

What Would Happen to a World Without the WTO?



Discussion Paper

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#2013

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Abstract

During the first half of the 20th Century, the world had witnessed some disruptions including two large-scale wars. International trade suffered most, particularly in the run-up to and as an aftermath of the Great Depression of the early 1930s. There were no multilaterally agreed rules to arrest that decline. After almost a century, are we going to witness a similar scare?

Following the Sino-American trade wars, which have been continuing over the last few years, Brexit, the US withdrawal from the Trans-Pacific Partnership and India's withdrawal from the Regional Comprehensive Economic Partnership of Asia and the Pacific, this question is in the mind of every right-thinking person across the world.

The COVID-19 pandemic and its likely aftermath in further disrupting the existing geopolitical and geo-economic equilibriums (howsoever imperfect that they may be) along with a largely dysfunctional World Trade Organisation (WTO), which is unable to discharge one of its most important functions - dispute settlement - the world is likely to witness many more trade-related disruptions.

Recent export restrictions on essential medicines and other medical equipment and food items by many countries provide some directions towards an emerging 'beggar-thy-neighbour' world.

Can humanity afford such a disruptive world? While a simple answer is 'no' and there is hardly

any effort on the part of global leaders (there are no statesmen) to stem this rot, the onus for reviving the multilateral trading system lies equally with the global trade community at large. That calls for the only multilateralism to survive the on-going onslaught against it but also and more importantly under a 'new normal' of polyilateralism (where governments, businesses and civil society work together in a structured manner).

A rules-based multilateral trading system is an absolute necessity for this to happen in a balanced and equitable manner. This is because there is no denying the fact that it is this system that underlined peace, security, stability and prosperity in the post-war world.

Therefore, other than providing a historical narrative of the multilateral trading system under the General Agreement on Tariffs and Trade (GATT) and its successor - the WTO - this Discussion Paper analyses a forward-looking agenda for the multilateral trading system to reinvent itself in a new avatar. This agenda is based on a series of webinars, organised by CUTS International, which was held across the world virtually during April-September, 2020.

It concludes by arguing that while different systems of economic and political governance can co-exist, it is important for the global powers to understand the value of 'agree to disagree' and it is the responsibility of the middle and emerging powers to convince them.

Abbreviations

| | | |
|--------|---|---|
| DDA | : | Doha Development Agenda |
| EEC | : | European Economic Community |
| FDI | : | Foreign Direct Investment |
| FES | : | Friedrich Ebert Stiftung |
| GATS | : | General Agreement on Trade in Services |
| GATT | : | General Agreement on Tariffs and Trade |
| IPRs | : | Intellectual Property Rights |
| ITA | : | Information Technology Agreement |
| LDCs | : | Least Developed Countries |
| MFA | : | Most Favoured Nation |
| MSMEs | : | Micro, Small and Medium Enterprises |
| NTBs | : | Non-tariff Barriers |
| NTMs | : | Non-tariff Measures |
| RoO | : | Rules of Origin |
| S&DT | : | Special & Differential Treatment |
| SDGs | : | Sustainable Development Goals |
| T&C | : | Textiles & Clothing |
| TFA | : | Trade Facilitation Agreement |
| TMEA | : | Trade Mark East Africa |
| TRIPs | : | Trade-Related Aspects of Intellectual Property Rights |
| TRQ | : | Tariff Rate Quota |
| UNCTAD | : | United Nations Conference on Trade and Development |
| WHO | : | World Health Organisation |
| WTO | : | World Trade Organisation |

Introduction

In the post-War period, international trade in goods and services underwent a sea change. It was no longer just an exchange of merchandise between nation-states. There have been three significant developments, which are as follows:

- **The emergence of trans-national corporations or global business into the arena of the world trading system.**

At present, intra-and inter-industry trade in goods constitutes more than two-thirds of total international trade. One should look at a trade in value-added as against just gross value terms. While this is happening for centuries, the post-1990s intra-industry trade experienced a huge momentum. It was primarily due to the growth in trade-related foreign direct investment including the embodiment of trade with technology as a result of the strengthening of intellectual property rights regimes.

