support developing country compliance with requirements linked to TRCMs. Countries that adopt TRCMs should have a particular responsibility in supporting vulnerable developing countries both on compliance and assistance to decarbonise the sectors concerned.

This work would require willingness by countries to notify at an early stage their TRCM and to engage in discussions about the impact of their measures on third countries. Work could be supported by analytical studies by the WTO secretariat that compare approaches in different TRCMs and identify issues for deliberation. Such deliberations should be open to experts and stakeholders as well as contributions from other international organisations.

What I am suggesting here corresponds essentially to steps one to three of the WTO tool boxes. It would enhance the role of the CTE so that it plays a role similar to that of the best performing WTO committees. Critical for success would be to maintain the engagement of both the trade and climate communities. Even if no further steps are taken, enhanced deliberation would help to reduce tensions in the global trading system and contribute towards a design of TRCMs that is more responsive to the need of limiting unnecessary impacts on trade. Ideally, we could utilise the fourth tool (see above) in the toolbox: the identification of principles or best practices to limit the impact on trade of TRCMs or to measure embodied carbon emissions.

2. The positive and negative impacts of subsidies in supporting climate goals.

The issue

Many countries are making use of subsidies as instruments to favour the use of renewable energies, promote the use of electric cars or otherwise facilitate decarbonisation investments by industry. Certain types of subsidies, notably of fossil fuels, run counter to the objectives of the climate transition. Other subsidies may promote environmental goals but also create negative cross border trade impacts. Subsidies may sometimes reduce the costs of compliance with environmental regulations but may be countervailed by countries even if they do not apply equally stringent regulations. Broadly speaking

from a trade and environment perspective, subsidies may fall under three categories:

1. Subsidies that have a negative impact both on trade and on climate objectives—some forms of fossil fuel subsidies or subsidies that expand capacity in carbon intensive sectors unless linked to decarbonisation commitments.
2. Subsidies that aim to achieve climate goals but have negative spillovers on competition and trade—e.g., subsidies to renewable energy linked to local content requirements.
3. Subsidies that have a positive climate impact and no or very limited impact on trade—e.g., subsidies to support the introduction of new decarbonisation technologies

What can be done in the WTO?

The WTO is the only international organisation that has developed legally binding rules on subsidies. The Fisheries Subsidies agreement is the first WTO agreement that has as its primary purpose the protection of the global commons. The Agriculture Agreement includes a so-called green box for those subsidies that have no distortive impact on trade, but this category is not explicitly linked to sustainability requirements. The ASCM used to include a category of subsidies that were considered 'non-actionable', and which included certain types of environmental subsidies, but this provision expired in 2001. Subsidies are increasingly used as a tool to promote the climate transition or other environmental goals. In the absence of agreed disciplines there is a risk of subsidy races and that countries countervail each other subsidies even if certain subsidies may have a positive climate impact. The challenge is to design subsidies in a manner that maximises their positive impact on climate or other environmental objectives, while minimising negative impacts on trade. In the case of subsidies that have negative impacts both on trade and on the environment, disciplines could be agreed to prohibit or reduce over time those subsidies.

In order to support any possible future development of rules, it is necessary to have a better analytical understanding of the positive and negative environmental impacts of subsidies. This discussion could be part of a broader consideration of the role of the state in the economy—i.e., how to design state intervention in a manner that achieves legitimate public policy goals, while limiting negative cross border effects. Environmental considerations should be fully integrated into those discussions. At this stage it is difficult to say how far analytical work could go since the issues involved are challenging; developing a normative consensus will be difficult multilaterally or even 'plurilaterally'. A highly ambitious outcome could include:

1. Further reductions of trade distort agriculture support, while excluding subsidies that have a positive environmental effect.
2. An updating of the rules on industrial subsidies, including an updated green box for those positive climate or environmental subsidies that have limited impact on trade.
3. Disciplines to prohibit or phase out subsidies that have a negative impact both on trade and the environment, including subsidies to carbon intensive sectors or harmful fossil fuel subsidies in line with the Glasgow Pact.

