

Chapter 1

Introduction

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As the World Trade Organization (WTO) approaches its 25th anniversary in 2020, the mood is far from celebratory about the organisation's performance, functioning and future. The rules-based multilateral trading system, with the WTO at its centre, stands at a crossroads at a time when transparency, predictability and stability in world trade are needed to counter the implications of rising protectionism and unilateralism by some countries, and to trigger greater global trade growth, especially to assist developing countries achieve the Sustainable Development Goals (SDGs).

The Doha Round, launched in November 2001, is the longest-running trade round in the history of the multilateral trading system, and there is no clear sense of *when/how/if* it can actually be concluded. This multilateral impasse has shifted some rule-making away from Geneva to Regional Trading Arrangements (RTAs) covering new and broader areas and trade rules, as well as leading to a rise in plurilateral initiatives among subsets of WTO members. Most recent has been the decision by 76 WTO members to begin meaningful negotiations on the trade-related aspects of e-commerce. Under these circumstances, the WTO's role and relevance in further opening up world trade and in providing governance are under increased scrutiny, and calls for reform have intensified.

Rule-making in the WTO has become ever-more challenging as the number of members increases and the range of issues to tackle broadens. The recurrent deadlock and failure to conclude the Doha Round partly reflects the growing weight, diversity and expectations of the organisation's 164-country membership, as well as competing narratives about the role of trade and trade policy in development and the benefits of globalisation. The need for efforts to narrow these differences in narratives and rebuild mutual trust among the member countries are paramount to making progress. New international dynamics – especially the rise of the emerging economies, such as Brazil, China and India, as well as the more assertive role of developing country coalitions – now portend greater multi-polarity, further complicating collective global action on trade. The rapid growth and improved economic prospects of these emerging economies has led some development countries to call for greater differentiation among the WTO's developing country members, with implications for recourse to the principle of special and differential treatment. Some developed countries expect these emerging economies to take on greater global responsibilities by contributing to the provision of the public good of free trade and the strengthening of the multilateral trading system.

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While these factors all have an impact on the efficiency of the multilateral process, some WTO members and trade policy commentators point to a more fundamental flaw in the procedural and functional aspects of the organisation. Two of its functions under pressure are the negotiating forum and the adjudicating body of trade disputes. The design of the negotiations, and the principle of the single undertaking, may need to be addressed. It is argued that the WTO's established rules, principles and practices of decision-making – most of them carried over from the previous Uruguay Round of the General Agreement on Tariffs and Trade (GATT) – are ill-suited to respond to the fast-changing needs of 21st century world trade. Today, intricate connections exist in global production networks between goods, services, investment, intellectual property, logistics and digital trade. These are underpinned by the need for sustainable production and trade to help combat climate change. It is argued that the WTO disciplines have not kept abreast of these new external realities.

Amid the Doha impasse, there have been some achievements. WTO members have struck landmark agreements in a variety of formats, showing some flexibility in the organisation. Two major achievements in recent years are the adoption of the Trade Facilitation Agreement at the Bali Ministerial Conference in 2013 and the ban on agricultural export subsidies at the Nairobi Ministerial Conference in 2015. However, the call for new pathways to decision-making and the launch of Joint Initiatives on e-commerce, investment facilitation and micro, small and medium enterprises (MSMEs) at the Buenos Aires Ministerial Conference in 2017 signal a major departure from the entirely consensus-based/single undertaking paradigm that has been the hallmark of previous decision-making.

The WTO's dispute settlement function, the crown jewel of the system, is also under threat. One major economy member, the USA, is blocking the appointment and reappointment of the WTO judges whose rulings help resolve the trade disputes. This may soon reduce the WTO Appellate Body from its full roster of seven judges down to the minimum of three needed to decide an appeal.

While discussions of WTO reform are not new, a significant number of WTO members now recognise and agree the organisation does require urgent change to remain credible and relevant for 21st century global economic governance. Some WTO members, including Canada, the EU and the USA, have identified their own reform priorities. Concurrently, the G20 Leaders Summit in Buenos Aires in December 2018 supported the necessary reform of the WTO to improve its functioning. The trade literature also has a raft of reform proposals from former WTO officials, experts and academics (e.g. Lawrence, 2006; Cottier and Takenoshita, 2008; Low, 2009; Steger, 2009; Jones, 2010; WEF, 2010; Ismail and Vickers, 2011; Hoekman, 2012). Additionally, at least three expert group reports – namely, Consultative Board (2004), the Warwick Commission (2007) and Bertelsmann Stiftung (2018) – have considered overall governance reforms for the organisation but also delivered specific recommendations to make the WTO a more effective and efficient negotiating institution.

For most Commonwealth developing countries, and especially for small states, least development countries (LDCs) and sub-Saharan African (SSA) countries,

international trade is a crucial driver of growth, poverty reduction and employment. If these countries are to achieve the SDGs, they need an enabling global trading environment that both supports and enhances their participation in world trade. The Commonwealth and its members remain at the forefront of global advocacy to promote free trade in a transparent, inclusive, fair and open rules-based multilateral trading system to help achieve the SDGs, as reflected in the first-ever Commonwealth statement delivered to the WTO, at the 11th Ministerial Conference in December 2017. Canada has tabled a proposal on how to strengthen and modernise the WTO and has convened a small representative group at ministerial level to explore the proposal; the group includes Commonwealth member countries Australia, Kenya, New Zealand and Singapore, as well as Brazil, Chile, the EU, Japan, Korea, Mexico and Switzerland. The outcomes of these discussions have been shared and inputs invited from the Commonwealth WTO membership in Geneva.