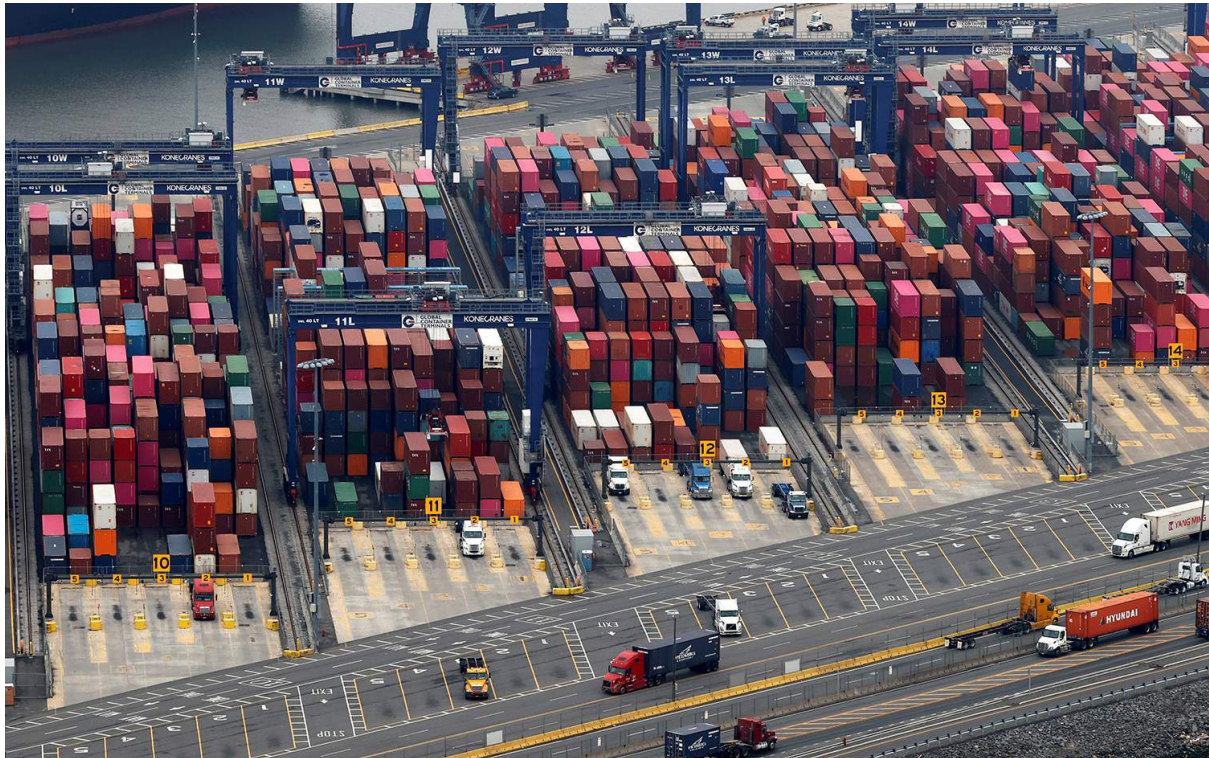
- **The growth in trade in services, from less than five per cent of total trade in 1990 to more than 25 per cent in recent years.** Approximately 65

per cent of total foreign direct investment is on account of services and is steadily increasing. In a COVID-induced world where digital trade, which is largely service-oriented, is gaining further momentum, this is expected to be reinforced further.

- **The increasing importance of beyond-the-border measures, such as non-tariff measures and trade facilitation measures, in a country's trade policy.** With a gradual and significant reduction in tariffs, standards, and other trade-related rules such as trade facilitation measures at border posts and economic corridors, their recognition and equivalence including if possible harmonisation has become more important in facilitating/hindering cross-border trade.

This structural change in the world trading system is evident in quantitative as well as qualitative terms. However, while intra- and inter-industry trade is growing at a rate faster than the growth of overall trade in goods and services, the COVID-19 induced changes in the trading pattern are

Regulations, such as standards and rules of origin, are becoming more important determinants of international trade



expected to realign the current state of intra- and inter-industry trade.

A new buzzword is 'value/supply chains', meaning that any product that reaches the consumer is often made with components and sub-assemblies that come from diverse countries, be it a laptop or a car, or even a shirt - the cotton may have been grown in West Africa, the yarn produced in China, and the fabric imported by Bangladesh from China or yet another country to make that shirt.

It is not just goods; factories are also crossing borders as production is getting more and more fragmented. Trade-in intermediary goods are assuming more significance than before.

Therefore, regulations such as standards and rules of origin are becoming more important

determinants of international trade. Also, trade wars between countries, particularly the Sino-American trade and technology war, affect not only those directly engaged in the conflict but also have a negative impact on their value chains.

Secondly, the qualitative impact of a global business on the trading system can be gauged by the advent of the term 'trade-related' during the Uruguay Round of multilateral trade negotiations under the GATT.

For example, there are trade-related aspects of intellectual property rights and investment measures, which make the domestic regulatory environment as important a determinant of international trade as external factors. Many of them are behind-the-border measures governing trade.¹

This Discussion Paper analyses various possible fall-outs of such a scenario - a world without the WTO

Furthermore, the current discourse on electronic commerce, particularly on the treatment of data including data generated through cross-border e-commerce, is a manifestation of this change.