3. Promoting trade in climate related goods and services:

The issue

The Doha Ministerial Declaration included a mandate to negotiate the reduction or elimination of tariffs and non-tariff barriers to environmental goods and services. Following the failure of the DDA, negotiations on a critical mass plurilateral agreement were launched in 2014 by a group of 14 WTO members, including the EU, US and China. By December 2016 a list of 300 product categories had been identified by 16 participants. Negotiations were then suspended for a variety of reasons, including the position of China on the product list and on special and differential treatment, the difficulty of finding a 'critical mass', and the change in US Administration. The EU and other countries continue to have an interest in exploring a possible positive trade contribution to achieving climate goals through an initiative that facilitates the dissemination at lower cost of those technologies that clearly contribute to the climate transition.

To decide on the possible way forward, several issues require more discussion: Is it possible to agree to focus negotiations on a limited set of climate related products? How do you tackle the question of the definition, or avoid greenwashing complaints? How do you convince trade negotiators that in some cases there is no specific economic benefit but rather the benefit is towards a greater global good? This would be critical to avoid the mercantilist dynamics that made the conclusion of the EGA negotiations so difficult. Most studies show in any event that tariffs are a less significant obstacle to the dissemination of climate technologies than regulatory measures. Should priority be given to tackling regulatory obstacles to trade in green goods rather than tariffs? How do you identify those services that facilitate the dissemination of climate related technologies? What support can be offered for those developing countries that want to attract investment in climate related technologies and participate in a market opening initiative?

What can be done in the WTO?

There will likely be a need to explore novel approaches that do not rely on the concept of a 'critical mass'. For instance, a group of countries could agree on a menu of options to facilitate the climate transition or other global environmental goals through a reduction of obstacles to trade. These options could include elimination or reduction of tariffs; liberalisation of services in areas that support the climate transition; reduction of obstacles to trade or looking into trade facilitating measures for dissemination of climate technologies, or of fossil fuel subsidies; and measures to support capacity building and investment in developing countries. The menu of options should of course involve minimum requirements or reciprocity, with the aim amongst the major players to have as broad a participation as possible in such an initiative.

III. The new geopolitics of trade: What implications for the global trading system?³

The period between 1989 and 2008 saw the greatest ever expansion of trade and foreign investment against a backdrop of stability provided by a rule-based trading system. Geopolitical considerations argued in support of an inclusive global trading system so that China (2001) and Russia (2012) became members of what appeared to be a quasi-universal multilateral trade organisation.. This period also witnessed a global decline in world poverty from 42% of the world population in 1988 to 8.6% by 2020. Most countries in the world saw a general increase in levels of income, even if some of them also experienced growing income inequality.

The world today is very different to that which saw the emergence of the WTO. There is little doubt that the US-China geopolitical conflict (and the Russian invasion of Ukraine) has and will continue to have a major impact on global trade relations. Some would argue that we have entered a new era of 'deglobalisation', where value chains will be restructured to give predominant weight to the local economy or to mutual reliance on countries that share the same values (what is sometimes termed 'friend shoring').

In this talk I would like to start by briefly discussing the extent to which we have entered a new 'deglobalisation' era. In such a case, there would be a need for a fundamentally different approach to global trade relations, where economic security concerns trump rule-based cooperation. I will make the case that globalisation has proved resilient and that rule-based cooperation is not in contradiction with policy space to accommodate security-related restrictions. Building upon this, I will offer some thoughts as to a possible architecture for the global trading system that seeks to preserve as much as possible the value of a quasi-universal rule-based trade institution, but that recognises that multilateralism would need to be combined with deeper cooperation amongst countries that are ready to tighten economic integration or wish to address concerns relating to economic security.

As a starting point, it is important to look at the evidence. The data do not bear, at least yet, on the deglobalisation hypothesis. Despite significant disruptions—pandemic, US/China trade war—global value chains have shown remarkable resilience.

US-China trade bounced back after a fall in 2019 and has returned to pre-pandemic levels, even though there has been significant trade diversion in sectors affected by high discriminatory tariffs. Global trade in intermediates was 25% higher in the second quarter of 2022 than in the second quarter of 2019, thereby showing the resilience of global value chains.

It is true that the trade-to-GDP ratio peaked in 2008 (50%) after more than two decades of a yearly growth of 6%. But trade-to-GDP ratios remain at rates much higher than those of pre-1995 or of the previous age of globalisation (42% in 2020 versus 27% in 1913, 29% in 1993).

