



Rising Trade Tensions Call for Policy Dialogue between WTO Members

Recommendation from the Report of the High-Level Board of Experts on the Future of Global Trade Governance

The High-Level Board of Experts on the Future of Global Trade Governance

The Bertelsmann Stiftung has called into life a High-Level Board of Experts on the Future of Global Trade Governance. Composed of eminent experts and seasoned trade diplomats, it elaborated a number of recommendations to increase the effectiveness and salience of the WTO. The entirety of these recommendations and underlying analysis of the changing political economy of international production and trade can be found in the Board's report "Revitalizing Multilateral Governance at the WTO", authored by Prof Bernard Hoekman. This briefing is part of a series of six, each of which details one specific recommendation from the report.

The full report can be accessed under https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Publikationen/GrauePublikationen/MT_Report_Revitalizing_Multilateral_Governance_at_the_WTO.pdf.

Addressing policy conflicts and concerns regarding the operation of the WTO

The multilateral trading system is under severe stress. The core market access dimensions of the Doha round of trade negotiations, launched in 2001, have been essentially moribund for almost a decade. The operation of the dispute settlement system is contested by the United States, which is blocking new appointments to the Appellate Body, which considers appeals to the findings of dispute resolution panels. A number of WTO Members are making greater recourse to trade-distorting policies. Unilateral trade measures by the US have given rise to retaliatory trade restricting policies. Escalation of bilateral economic conflicts reflected in use of unilaterally determined trade policies constitute a serious threat to the rules-based global trade regime.

Resolving current trade tensions requires the major players to use the WTO for what it was created: a forum for discussion, negotiation and dispute resolution. It is in the interest of all WTO members

to engage in a concerted effort to revisit the current rulebook and consider whether changes are needed in the working practices of the organization. There are two areas where such efforts are urgently needed: discussing and addressing current trade conflicts between the world's major trade powers, and resolving the impasse on the functioning of the WTO dispute settlement mechanism. The WTO dispute resolution system plays a vital role in sustaining cooperation between WTO members. Dealing with concerns regarding how the system functions without undermining the operation of the dispute settlement process must be a priority for the WTO membership.

Although the tit-for-tat expansion of unilateral trade policy measures is at the forefront of attention, there are many trade issues that concern many WTO members. Examples include the trade-distorting effects of agricultural support policies; tariff escalation that constrains developing country firms from moving up the value chain; ensuring there is a level playing field for competition between firms in markets where the State plays a significant role in supporting (some) domestic companies; managing instances of global sectoral over-capacity; competition distorting effects of investment incentives; or the use of subsidies to support local production or exports.

An important function of the WTO is to provide a platform for open and candid discussion of policies that countries perceive to be creating significant negative spill-overs. This platform is not being used sufficiently. A key reason for this is the consensus working practice. Many developing countries have resisted launch of discussions on areas of policy that are not on the agenda of the Doha Round of negotiations. Many of the issues that are generating trade conflicts today concern matters that are not or only partially covered by the Doha round agenda. Overcoming this constraint is necessary for the WTO to fulfil its function as a platform for countries to agree on rules of road for policies that are perceived to distort global competition and trade.

The prospects for discussion and serious engagement to find an accommodation to disputed policies that are giving rise to trade conflicts will be a function of the willingness by the large trading powers to engage with each other and the magnitude and incidence of a breakdown in multilateral cooperation on trade.

The situation confronting the trading system – deadlock of multilateral negotiations; the appointment of new Appellate Body members; the rising use of unilaterally-determined trade measures – may be unexpected but it is not unprecedented. There are parallels with the 1980s, which were characterized by extensive recourse by many OECD member countries to trade-distorting measures in response to a rapid rise in exports from East Asian economies. This was a motivation for the launch of the Uruguay Round in 1986. What is called for today is for WTO members to launch a process aimed at resolving disputes on matters that are of greatest concern and relevance from a systemic perspective. This process should aim to establish an agenda for negotiating a resolution to current trade conflicts

Any such agenda must extend beyond the conflicts that underlie the reciprocal expansion of trade restricting measures that in the headlines today. There is broader set of policies of interest to many WTO members. Some of these are part of the Doha Round. Others have long been a source of debate and concern – such as subsidies of different sorts. Some are new for the trading system, notably matters that relate to governance of trade in digital products and services.

