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# The Problematic Future of the World Trade Organization

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## EXECUTIVE SUMMARY

*The World Trade Organization (WTO) is an intergovernmental organization that has helped pushed forward modern globalization by reducing trade barriers and by regulating international trade among countries. Despite its decades of useful work, this institution is currently under considerable pressure, especially from the Trump Administration and is facing an uncertain future, including its own potential replacement by other organizational arrangements.*

Keywords: WTO, Global Trade, Trade Barriers, Regulations

## INTRODUCTION

The World Trade Organization (WTO) is based in Geneva, Switzerland, and was established in 1995, replacing the General Agreement on Tariffs and Trade (GATT), which started in 1948. It is responsible for overseeing the rules of international trade among its 164 member countries. The WTO also monitors the implementation of trade agreements and acts as a forum to help settle any trade disputes between countries. Its most basic founding principle is “a commitment to openness, meaning reducing tariffs as well as limiting quotas, import bans, distorting subsidies, and other barriers to trade” (McBride, 2018). Another principle is nondiscrimination, whereby all member countries must treat trade with other countries equally. The WTO as an organization strives for transparency and predictability when it comes to trade related regulations. James McBride writing recently for the prominent Council on Foreign Relations says “the WTO is also committed, in principle, to giving less-developed countries flexibility and accommodations to help them adjust to new rules” (McBride, 2018). Trade decisions made by the WTO must be unanimous and these decisions are binding on its members with rare exceptions. The rules and decisions made by the organization are enforced by the individual countries themselves, including the imposition of trade sanctions on other members that violate these agreements and decisions.

To better understand the tensions between the WTO and the Trump administration, it is important to know the WTO history of handling conflicts. Out of the more than 500 official disputes that the WTO has overseen since 1995, most of them were settled by consultation, with the remaining few requiring litigation. When an issue arises and a member country files a complaint against another country, they must first try to resolve the problem via negotiation. If consultation does not work, a three-judge WTO panel is chosen from the seven judges of the Dispute Settlement Body. Panel judges are selected for four-year terms and are eligible for reappointment to a second term. After a WTO ruling, the offending country must implement whatever recommendation the panel provides, unless it is overturned on appeal. Upon failure to implement the panel’s recommendation, the complaining country can use punitive measures such as raising tariffs or blocking imports.

## WTO FACES CHALLENGES AND UNCERTAINTY

President Donald Trump claims that the dispute settlement system is biased against the United States, despite the fact that U.S. wins the majority of the cases it is involved with. Unsurprisingly, the United States has been a very active member regarding dispute settlements (116 filed complaints and 136 cases as a defendant), especially when it comes to China. Of the 25 cases the United States filed with the WTO during the Obama administration, 16 were against China. President Trump's administration went further by instituting tariffs targeting steel and aluminum from China and other nations. These unilateral tariffs violate WTO rules. Pascal Lamy, former Managing Director of the WTO from 2005 to 2013, has an interesting perspective on the trade battle between China and the United States: "the Middle Kingdom's drive for technological modernization is symptomatic of the problems with the global trading system. To be sure, China's trade practices, including opaque, trade-distorting subsidies of high-tech products, need to be disciplined by stronger WTO rules. But technically, Beijing argues, it abides by current WTO restrictions, because the rules on industrial subsidies are too vague. And, it will probably argue that rules about agricultural subsidies also need strengthening, which U.S. farmers may not like." Trump's willingness to subvert the WTO is a major concern, that some fear could lead to the end of the organization in the near future. (Lamy, 2018).

The United States has targeted the dispute settlement process. In 2016 the Obama administration blocked the reappointment of a South Korean judge to the WTO's Appellate Body, which was the first time a country blocked a second term for a judge. President Trump has continued to block new appointments, which leaves four of the seven judgeships vacant. Two more vacancies are scheduled for December 2019, which if unfilled, would suspend the WTO dispute settlement system. (WTO, 2019) The American Ambassador to the WTO, Dennis Shea, has argued that the Appellate Body has "consistently overstepped its authority" and to protect American interests, the U.S. would be "disruptive where necessary." (Miles, 2018)

Another challenge facing the WTO is the Doha Development Agenda (also known as the Doha Round), which began in Doha, Qatar, in 2001. The WTO agreed to a new round of negotiations that focused on the economic growth of developing countries. The main point of the Doha Round has been to free up global agricultural trade, because many developing countries rely on exporting basic agricultural products, but it has to deal with rich countries that protect their farmers with annual subsidies of \$300 billion. "Developing countries argue that without a reduction in developed countries' subsidies, they must maintain tariffs and their own domestic subsidies." The Doha Round is also trying to reduce trade barriers in areas such as business and financial services. Originally, the agenda promised to give developing countries more time to enact changes, along with technical and financial backing. These negotiations fell apart in 2008 due to disagreement over agriculture subsidies. (McBride, 2018)

## WTO ACTIONS

It took until 2013 with its first multilateral agreement called the Trade Facilitation Agreement (TFA) for the WTO to finally make progress towards creating more favorable policies for developing countries. Its purpose was to accelerate customs procedures to make trade easier and cheaper. A temporary agreement was also reached concerning "public stockholding" which is an "exception that allows developing countries to stockpile agricultural products to protect against food shortages". Unfortunately, the TFA only answered a part of the Doha Round issues but it showed that the WTO was capable of coming up with new global trade solutions. The WTO had another meeting in Nairobi in 2015, where members agreed to start phasing out agriculture export subsidies and some countries agreed to end tariffs on information technology products. Sadly, this is the last bit of progress the WTO would make when it came to the Doha agenda due to a combination of the election of President Trump in 2016 and the lack of further progress at the WTO meeting in Buenos Aires in 2017. Many member countries considered this to be a failure for the trade organization, and U.S. Trade Representative Robert Lighthizer, called for a "fresh start," which could mean that he believes that it is time for the world to move on from the WTO. (McBride, 2018)