3 Lecture given on 22 November 2022 at LSE Ideas.

The 2008 peak can primarily be explained by a normalisation of the rate of trade growth and a reduced trade/GDP ratio of China. Moreover, technological developments enable greater growth of trade in services and a vast majority of developing countries still have a high potential to grow through greater trade integration.

But there is no reason to be complacent. Between 1913 and 1932, trade fell from 27% to 11% of GDP. Disruptions of trade were one of the factors leading to war and it is no coincidence that the architects of the postwar system gave priority to the development of a multilateral trade institution. There are a number of warning signals that give credence to the 'deglobalisation hypothesis':

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Despite these risks, there is a strong case for policymakers to embrace a scenario which retains the benefits of an integrated global economy, while recognising that sufficient policy space will be needed to accommodate security concerns and competition between different economic systems.
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1. The increase in economic inequalities has eroded support for open trade policies in several western countries. A consequence of this is that the US is no longer ready to play the hegemon role for the rule-based trading system.
2. Geopolitical tensions have increased and there are no signals of de-escalation. Decoupling from the Russian economy is here to stay. In the absence of a major conflict, it is not realistic or desirable to expect a similar decoupling from the Chinese economy. But there will be significant technological decoupling and an effort to reduce dependencies that can be weaponised. The risk is a tit-for-tat escalation of restrictions with a negative feedback loop between economic restrictions and geopolitical tensions.
3. Increased state intervention in the economy, while necessary to achieve legitimate policy goals, increases the risk of trade conflict and inward-looking trade policies.
4. While the need to transition to net zero should be a reason for enhanced international cooperation, there is no signal that the US and China are ready to set their geopolitical competition to one side. The risk is that international trade becomes a battleground for conflicting approaches on moving towards a decarbonised economy. The different approaches of the EU and the US for achieving climate neutrality is an additional source of tension.
5. Despite the success of MC12, the global institutions of international trade are in a weakened state and only count with a limited degree of political support.

Particularly concerning is the absence of a generally accepted mechanism to adjudicate trade disputes, which entails a double risk: escalation of trade differences into political conflicts and increased lack of respect for rules that cannot be enforced.

Despite these risks, there is a strong case for policymakers to embrace a scenario which retains the benefits of an integrated global economy, while recognising that sufficient policy space will be needed to accommodate security concerns and competition between different economic systems. What is needed is a global trading system that reconciles openness and respect for common rules, with action at the domestic or global level to promote sustainability and economic security. Reform of international institutions will need to go together with domestic action to address possible negative distributional impacts of trade and economic openness.

What would such a scenario imply for the architecture of global trade? It is important to avoid working on the basis of unrealistic and extreme scenarios. It is most unlikely that a reformed WTO will have the central role in global trade that the founders hoped for in 1995; it is also difficult to imagine how regional trade agreements could provide stability to the global trading system *in the absence of a set of generally accepted common rules* that can be enforced through independent adjudication. In the absence of war, global value chains are likely to be sufficiently resilient to avoid a world in which security considerations reign supreme and there is hardly any space for rule-based trade cooperation.

In light of the above considerations, what type of architecture for global trade would better suit the interests and values of the EU? In my view, a realistic and desirable trade architecture would encompass three concentric circles of trade cooperation.

The broader circle would be provided by a reformed WTO with a restored and functioning dispute settlement system, thereby preserving the value of the rules agreed in 1995; achieving a certain degree of modernisation of the rules including, where necessary, through open plurilateral agreements and providing a common framework for multilateral cooperation in support of the climate transition and the sustainable development of vulnerable developing countries. More broadly the WTO should ensure overall monitoring of trade policy developments and provide an overall guardrail against the risk of fragmentation and conflict, resulting from exclusive reliance on the two other circles.

A second circle would be provided by trade and investment agreements that promote a higher degree of economic integration and support resilience of value chains. The EU has the largest network of those agreements in the world (46 trade agreements with 78 partners), although it should further reinforce its engagement in Latin America and the Indo-Pacific, as well as develop a new generation of sustainable investment agreements in Africa. A distinctive feature of EU agreements is the joint commitment to sustainable development through the protection of core labour standards and adherence to global environmental agreements. The challenge would be how to turn trade and investment agreements into platforms for cooperation in the climate and digital transition, which would require greater coherence and synergies between EU trade, development, and regulatory policies.