However, since the trans-Atlantic financial crisis of 2008 in general and the WTO's Nairobi Ministerial Conference in particular, the multilateral trading system under the aegis of the WTO is in limbo.

Not only that there is not much in negotiating existing and new issues including that on fisheries subsidies, which was agreed to be negotiated by all WTO members, the other two functions of the WTO - the deliberative or implementation function under various Committees and the dispute settlement function - have more or less come to a standstill.

In particular, with the expiry of the period of engagement of two out of three members of the WTO's Appellate Body in December 2019 as a result of the US intransigence to appoint new members, its dispute settlement system - the so-called 'jewel in the crown' of the WTO - is in limbo without any immediate solution in the near future.

While so far the WTO's system of governing trade is based on 'consensus', is it not suffering from the tyranny of the powerful? It is also evident from the latest salvo on the part of the United States of America in coming on the way of arriving at a consensus to appoint its Director-General.

While most member countries have favoured the candidacy of Ngozi Okonjo-Iweala of Nigeria (also a US citizen), the US objected and supported Yoo Myung-hee, the candidate from South Korea, because the selection panel adopted 'opaque' and 'byzantine' procedures.²

In short, a 'consensus' could not be achieved. Here, it is important to remember that 'voting' provision is there to arrive at decision-making at the WTO as per the GATT, 1994 Agreement. While it has never been used, is it not time to use it as a kind of 'Plan B', even if the US decides to leave this body.³

Given its reduced share of world trade (14.73 per cent and 12.32 per cent share of world export and import in 1995, the year the WTO was established to 8.5 per cent and 13.2 per cent, respectively), there may not be much impact on the robustness of the trading system governed by the WTO's rules.

In any case, there are several instances (not just recently) when the US resorted to unilateral trade measures even if they go against the WTO's rules and its commitments therein.⁴

Thus, it is evident that the international trading system is passing through an era, where the rules of the game are being bypassed and, more importantly, it seems that there is less appetite for major trading nations to follow them for the benefit of all. This

may plunge the world into a 'beggar-thy-neighbour' kind of a trade war, which was witnessed as a precursor to the Great Depression of the 1930s.

In such a scenario, it is the smaller trading nations that are expected to suffer most. While the situation is not exactly similar to that in the 1920s and 30s, due to today's inter-connected nature of production with trade and speedy communications, the absence of a functioning, rules-based system will significantly erode the predictability of the trading environment.

This Discussion Paper analyses various possible fall-outs of such a scenario - a world without the WTO. In doing so, it has not gone

into legalese or technical aspects of the implementation of the WTO agreements. Instead, it has narrated some basic features of the multilateral trading system including a historical overview of its functioning since GATT, 1947.

Its 'conclusion and way forward' is based on several recommendations, which were received during a series of webinars that CUTS International has conducted during May-September, 2020.

They have underlined the importance of having a functioning, rules-based multilateral trading system in a post-pandemic world so that the world economy does not fall into a slippery slope of protectionist and retaliatory measures.

A Historical Narrative

Basic Features of the Multilateral Trading System

As stated in the Preamble of the Agreement establishing the WTO in 1995, the main objective of the multilateral trading system is: 'Raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods.'

From 1947-1994, there were eight rounds of multilateral trade negotiations under the GATT. Box 1 presents a snapshot of those negotiations. The first five rounds discussed tariff measures in industrial goods only.

The sixth round broadened the agenda for discussion by including non-tariff measures and trade in agricultural products. The seventh-round discussed issues that were not part of the GATT's 1947 disciplines - for example, product standards.

Finally, from 1986 to 1994, the eighth round (the Uruguay Round) discussed a set of subjects including new ones such as trade in services, trade-related

intellectual property rights, some of which were, strictly speaking, not trade issues *per se* - they are trade-related.