This compilation of essays offers timely and expert commentary on some of the challenges confronting the multilateral trading system today, and what reforms could help modernise and strengthen the WTO as the custodian of global trade governance for the 21st century. The essays build on current debates and existing initiatives on WTO reform, as outlined earlier, by providing specific policy recommendations and identifying gaps in current debates and proposals, including areas where reform ought to take place but where attention is not currently focused. The publication is not intended to be exhaustive across the full range of specific WTO reform topics, but focuses on the subject at an overall strategic level. What is unique about this collection is its recognition of the broader historical, geo-economic and geo-strategic context in which the current calls for reform and reform proposals must be properly situated.

The five essays that follow provide key messages and suggestions for trade policy-makers and negotiators as they consider and contemplate the challenges and opportunities to improve the functioning, effectiveness, efficiency and inclusiveness of the WTO. The views expressed in these essays are those of the authors and do not necessarily represent those of the Commonwealth Secretariat.

Rorden Wilkinson, in *‘Revisiting WTO Reform’*, examines the longstanding history of WTO reform discussions, describing the organisation as one characterised by compromise, happenstance and opportunism. He asserts that the continuing discussions demonstrate a growing frustration among member states defined by their varying negotiating capacities and differing perspectives. Wilkinson argues the organisation in its current state not only fails to deal with contemporary issues such as digital trade, but also has failed to fully address past challenges that were swept under the rug during the establishment of the WTO. His chapter argues that, while many of the current reform proposals are laudable in themselves, they are likely to have an impact only at the margins, and their net effect will be to preserve the institution largely as it is. The consequence will be that system malfunction and member frustration will continue to be features of the multilateral trading system in the medium term.

Amrita Narlikar, in *‘Trade Multilateralism in Crisis: Limitations of Current Debates on Reforming the WTO, and Why a Game-Changer Is Necessary’*, confronts the historical and technocratic challenges faced within the WTO, from the Doha Development

Agenda in 2001 up to the present day, and unpacks the national and global reasons why reform is needed. She highlights a disconnect between local and global gains, and a failure to address developing countries' concerns. Her chapter assesses the limitations of the current discussions and advocates for a multi-pronged approach that understands interlinkages between trade and security, trade and industrialisation, among others. Narlikar argues that, for effective change to occur, it is important to adopt a more holistic approach to reform and develop better narratives about trade.

Carolyn Deere Birkbeck, in '*WTO Reform: A Forward-Looking Agenda on Environmental Sustainability*', diverges from the discussions on reforming WTO functionalities to look at the inclusion and significance of environmental sustainability at the multilateral level. Her chapter points out existing tensions and concerns between trade and the environment, particularly fears that sustainability requirements will limit market access, hinder local development and threaten competition. She argues that, while much of the environmental discussion and many of the initiatives are now citizen- and industry-led, there remains room for expansion and decision-making at the WTO level. She also unpacks environmental areas on which the WTO is expanding, such as fossil fuel subsidies, and those on which negotiations have slowed down, such as fisheries subsidies and addressing environmental dimensions of trade in services, agriculture and industrial products, as well as established negotiations, such as trade and investment. Birkbeck argues that a comprehensive solution lies in linking process and institutional design through strengthening the existing WTO environmental committee, policy dialogue, capacity-building, monitoring and evaluation.

Lorand Bartels, in '*WTO Reform Proposals: Implications for Developing Countries*', focuses specifically on three core areas of the institutional reform agenda, mainly the categorisation of developing country status, the functioning of the Appellate Body and the compliance with notification obligations by member countries. Bartels notes the contentions driving the institutional reform agenda stem from the Doha Round and a concern of developed countries about the effect of WTO rules on state capitalism. His chapter outlines the proposals and joint communiqués raised by the US, EU, China, the Africa Group, and other member countries and evaluates how each proposal seeks to address the challenges raised as well as its impact on developing countries.

Teddy Y. Soobramanien and Brendan Vickers, in '*Reshaping the WTO: Reflections on a Way Forward*', unpack the successes and shortcomings of two of the WTO's discrete functions – namely, the negotiating function of the organisation and its adjudicating role on trade disputes. The authors outline some of the recent challenges confronting trade multilateralism and then present some practical recommendations for a way forward. The solutions centre around the main principles of the trading system: trade without discrimination; freer trade through negotiation; transparency; fair and inclusive competition; and development.

As a complement to the various discussions and literature around WTO reform, *WTO Reform: Reshaping Global Trade Governance for 21st Century Challenges*, is designed to serve as a valuable resource for government officials, trade negotiators, journalists

and those in the academic and research community who are attempting to sort through the complexities of the organisation and the role they can play in supporting a fairer, more inclusive WTO and multilateral trading system. The strengths of the collection are that it is topical and provides historical and up-to-date insights into how reform can potentially be transformational and progressive in nature. Further, the collection broadens the debate on WTO reform by focusing not only on new pathways for decision-making but also on important issues and topics that should animate a 21st century WTO agenda, including environment and the SDGs. Finally, it highlights the importance of keeping the multilateral trading system alive for the benefit of all states, particularly for small states, LDCs and SSA countries.

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