Finally, a platform for cooperation on 'economic security' could bring together like-minded democracies. Participants would aim at identifying choke points in sensitive value chains, cooperate on the use of security-related tools such as investment screening or export controls and in responding to economic coercion.

The perspective above is both desirable and realistic. It will not happen, however, by default. The current political climate in the US makes it unlikely that it will be in a position to take the initiative for WTO reform, although there is no reason why the architecture above should not be attractive, since it combines the economic benefits of a rule-based trading system with close cooperation with allies on economic security. It would be important that these ideas are promoted by close allies of the US and that a dialogue is also established with democracies in the emerging world, notably key players in the G20 such as Brazil, India, Indonesia and South Africa. There will of course also be a need to engage China, which will be a key player in the process of WTO reform. In the same way that competition with China should not exclude cooperation on the climate transition, it should also be possible for the US and China to identify a common interest in supporting a rules-based multilateral trade institution.

IV. What future for the World Trade Organization?⁴

After a successful Ministerial meeting last year, there is again a lot of soul searching about the future of the WTO. Scepticism about the prospects of WTO reform has increased as geopolitical competition becomes more acute and the world risks fracturing into rival blocs.

The world today is very different to that of 1947 or 1995 when the foundations of the international trade regime were established. From being a source of efficiency, global value chains are now perceived as a source of vulnerability as dependencies can be weaponised for geopolitical gain. In this emerging paradigm of economic security, the relevance of rule-based trade is being questioned. The US—the main architect of the GATT/WTO system—appears to have abdicated this role as its international economic policies are predominantly domestically-focused and include limited scope for major trade policy initiatives.

In this new geopolitical environment, the future of the WTO will depend on its capacity to adapt so that it responds to three main sources of tension affecting the global trading system:

1. The US-China geopolitical conflict. This shows no sign of abating and is playing out primarily in the field of technological competition. Security-related restrictions will inevitably affect a significant amount of trade and the boundaries of the security-related exceptions will be tested. In the context of the G7, discussions are ongoing on the coordination of economic security strategies and in June 2023 the European Commission released a Communication arguing for the need to develop a European approach to economic security.
2. The transformation of the global economy due to the transition to net zero and the emergence of new technologies that will have a decisive impact on global competitiveness. In both cases the state will play a more active role through subsidies and other forms of industrial policies. To this should be added the tensions due to trade related measures that aim to respond to global environment challenges.
3. The impact of the pandemic, together with macroeconomic instability and the risk of stagflation which are having a negative impact on the development prospects of vulnerable developing countries, many in Africa. Developing and emerging economies will avoid taking sides in geopolitical conflicts with the aim to maximise opportunities to expand their trade, diversify and industrialise their economies and attract foreign investment. They will also be concerned about the impact on their trade of subsidy races and environmental measures.

To these tensions, one should add two elements that weaken the WTO:

1. The EU aside, no major trading power appears to attach political priority to reinforcing the WTO as an institution. The success of MC12 was due in large part to EU leadership supported by alliances with like-minded countries as well as through active efforts to build bridges with the position of African countries. Neither the US nor China played a leadership role during the Ministerial Conference and India was only ready at the last minute to join a consensus.
2. The WTO has lost support with its natural constituency: the business community. In part, this is due to the fact that WTO rules can no longer be properly enforced and some major players

4 Lecture given on 18 May 2023 at LSE Ideas

have been ready to ignore the rules. It is also because issues of importance to business—like digital trade—fall outside the scope of current rules. The perception of WTO irrelevance is growing amongst businesses, and unless reversed, it could weaken the readiness of countries to invest political capital in strengthening the WTO. From that point of view the next WTO Ministerial Conference is critical for the credibility of the WTO reform agenda.