The impact of these structural changes in international trade is also reflected in the fundamental principles of the Uruguay Round of multilateral trade negotiations, which are as follows:

- **Single undertaking:** The Agreement was to be a take-it-or-leave-it deal - that is that the members would have to accept all parts of the Agreement or not join.
- **Parallelism:** All talks would carry on alongside each other to ensure a balanced outcome for all participants.
- **Non-reciprocity:** Negotiations would recognise that developing countries would not have to open their markets to the same degree as developed countries.
- **Openness:** Talks would carry on in an open manner and negotiating groups.
- **Mandates:** Negotiations would tackle four themes: market access, rule-making, institutional reforms, and new issues.⁵

From 1947-1994, there were eight rounds of multilateral trade negotiations under the GATT

Box 1: Multilateral Trade Negotiations under GATT, 1947-1994

| Name | Period and number of Contracting Parties | Subjects and modalities | Outcome |
|---------------|--|--|---|
| Geneva Round | 1947, 23 countries | Tariffs: item-by-item negotiations | Concessions on 45,000 tariff lines |
| Annecy Round | 1949, 29 countries | Tariffs: item-by-item negotiations | Modest tariff reductions |
| Torquay Round | 1950-1951, 32 countries | Tariffs: item-by-item negotiations | 8,700 tariff concessions |
| Geneva Round | 1955-1956, 33 countries | Tariffs: item-by-item negotiations | Modest tariff reductions |
| Dillon Round | 1960-1961, 39 countries | Tariffs: item-by-item negotiations; proposal by the EEC for a 20 per cent linear cut in duties on manufacturers (not adopted) | Tariff adjustments following the creation of the European Economic Community (1957); 4,400 concessions exchanged |
| Kennedy Round | 1963-1967, 74 countries | Tariffs: formula approach supplemented by item-by-item negotiations; non-tariff measures: anti-dumping, customs valuation | Average tariff reduction of 35 per cent by developed countries; some 30,000 tariff lines bound; agreement on anti-dumping and customs valuation |
| Tokyo Round | 1973-1979, 99 countries | Tariffs: formula approach; non-tariff measures: anti-dumping, subsidies, customs valuation, government procurement, import licensing, product standards, safeguards | The average tariff of developed countries reduced by one-third (to reach six per cent on average for manufacturers); codes of conduct established for interested parties on specific non-tariff measures |
| Uruguay Round | 1986-1994, 103 countries in 1986, 117 by end of 1993, 128 in early 1995 (by the establishment of the World Trade Organisation) | Tariffs: a combination of item-by-item and formula negotiation; non-tariff measures: all Tokyo Round issues, plus pre-shipment inspection, trade-related investment measures, rules of origin; new issues: trade in services, and IPRs, dispute settlement procedures, transparency and surveillance of trade policies | Tariffs of developed countries reduced by one-third on average; agriculture and textiles & clothing brought into GATT; creation of the WTO, and agreements on services and intellectual property; most Tokyo Round codes enhanced and made a part of GATT, 1994, i.e. applicable to all WTO members |

Source: Hoekman and Kostecki, 1995

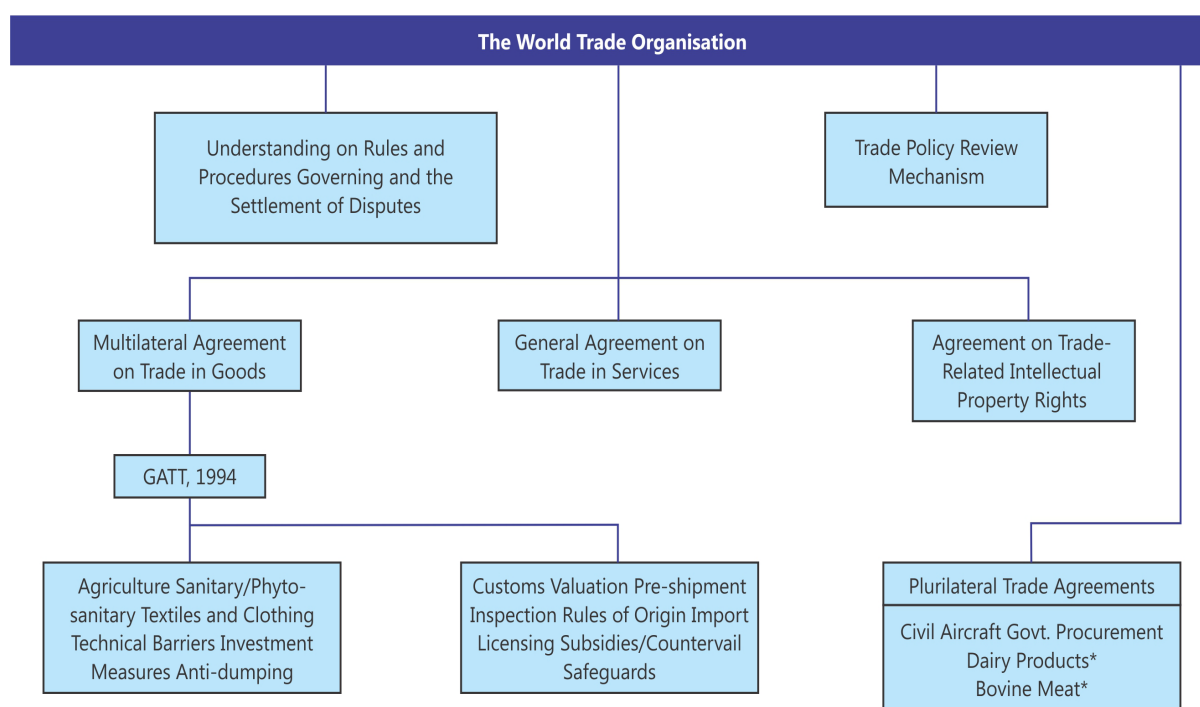
The existence of the WTO assumes more importance as it provides an institutional structure for carrying out rules-based international trade