The needed policy dialogue must be informed by factual assessments of the specific features of policies or situations giving rise to concern, and analysis of the magnitude and incidence of the negative effects they generate. This is best done through working groups, supported by the WTO Secretariat with relevant information and analysis. Secretariat support to provide WTO members with objective and neutral information and analysis is a critical input into such processes. More generally, greater transparency of prevailing policies and their effects on trade is a key input into better understanding of contested policy areas. Such information is a public good that is underprovided at the moment, impeding engagement and discussion of potential solutions.

It is critical that dialogue encompass matters of importance to developing countries. Many of these countries have opposed discussion on non-Doha round issues. This is not because countries do not see the salience of such policy areas for the WTO but because of a desire to see progress on policies that are priorities for many developing countries and that were a central element of the Doha round agenda – such as tariff escalation in

agricultural and natural resources sectors. Thus, balance across topics is needed.

Dialogue and potential cooperation on contested policies need not involve all WTO members. Some subjects may lend themselves to agreements between a subset of the WTO membership, with associated benefits extended to all WTO members. Others will not and require a broader negotiation and accommodation. Preparing the ground for determining what type of cooperation is needed to resolve current conflicts and where it is necessary to expand the WTO to encompass policy areas where there are gaps in the rulebook is critical. Such a preparatory process should include documenting the facts and assessing the magnitude of negative spillover effects of contested policies, thereby helping countries to determine priorities from a trading system perspective.

A first step is for proponents of considering specific matters in the WTO to initiate a process of dialogue and deliberation, supported by the WTO Secretariat. A precedent from the GATT period for the type of work that is needed was the process of national studies undertaken after the 1982 GATT Ministerial meeting to better understand the extent of trade in services and the set of policies that affects such trade.

Dialogue should encompass the operation of the dispute settlement mechanism. There have been 15+ years of discussions reviewing the existing system. These have not led to any outcomes, in large part because consensus is required to make changes. The consensus working practice of the WTO is now being used by the US to generate pressure to resolve its concerns with the Appellate Body. What has been lacking is an open discussion of concerns raised and a willingness by WTO members to accept that reforms may improve the system. The membership should engage in a broader process aimed at agreeing on specific reforms to dispute settlement procedures. Absent an agreement, conflict resolution will revert back to the pre-WTO situation in which panel reports can remain unadopted if the losing party does not agree with the panel's findings – with attendant risks of escalation in the use of unilateral trade policies.

A consensus to engage in the dialogue and eventual negotiations needed to address the various issues that have given rise to the current situation may not exist. Geopolitical factors and dynamics have been a factor impeding substantive policy

discussions in the WTO. It may not be possible to engage all WTO members in a good faith effort to address differences regarding the use of specific policies or to resolve disputes regarding the operation of WTO bodies.

WTO members should not permit consensus to be a constraint in launching a process of policy dialogue. In many areas it may be feasible to proceed on a plurilateral, critical mass basis. Some issues will require an agreement between the largest trading powers. Others may be feasible among subsets of WTO members that do not span all of the large trading nations. Such agreements may be a stepping stone for an eventual agreement with broad membership, but it may not. Smaller group initiatives may be the best approach for some types of issues – for example, policy areas where there are significant differences in social preferences or societal goals but that do not give rise to large negative spillover effects.

A willingness to revisit WTO working practices, notably consensus, may be needed to respond to some issues. This may be the case for dispute settlement. If a consensus solution to the current stand-off on the working practices of the Appellate Body cannot be found, consideration can be given to developing alternatives that will apply to those WTO members that agree to implement them. Together with China, the EU, countries that are members of deep preferential trade agreements such as the Comprehensive and Progressive Trans-Pacific Partnership, and the countries with relatively open trade that are represented in the 'friends of the multilateral trading system' group at the WTO account for some 75 percent of global trade. These countries have a strong interest in supporting both dialogue and proposing solutions.

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