Despite the challenges, there are at least three reasons why multi-lateralism should continue to be at the centre of European trade policy:

“ There is no credible alternative to the WTO as a global trade institution. Following the demise of the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership, there is limited political appetite for mega-regional Free Trade Agreements ”

1. The basic framework of rules agreed in 1995 continues to be valid and provides the basis for stability in global trade relations. A trading system without enforceable rules and based on power dynamics is fundamentally against the interests of the EU and the majority of trading nations.
2. The three challenges I mentioned above—geopolitical tensions, economic transformations, and development—are global in nature and can only be effectively tackled through a global institution.
3. There is no credible alternative to the WTO as a global trade institution. Following the demise of the Trans-Pacific Partnership and Transatlantic Trade and Investment Partnership, there is limited political appetite for mega-regional Free Trade Agreements (FTAs). Talk about a new trade institution that brings together like-minded democracies goes against the reality of an integrated global economy, the high costs of economic fragmentation and the limits to deep integration even amongst countries that share the same values.

The above is not to say that the WTO can on its own provide a response to all the challenges affecting the global trading system. Any effective trade policy needs to combine support for WTO reform with making best use of FTAs and other forms of bilateral or plurilateral engagement. Such agreements can contribute towards strengthening the resilience and sustainability of value chains as well as providing fora to cooperate on the regulatory challenges of the green and digital transitions. Autonomous tools will continue to be necessary to protect economic security, promote a level playing field and respond to the challenges of the green and digital transition. What matters is not only that such autonomous tools be WTO compatible but also that they are embedded in a broader strategy of international cooperation.

At the same time, WTO reform will only succeed if the ambition is set at a realistic level. In the new age of geopolitical competition, it is unavoidable that WTO rules will need to accommodate policy space for both national security-related restrictions and experimentation with industrial policies. The process of reform will need to have clear priorities and recognise that there is limited appetite for international negotiations to develop new rules at least until the global situation has become more stable.

Taking this into account I would like first to share some thoughts on how the WTO can respond to global challenges in the new geopolitical environment and conclude with some reflections and what could be the components of a realistic but ambitious WTO reform agenda. A renewed sense of purpose for the WTO could be articulated along the three core values of stability, sustainability and development.

- **The WTO should provide stability as a guardrail against the risk of global economic fragmentation.**

The basic geopolitical case for the WTO is the need to maintain guardrails against the risks of economic fragmentation. As recently shown by the IMF, a world that is fragmented into economic blocs will have high economic costs, which could result in a 7% loss of GDP. Those costs will be even higher for developing economies and countries highly dependent on global trade. Beyond economic costs, a fractured trading system based on power dynamics entails a high risk that trade tensions escalate and contribute towards a negative feedback loop that further endangers world peace. While neither the US nor China may be ready to lead in the WTO, both have an objective interest in maintaining a framework for rule-based cooperation—or at least none of them would wish to be blamed for lack of progress in the WTO reform agenda. In his April 2023 speech at the Brookings Institution, National Security Advisor Jake Sullivan reiterated the Biden Administration commitment to WTO reform. Importantly he also mentioned that the US and China can and should work together on global challenges like climate, macroeconomic stability, health security and food security. Although he did not explicitly mention cooperation in the framework of the WTO, I would argue that a properly functioning global trade institution is essential to respond to the global challenges mentioned in Jake Sullivan's speech. The future of the WTO therefore very much depends on identifying a space where, despite robust economic competition and some degree of technological decoupling, major trading powers have an interest to cooperate on the basis of commonly agreed rules. A rules-based system, however, inevitably implies a functioning dispute settlement system. Here the US has a particular responsibility to show it is ready to constructively negotiate a package of reforms that eliminate the possibility of appeals into the void.

- **The WTO should provide a framework for cooperation to better manage the trade implications of the transition to net zero.**

State intervention—whether through carbon pricing, subsidies or regulation—will be necessary to transition to a net zero economy. A more active role for the state entails a risk of substantial conflicts in particular since existing WTO rules on subsidies, local content requirements or other forms of state intervention are seen as being either ineffective or challenged in their legitimacy. In the absence of a modernisation of subsidies rules for both industry and agriculture, there is a risk of uncontrolled subsidy races and an exponential increase of recourse to trade defence instruments. While rules negotiations will be difficult in view of differences in economic systems and lack of normative consensus on how the rules could be improved, it is at least necessary

to start a multilateral discussion. The partial success of the fisheries subsidies negotiations illustrates that agreement on rules may be easier if such rules can be seen to contribute towards sustainability objectives.