While in the post-1990 world, the existence of the WTO assumes more importance as it provides an institutional structure for carrying out rules-based international trade, the GATT 1947 was a semi-institutionalised framework.

On the other hand, under the WTO, a General Council, consisting of all members of the WTO, was established to oversee the operations of the WTO between meetings of the Ministerial Conference, including that of the Dispute Settlement Body and to administer the Trade Policy Review Mechanism.

There are three Councils under the guidance of the General Council: the Council for Trade in Goods, the Council for Trade in Services, and the Council on Trade-Related Aspects of Intellectual Property Rights (TRIPs). Besides, there are two horizontal committees - the Committee on Trade and Development and the Committee on Trade and Environment - that operate under the General Council.

In short, together these Councils and Committees institutionally oversee the operation of all the agreements that form part of each WTO member's commitments. The institutional structure of the WTO is presented below.



* Note: Terminated

The GATT was signed by 23 countries and became a set of laws on January 01, 1948

A Brief History of Multilateral Trading System (1945-1995)

International trade has played and continues to play a major role in the economic growth of many countries worldwide. Beginning with the creation of the Bretton Woods System in general and the GATT in particular in 1948 to the formation of the WTO in 1995, the multilateral trading system has only flourished.

During the Second World War, the importance of forming a global system that would replace the Gold Standard became evident. There seemed a need for a system that would incorporate the advantages of the classical gold standard and, at the same time, bring order to global trade.

Hence, to formulate a singular international monetary system, the Bretton Woods Agreement was

arrived at in the presence of all the World War II allied nations that agreed on setting up a system of fixed exchange rates with the US Dollar as the international reserve currency.⁶

Even though the system was considered stable, it was short-lived. Three years after the Bretton Woods Agreement was signed, the Bretton Woods Conference decided to establish the GATT to facilitate international trade.

The GATT was signed by 23 countries and became a set of laws on January 01, 1948.⁷ Under GATT, multilateral trade negotiations took place as and when Contracting Parties adopt a specific mandate to negotiate. These negotiations that were discussed between GATT's Contracting Parties had a singular aim of easing the flow of cross-border trade by lowering tariffs and other trade barriers.



After nearly eight years of gruelling negotiations, the conclusion of the Uruguay Round led to the establishment of the WTO

One of the most important rounds of GATT negotiations was the Uruguay Round, which commenced in September 1986.

After nearly eight years of gruelling negotiations, the conclusion of the Uruguay Round led to the establishment of the WTO. Not only did this round of negotiations lead to the birth of the WTO, but also introduced some major changes to the global economy as it systematically incorporated trade in agriculture and textiles & clothing for the first time in GATT negotiations.

The formation of the WTO proved to be a turning point in the history of the multilateral trading system.⁸ A singular governing and dispute settlement body was long needed in the world of trade.

Here it is important to mention that there existed a dispute settlement system in the GATT but there was no 'body' to institutionalise its decisions as it was 'voluntary' on the part of affected parties to agree and comply with the panel decisions.

Furthermore, the structural procedure of conducting trade as contained in the WTO agreements provided a framework for companies to do trade, provided

its members observe those rules, which bind their commitments.

Thus, while the WTO agreements have helped the ease of doing trade in many different ways and buttressed market contestability, it crucially depends on its members to adhere to their obligations. Moreover, it does not only implement and regulate trade agreements but also provides a regular platform for discussions and negotiations between member countries.⁹

Since its formation, the WTO has been responsible for multilateral trade negotiations that have taken place between its member countries. It has acted as a prime organisation in resolving trade disputes.

Moving forward, we talk about some of the most important negotiations that have taken place under the organisation. These negotiations have significantly affected international trade in specific areas where decisions were being taken.

