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WTO Reform: Challenges and Perspectives*

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In the face of changes in the global economy, members of the World Trade Organisation (WTO) agree that it needs reform. The main topics of the debate are arbitration procedure, developing country and market economy status, as well as the method for negotiating multilateral agreements. Differences in the positions of members of the organisation mean that the chances of reaching a comprehensive agreement are limited. However, progress is possible in selected areas, such as more frequent negotiations of deals by a smaller number of members.

The global trading system is in crisis, facing criticism that there is an unfair distribution of benefits from trade and that it has failed to keep up with changes in the economy, such as technology. The WTO, the only global organisation involved in shaping the principles of international exchange and resolving commercial disputes (in 2017, its 164 members were responsible for over 98% of world trade in goods), is the central point of this system. After 24 years of operation, an assessment of it yields an ambiguous result. Although progress in trade liberalisation can be regarded as modest, some success has been achieved, such as a reduction of administrative barriers. Also, by accepting new members (primarily China in 2001), the benefits of free trade are being shared by an increasing part of the world's population. However, the WTO is misfiring as well, such as the failure of negotiations of the still officially ongoing Doha Round aimed at reducing barriers to trade, including in agricultural products and services. Along with the changes in the global economy (including the growing importance of emerging markets), an increasing number of members have noticed the need for WTO reform.

Debate Over the Reform. Talks about changes to the WTO have gained momentum as a result of the stance of the U.S. administration under President Donald Trump. It has sharply criticized the WTO, considering it to be ineffective and acting to the disadvantage of the U.S., and hinting of a withdrawal. The U.S. has turned to protectionist measures, for example, introducing in 2018 [tariffs on steel and aluminium](#), which has affected related trade with the EU, India, and others. The main target of the U.S. measures, however, is China, which the Americans accuse of using unfair trade practices. In an attempt to enforce change, the Trump administration has escalated tensions with China, including [imposing further duties](#) (most recently duties imposed in September 2018 were hiked at the beginning of May). In response to the U.S. actions, its trade partners have introduced retaliatory duties and filed complaints with the WTO. In this context, the organisation's efficiency, especially its arbitration system, is of key importance for the stability of the world trade system.

That is why proposals for changes to the WTO have been presented, for example, at tripartite meetings of the EU, the U.S. and Japan inaugurated in 2017, in the EU-China working group established in 2018, or in the informal meeting of 13 WTO members in Ottawa in October 2018 (in which the U.S. and China did not participate). The issue of WTO reform was also raised at the [G20 summit in Buenos Aires in 2018](#).

* This is the first of a series of five *PISM Bulletins* about WTO reform.

Differences within the WTO emerged, especially between developed and emerging markets, as regards reform of the organisation.

Arbitration Procedure. The WTO's dispute settlement system (DSS) is considered one of the organisation's main strengths because it helps to avoid trade wars. Since 1995, members have filed more than 500 complaints about alleged violations of organisation rules and more than 350 judgments have been issued (members may also be a third party to proceedings initiated by another state when they have a "significant interest" in the case). A member can appeal the expert panel's decision to the permanent Appellate Body (AB). The Trump administration charges that judges in the AB exceed their rights and that the cases take too long to resolve.

To put pressure on changes, the U.S. has blocked appointments of new AB members. Since October 2018, the AB has had only three judges from its full line-up of seven (the minimum number needed to run AB). This adversely affects the efficiency of its work and the pace of handling cases. In December 2019, the terms of two of the remaining judges end, which in the absence of new appointments will paralyse the activities of the AB and thus the entire arbitration mechanism. This will move disputes outside the WTO where they will be resolved bilaterally, which may result in disruptions in trade relations and marginalisation of the organisation.

In November 2018, 12 WTO members (including the EU, China, and India) proposed a solution to the AB crisis that includes limiting the scope of interpretation of the challenged provisions and the WTO members' annual discussion on the AB's activities. In a separate proposal from December 2018, China, the EU, and India also proposed other changes, including enlarging the tribunal from seven to nine members and extending their term of office from four to six years.

Developing Country and Market Economy Status. One of the key topics of the talks is the division within WTO into developed and developing countries, which can count on special and differential treatment (SDT), such as longer implementation periods. Each WTO member determines to which group it belongs (developing countries make up two-thirds of the members). This decision also must be accepted by the other members. With changes in the balance of power in the global economy, SDT reform has been proposed. In a joint statement in September 2018, the EU, the U.S., and Japan called on economically developed countries that maintain the status of "developing" to accept new commitments (this applies mainly to China).

Another controversial issue is the role of the state in the economy. Government interference may result, for example, in increased competitiveness of domestic producers against foreign companies. Often in this context, the activities of state-owned enterprises and subsidies by public institutions, for example, in the form of cheap loans, are mentioned. The U.S. also has cited limited transparency in the support provided by states and in legal provisions that are introduced. An important element of distorting fair competition is also weak intellectual property protection or forced technology transfer. China is accused both and the EU and the U.S. refuse to recognise it as [a market economy](#).

Negotiations of Multilateral Agreements. Within the WTO agreements, liberalising international trade requires the consent of all members, which has hindered the progress of negotiations in the Doha Round. The only deal accepted by all WTO members is the Trade Facilitation Agreement of 2013 (part of the so-called Bali Package), limiting bureaucratic and technical procedures, that entered into force in February 2017.

In this context, there are more often proposals to transfer the burden of work to smaller working groups. [After the ministerial conference \(the highest WTO decision-making body\) in Buenos Aires in December 2017, it was decided to create three working groups \(for investment, SMEs and e-commerce\)](#). However, it is too early to assess the effectiveness of this approach in the current circumstances because the negotiations are at an early stage—in January 2019 at the World Economic Forum in Davos, 76 WTO members declared they would start talks on e-commerce principles.

Conclusions and Perspectives. Given the divergent positions of the WTO members, especially regarding developing country status and the arbitration system, the chances of achieving comprehensive reform are limited. However, a partial agreement is possible, such as more frequent deals signed by a limited number of countries (so-called flexible multilateralism). Other WTO members can be granted similar provisions in accordance with the most-favoured-nation clause and to join deals voluntarily. This would adjust the organisation's activities to the needs of individual members, although the scale of trade liberalisation would be limited.

Given their importance to global trade, the main roles in the WTO reform discussion will be played by the EU (which also will represent Poland), the U.S., and China—these three are jointly responsible for more than 40% of trade in goods and almost 50% of services—as well as emerging economic powers, such as India. Progress in the debate will be discussed at the G20 summit in Osaka in June 2019, and the solutions developed to that point could be accepted at the WTO Ministerial Conference in Nursultan, Kazakhstan, in June 2020. Due to the risk of paralysis of the arbitration system at the end of 2019, earlier agreement is possible. In the absence of a consensus, radical action cannot be ruled out, such as U.S. withdrawal from the WTO.