Tensions have also intensified because of the adoption of trade-related measures to respond to global environmental challenges. While the current framework of WTO rules leaves space for countries to take action to protect the global environment, there is a need to reinforce dialogue and cooperation in a multilateral forum. The EU has taken a leading role through the adoption of autonomous measures such as CBAM or the Deforestation legislation. It is therefore incumbent upon the EU to show that such autonomous action can go together with a willingness to cooperate in their implementation.

- **The WTO should contribute to development through facilitating the conditions for enhanced trade and investment for those developing countries that are poorly integrated into global and regional value chains.**

The development challenge continues to be central to the mission of the WTO. Progress on development-related issues has proved, however, elusive due to divergences of view as to how the WTO can contribute towards development. According to one view, WTO rules impose too many constraints on legitimate development choices and therefore the 'development agenda' should aim at increasing policy space. According to other view, adherence to WTO rules contributes towards better participation in the global trading system and the main development-related task is to enhance the capacity of countries to benefit from such rules. In the new context of geopolitical competition and active industrial policies, there may be scope to arrive at a new synthesis that reflects the importance for developing countries of a framework of rules-based cooperation. The development mission of the WTO could focus on what the trading system can do to assist better the integration in regional and global value chains of those countries that are at the early stages of industrialisation or whose economies are insufficiently diversified. In this connection, China could make a major contribution to WTO reform by stating unambiguously that it does not intend to claim special and differential treatment in any area of ongoing WTO negotiations.

The future of the WTO therefore depends on the capacity of its members to respond to these three challenges through a package of reforms. These reforms would not be achieved through a 'big bang' single undertaking nor through small steps incrementalism. What is needed is a strategic vision that can be developed over the next few years. The next Ministerial meeting in February of 2024 (see postscript below) is an opportunity to put the process of WTO reform on track even if on certain issues ministers would only agree on initial steps in a process of reforms that would need to be developed over time.

A properly functioning WTO that provides stability in an age of geopolitical competition should entail three types of reforms:

- Restoring a fully functioning dispute settlement system, which eliminates the possibility of appeals into the void. This is critical for the WTO to provide stability and attract business support. It should therefore be the central priority for the next Ministerial meeting. Failing to resolve this issue will inevitably deprive credibility to the reform agenda and contribute to the further erosion of support for rule-based trade.

- A modernisation of trade rules including three components:
 1. A satisfactory resolution of those aspects of the DDA agenda that continue to be politically important for a substantial part of the membership—notably development and reform of trade distortive domestic agriculture support. While the origin of these issues is in the Doha Development Agenda, resolving them will require new approaches that correspond to the new challenges linked to sustainability and the need to integrate the more vulnerable developing countries.
 2. The integration into the WTO of open plurilateral agreements and notably agreements on investment facilitation and e-commerce.
 3. A modernisation of the rules on state intervention in the industrial sector.

Making progress on the rule-making agenda will need to be sequenced in time with only some initial steps being taken in MC13. It will be important for the credibility of the WTO to be able to conclude the second phase of negotiations on fisheries subsidies. It should also be possible to conclude negotiations on investment facilitation and to reinforce the development dimension of the e-commerce work programme, including an extension of the e-commerce moratorium. On issues relating to state support for industrial sectors, MC13 could launch a process of deliberation that prepares the ground for possible future rules negotiations.

- For areas not ripe for rule-making, the WTO through its Committee structure should provide a forum for reinforced deliberation. The Committee on Trade and Environment should ensure not only transparency and policy dialogue on trade-related environmental measures but ideally also develop guidance on how such measures can be implemented in a manner that minimises trade frictions. Other areas for reinforced deliberation could include exchange of best practices to promote inclusive trade policies. Enhanced inclusivity should also imply that the WTO reinforces the opportunities for dialogue with business and other stakeholders, as well as cooperation with other international organisations.

The reformed WTO here outlined would probably have more modest ambitions than those aspired by those who were negotiating the Uruguay Round Agreements or that launched the Doha Development Agenda. But in the same way that the GATT was transformed into the WTO while retaining its core principles, the WTO would have demonstrated its capacity to adapt and provide the stability, sustainability and development orientation that the global trading system needs.