A Brief History of the World Trade Organisation

Following the conclusion of the Uruguay Round in Marrakesh in 1994, the WTO was established in 1995. Currently, with 164 members and 24 observer countries, the WTO takes major trade-related decisions by consensus. 23 countries are in the process of accession. The high-level policy decisions are made by the Ministerial Conferences, which is



the body of political representatives (trade ministers) from each member country.

Periodically, negotiations are held among members of the WTO to discuss existing trade rules while at the same time creating new ones. Some of the most important ministerial conferences and trade negotiations, that brought major changes to the way trade is conducted, will be discussed below.

Launch and Progress of The Doha Round (2001-2008)

The Doha Round of the WTO negotiations was launched at the WTO's Fourth Ministerial Conference in Doha, Qatar in November 2001.¹⁰ The main aim of the Doha Round was to make international trade easier by introducing lower trade barriers and revised trade rules.¹¹

The Round was also called the 'Doha Development Agenda' as one of its aims, along with lowering trade barriers, was to improve the trading prospects of developing countries. The appellation of 'development' was used to convince developing countries that the purpose is to see how trade can help their development.

It is to be noted that even before Doha there were attempts by the US and the EU to launch a new round of multilateral trade negotiations - the so-called Millennium Round. They made several attempts to launch it in the

run-up to and at the Seattle Ministerial Conference in 1999.

They argued for the inclusion of the Singapore Issues along with several non-trade issues such as linkages between trade & environment, and trade & labour standards in the multilateral trade acquis. Developing countries led by India opposed them including the launch of a new round of multilateral trade negotiations on the ground that they were still grappling with the implementation of their Uruguay Round commitments.

However, the 9/11 terrorist attacks in the United States in 2001 completely changed the scenario. Using that as a driver, in November that year the Doha Round was launched as a symbol of global solidarity against emerging security threats. Developing countries reluctantly agreed with its launch with a caveat that there is no 'explicit consensus' to multilaterally negotiate new issues including the Singapore Issues.

From the very beginning, the progress of negotiations under the Doha Round faced several obstacles. Broadly, they reflected the changing dynamics of rules-based international trade including the inclusion of China in the multilateral trading system.

For example, the Fifth Ministerial Conference of the WTO, which was held in Cancun, Mexico, in September 2003, could not arrive at a 'consensus' on the Ministerial Declaration. It was largely due to two contentious issues: a) how to treat the negotiations on the

Negotiations are held among members of the WTO to discuss existing trade rules while at the same time creating new ones



Singapore Issues as there was no 'explicit consensus' (as agreed in Doha) to negotiate them at the multilateral level, and b) the US intransigence on the treatment of cotton subsidies - while such subsidies were largely responsible for blocking market access to poor, least-developed cotton-producing countries in West Africa, it was politically difficult for the US trade administration to acknowledge it in a pre-Presidential election year.

Also importantly, it is to be noted that while it was a myth to describe the outcome of the Cancun Ministerial as a 'failure', in reality, it was a 'collapse'. Cancun also witnessed the emergence of a New Quad in the multilateral trading system, which consisted of Brazil, the EU, India, and the US, replacing the Old Quad of Australia, the EU, Japan, and the US, which largely drove the agenda of multilateral trade liberalisation, particularly that during the Uruguay Round.

Thus, it was a turning point and also created indigestion in rich countries because their commanding position was downgraded.

Politically, in a pre-Presidential year of the election, it was difficult for the US to accept this changing dynamics of geopolitics. At the same time, it is to be noted that a progressive move on the part of the US by reducing its cotton subsidies favouring poor, Muslim-majority West African countries would have provided further support to the global fight against terrorism.¹²

The Doha Round got salvaged at the Sixth Ministerial Conference of the WTO, which was held in Hong Kong, China in December 2005. Again, there were differences between the developed and developing countries in some areas such as agriculture, industrial goods and the Singapore Issues.

Developing countries led by India opposed them including the launch of a new round of multilateral trade negotiations

Importantly, least developed countries were also upset by the fact that despite being a part of the rules-based multilateral trading system for more than 10 years, they were not getting the desired market access in products of their interest as was promised during the Uruguay Round negotiations.

However, given the fast-changing nature of geopolitics as part of the global fight against terrorism, the world leaders realised the necessity of the rules-based multilateral trading system for underlining peace and security along with stability and prosperity of their economies. This was also a period that witnessed the heydays of post-1990 globalisation with a boom in commodity prices.