Even though it took twelve years for any real, visible progress to be made in the Doha Round, the fact it was able to establish a multilateral agreement was a sign of hope for what the WTO could accomplish in the years to come. Unfortunately, it was a thin silver lining in what turned out to be a very disappointing attempt at successful global trade regulation. The WTO not only faces issues such as the Doha Round and the policies of President Trump, but also has to deal with criticism for how it operates internally. Farmers and labor groups believe the WTO focuses too much on corporate interests. American policy makers, including prominent Democrats and Republicans, assert that

the organization has failed to keep China in line and allows it to abuse the system. James McBride has outlined these four main concerns:

- **Intellectual property:** “The WTO’s intellectual property agreement, [Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#), draws criticism from experts who have argued that WTO rules on drug patents have limited access to medicines in poorer countries. The WTO says that enforcing patent protections is central to expanding global trade.”
- **Response to China:** “Trump has been a vocal critic of Chinese state-led development policy, arguing that while the United States has adhered to global trade rules, other countries, (primarily China), have gained an advantage by ignoring them.”
- **Sovereignty and regulation:** “Some critics say WTO rules overrule national sovereignty, and in doing so erode environmental and labor protections. Environmental groups have criticized WTO decisions on genetically modified foods, as well as recent WTO rulings against what it considers discriminatory environmental labeling. Labor unions in the United States argue that the WTO is inadequate for protecting U.S. wages from being undercut by unfair labor practices abroad, alleging, for instance, that China violates basic workers’ rights to lower the cost of its exports. Developing countries counter that attempts to address labor standards at the WTO are a form of protectionism in disguise.”
- **Import competition:** “Some economists allege that by promoting imports and encouraging firms to move their operations abroad, WTO-led tariff reductions hurt U.S. jobs and wages. The Economic Policy Institute’s Robert E. Scott and Will Kimball have estimated that China’s entrance into the WTO in 2001 led to the loss of more than three million U.S. jobs, as U.S. firms were forced to compete with China’s much cheaper imports.” (McBride, 2018)

## ALTERNATIVE AGREEMENTS

The level of WTO organizational ineffectiveness and membership dissatisfaction has countries looking for alternative systems to deal with world trade. While the Doha Round conversations have not made any progress since the 2017 meeting, the WTO is still managing to facilitate trade through a method called plurilateral negotiations whereby an agreement is reached between a subset of WTO countries. Obviously, these agreements are easier to coordinate because they focus on narrower issues and are only binding to the subset of countries involved in the discussion.

A couple of examples of plurilateral agreements are the Information Technology Agreement from the 2015 meeting in Nairobi, (ITA), that was agreed by 53 WTO countries to reduce trade tariffs on IT products. The Trade in Services Agreement (TISA) has been in progress since 2013 and involves 23 member countries. Its goal is to better liberalize global trade by updating the WTO’s rules, which have not been modified since their inception in 1995. McBride reports that “in 2012, 19 members agreed to update the [Government Procurement Agreement \(GPA\)](#), which seeks to further open government procurement markets. And in 2014, 14 members, including the United States, China, the EU, and Japan, opened negotiations on a proposed [Environmental Goods Agreement \(EGA\)](#), which would liberalize trade in environmental products, such as wind turbines and solar technology” (McBride, 2018). Some countries have used bilateral treaties and larger regional free trade agreements. President Trump prefers to use bilateral negotiations, or even unilateral measures when it comes to dealing with countries such as China. The fact that all of these plurilateral and bilateral agreements were and still are being made, while the WTO is trying to find some kind of global solution through the Doha agenda, demonstrates that these varied methods can lead to trade progress.

Multilateral agreements sound good in theory, but reality has proved that not all nations are ready to move in unison. Different countries have different needs based on internal factors which is why a binding rule for all does not always work. Member countries have been forced to partake in plurilateral agreement to achieve trade agreements. The WTO may need to adopt the idea of plurilateral and bilateral negotiations on a much larger scale to deal with international trade.

Now, while many do not necessarily agree with how President Trump is managing trade issues, he has triggered a wake-up call that the WTO badly needed. Pascal Lamy, former WTO Managing Director, has said the WTO has

“a process that has remained stalled and elusive for too many years. Those who value fostering a fair global trading system that works for all, should seize this chance.” (Lamy, 2018). In a perfect world, the United States would continue to be a part of the WTO, but if the Trump administration continues to use its ultimatum style approach to negotiations, other member countries need to be prepared to create a new international trade organization that does not involve America. Lamy points out, that for there to be a fair-trading system that accurately reflexes our modern era, it must take into account the concept of “one world with three systems.”

Pascal Lamy describes these systems as “the U.S. system, which is hyper-capitalist, individualistic and entrepreneurial; China mixes a strong collectivist state with uneven market competition; Europe’s social market system and many others stand somewhere in between” (Lamy, 2018). These different systems need to be able to coexist, and trade goods and services with each other, for the WTO to achieve the goals it set for itself. Lamy, also argues that “it would be prudent for other members to start thinking about devising a new international trade organization minus the United States in order to avoid the ‘my way or the highway’ blackmail that has become the American President’s signature negotiating style.” (Lamy, 2018)

## CONCLUSION

The United States is challenging the existence of the WTO. Major reforms including or excluding America are necessary. Since World War II, the World Trade Organization has created a set of rules and a dispute settlement process that has advanced international trade. One hopes that future reforms will improve economic relationships between China and the rest of the world, as well as, improve the standard of living in developing countries.

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