Postscript

The first of this series of lectures was delivered shortly after a successful 12th Ministerial Conference in 2022 and before the MC13 in February-March 2024. The common theme of the lectures is the reforms needed for the WTO to maintain its relevance at a time of intensifying geopolitical competition. The MC13, held in Abu Dhabi, was however deeply disappointing and failed to achieve meaningful results. No agreement could be reached on disciplines on fisheries subsidies that contribute to overfishing or overcapacity, nor on dispute settlement reform. Neither was it possible to identify a way forward on agriculture negotiations or to establish new work programmes on trade and climate/ industrial policies.

In editing this piece for publication I have chosen to keep the lectures as delivered with minimum changes since the analysis and sense of direction for WTO reform continues to be valid, even if the path to get there may well take longer and have no guarantees of success. This postscript offers some reflections about the reasons for the 'failure' of MC13 and some suggestions how to maintain the dynamic of WTO reform.

What explains the contrast between post-MC12 optimism and the gloom that currently characterises most analysis about the perspectives of WTO reform? The critical issue is one of leadership. The success of the MC12 can be best explained by the impact of the COVID-19 pandemic on global trade, which created the necessary incentive for all key players to seek the compromises needed to achieve multilateral agreements. That is the reason why the absence of US or China leadership could be overcome through the determination of the WTO Director General, supported by a broad coalition of WTO members including the EU, middle-sized trading nations and African nations. In the absence of such a unifying factor, it was not possible to establish such a leadership coalition in the context of MC13. The EU's capacity to lead was moreover compromised by its defensive interests on trade-related climate measures—and to a lesser extent on agriculture. In a way, the story is not very different from the contrast between the launch of the Doha Development Agenda shortly after the terrorist attacks of 11 September 2001 and the crisis of negotiations two years later in the Cancun Ministerial.

The fundamental structural issue remains that the US and China, being engaged in geopolitical competition, have no willingness nor capacity to lead in a process of WTO reform. Despite that, a global trading system based on three concentric circles—a reformed WTO, networks of bilateral and plurilateral trade agreements, and a framework for cooperation on economic security—remains the best way of limiting and managing the economic and political costs of a fragmented world economy based on geopolitical blocs.

The EU has an interest in forming a broad coalition in support of WTO reform but to do so it must move away from a defensive position through two sets of actions: firstly, reinforcing the development dimension of CBAM through the introduction of a temporary exemption for the least-developed countries (and Ukraine) and a commitment that CBAM resources will be allocated to fund decarbonisation investments in developing countries; and secondly, a readiness to engage proactively with agricultural exporters and African countries on the reform of trade distorting domestic support.

A coalition for WTO reform should ideally include members of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, Latin American and African countries and should focus on four objectives:

1. A commitment to maintain and abide with binding dispute settlement. In the short term this could take the form of an enlargement of the Multi Party Interim Arbitration Agreement, but multilateral discussions on reform should continue.
2. Support for the integration of open plurilateral agreements into the WTO, starting with investment facilitation and e-commerce.
3. A development package that supports better integration of developing countries in green value chains, investments in decarbonisation, and facilitates compliance with trade-related environmental measures.
4. Concluding the second phase of the agreement on fisheries subsidies and preparing the ground for negotiations on the modernisation of the rules both on agriculture and industrial subsidies.

The set of actions above may not necessarily lead to multilateral outcomes by the time of the next Ministerial Conference, which is scheduled to take place in Cameroon in the spring of 2026. Even if only plurilateral progress can be achieved, there will be an important political signal linked to the fact that the majority of its members are committed to respect the rules of the WTO and to work towards reform.

References

The theoretical underpinnings of the three lectures are reflected in:
Bercero, I. G. (2020) *What Do We Need a World Trade Organization For? The Crisis of the Rule-Based Trading System and WTO Reform*. Bertelsmann Stiftung, available at: https://www.bertelsmann-stiftung.de/fileadmin/files/user_upload/MT_WTO_Reform_2020_ENG.pdf

They are further developed in a forthcoming e-book: Bercero, I.G. (2025) 'The Transformation of WTO', in Rubini, Luca (ed.) *EU Trade Governance: Assessing Prometheus?* Florence: European University Institute.

On trade and climate see also: Bercero, I. G. (2024) 'Three key issues to address the interface between Climate and Trade', Tessforum.org, available at: <https://tessforum.org/latest/three-key-issues-to-address-at-the-interface-between-climate-and-trade>





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