On the insistence of India and supported by all other developing and least-developed countries (the G-110 Group), a broad compromise was reached on taking forward the negotiations on all issues of the Doha Development Agenda and included a decision on duty-free,

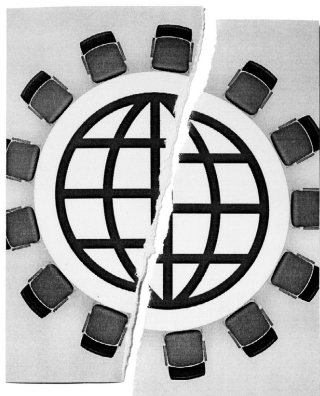
quota-free market access for least-developed countries.¹³

In short, a lot of challenges faced by both developed and developing countries were discussed in this Round but unfortunately, it did not go as smoothly as anticipated. Discussion on agriculture trade particularly posed many challenges as both developed and developing countries had conflicting interests that they wanted to be addressed or not. It centered on reducing subsidies for developed countries' agricultural industries.¹⁴

That would allow some developing countries such as Brazil, Thailand to increase their export of food and other agricultural items, something they were already good at producing.¹⁵

In return, the developing countries would open up their market for industrial goods (non-agricultural market access) and services that would provide new markets to the developed countries' service industries. It would also modernise these markets in developing countries. However, there emerged





an issue in moving forward with the negotiations as the United States and the European Union were persistent in not reducing agricultural subsidies.¹⁶

Furthermore, there were a number of other contentious issues in agriculture negotiations which included market access, both for tariff reductions and exemptions in the form of special products and special safeguard mechanisms.¹⁷

However, agriculture was not the only sticking point. There were considerable differences among various groups of countries on the treatment of the so-called Singapore Issues - trade and competition policy, trade and investment policy, transparency in government procurement, and trade facilitation.¹⁸

On agriculture, a variety of sub-issues that emerged throughout the round were: public stockholding for food security purposes, special safeguard mechanisms from a sudden surge in imports, state trading entities, and cotton subsidies.¹⁹

After its beginning in November 2001, the WTO Doha Round of multilateral trade negotiations entered its 12th year without any visible way forward. The G-20 group of developing countries, having both offensive and defensive interests in trade in agriculture (both exporters and importers of agriculture goods), repeatedly called for the conclusion of the Doha Round by balancing various interests.²⁰

After years of negotiations, the Doha Round faced stalemate largely because of several differences in agriculture negotiations. Some major ones were insistence on the part of the US and the EU that big developing economies such as China and India also reduce the large subsidy levels that they provide, certain market access demand for opening up markets for specific products exported to developing economies, and cotton subsidies given by the US. The treatment of special safeguard mechanisms was also an unresolved issue.

Another major issue raised by the developing countries was regarding their concerns about implementation challenges of the Uruguay Round agreements, particularly operational aspects of special and differential treatments for them to garner more benefits from trade as well as to safeguard their defensive interests.

The aim was to make progress in implementing special and differential treatment provisions from largely 'best endeavour' to 'obligatory commitments' on the part of developed countries. While the Doha Ministerial Conference had adopted a separate Declaration on Implementation Issues (of the Uruguay Round agreements), no progress was made at all.

On the contrary, it is to be noted that special and differential treatment (S&DT) for the developed countries with respect to their trade in agriculture and

The then WTO Director-General, Pascal Lamy, established a High-Level Panel on Defining the Future of Trade to follow up on the adverse effects of the financial crisis on international trade

textiles & clothing (T&C) was largely enforceable. For example, they were allowed to continue with their trade-distorting agricultural subsidies (viz the Common Agriculture Policy of the EU); they back-loaded their commitments to reduce tariffs in T&C in a manner that products of developing countries' interest were largely protected for some years since the Agreement on Textiles & Clothing came into force - the so-called Multi-fibre Agreement.²¹

Finally, the collapse of the Doha Round in Geneva, Switzerland in July 2008 made everyone question the functioning paradigms of the WTO. If disputes are not being settled at the WTO, it will be hard to conduct any further negotiations as reaching a conclusion by consensus in other areas would become difficult.

This is because of intrinsic cross-linkages between various WTO agreements, particularly with respect to their implementation commitments. While the procedure of WTO operations was in question after the stalemate of

the Doha Round, there came another challenge that stifled global trade: the trans-Atlantic financial crisis of 2008.²²

The Financial Crisis of 2008 and its Aftermath (2008-2013)

The trans-Atlantic financial crisis of 2008 was a period of immense stress for the global financial system. The 'great trade collapse' that occurred during this time was the steepest fall of world trade since the great depression in the recorded history of trade.²³

Believed to have been caused by too much deregulation and popularisation of unstable products, such as housing loans, in the financial sector, it also affected some areas of work of the WTO. Hence, the then WTO Director-General, Pascal Lamy, established a High-Level Panel on Defining the Future of Trade to follow up on the adverse effects of the financial crisis on international trade.²⁴



A consensus was reached in the Bali Ministerial Conference and the Bali Package was adopted as a part of the Doha Round outcomes

Bali Ministerial Conference (2013)

After five years of stalemate in the Doha Round of trade negotiations, the 'Bali Package' was adopted at the Ninth Ministerial Conference of the WTO, which was held in Bali, Indonesia in December 2013.²⁵ It was most definitely affected by the course of action taken at the Doha Round as more effective ways of reaching consensus were increasingly required to be thought about.

The Conference was focused on taking steps towards reestablishing WTO's credibility as a negotiating forum. The 'Bali Package' included agreements specifically relating to reducing red tape, facilitating customs procedure to cut down the cost of doing trade (the Trade Facilitation Agreement), food security, and another set of issues relating to least developed countries (LDCs).²⁶

This Package, representing the first-ever multilateral trade deal in nearly two decades and under the

aegis of the WTO, also focused on the following five agricultural issues:

- tariff-rate quota (TRQ) administration focused on managing persistently under-filled quotas;
- a temporary peace clause for a developing country's above-market purchases of commodities for food-security stockholding programs;
- a proposed list of green-box-eligible general services of particular interest to developing countries; and
- cotton, in response to a proposal from four African members.²⁷

However, the 'Bali Package' covered only a small fraction of the Doha Round mandate and left the more difficult trade topics for future negotiations. For example, there was no progress in negotiating commitments to reduce tariffs on industrial goods or further opening-up of services.



The Package features the elimination of export subsidies on agricultural goods and the expansion of the Information Technology Agreement

After a long stalemate in the progress of negotiations of the Doha Round, it was quite impressive that a consensus was reached in the Bali Ministerial Conference and the Bali Package was adopted as a part of the Doha Round outcomes.

Nairobi Ministerial Conference (2015)

The Tenth Ministerial Conference of the WTO took place in Nairobi, Kenya on 15-19 December 2015.²⁸ It was very important as WTO's abilities were in question again because of slow progress in concluding the Round and for taking into account the changes in global trade, particularly the acknowledgment of the importance of digital trade.

As a result, the 'Nairobi Package' was adopted which contained six Ministerial Decisions on agriculture including on export competition, cotton, and issues related to LDCs. The main aim of the Package was to benefit the poorest member countries of WTO.²⁹

The Package features the elimination of export subsidies on agricultural goods and the expansion of the Information Technology Agreement (ITA), which was a plurilateral agreement, as the main results. Apart from this, the Ministerial Conference in Nairobi also delivered six other Ministerial Decisions.

However, it also questioned the impending conclusion of the Doha Round including the process to be followed. While the seed was sown



After the Nairobi Ministerial Conference, it became quite evident that the member countries had different views regarding the future of the Doha Round

in Bali, for the first time, the very essence of multilateral trade negotiations - that is 'single undertaking' was done away with.

After the Nairobi Ministerial Conference, it became quite evident that the member countries had different views regarding the future of the Doha Round and hence, the future of WTO in settling disputes was also being questioned.

Thus, one can argue that while the non-conclusion of negotiations in July 2008 resulted in a 'stalemate' in the progress of the Doha Round, at the Nairobi Ministerial Conference, the Doha Round collapsed.

Buenos Aires Ministerial Conference (2017)

The Eleventh Ministerial Conference of the WTO took place in Buenos Aires, Argentina from December 10-13, 2017.³⁰ It witnessed a number of ministerial

decisions, including the continuation of a moratorium on e-commerce duties.

On fisheries subsidies, while no decision was taken, there was a call to conclude this negotiation by the end of 2018, a deadline which was missed. No formal Ministerial Declaration was adopted as there were serious differences between the US and a group of developing countries led by India and South Africa on the treatment of remaining issues of the Doha Round.

On the agenda, there were no big-ticket items like domestic support in agriculture, market access in non-agricultural goods, or liberalisation of trade in services. There were only miscellaneous items such as fishery subsidies, e-commerce, investment facilitation, micro, small and medium-sized enterprises (MSMEs), trade and gender, public stockholding for food security, and domestic regulations in services. Significant decisions were lacking even in these areas.



Buenos Aires Ministerial Conference witnessed a number of ministerial decisions, including the continuation of a moratorium on e-commerce duties

The best that the ministers could do was to agree on decisions to continue the ongoing work programme in some areas. The big takeaway from Buenos Aires is that the WTO is no longer a vibrant multilateral organisation and it was primarily due to the lack of agreement among its members on a possible way forward, particularly its working methods.

In this context, it is important to note that the Buenos Aires Ministerial Conference witnessed a fundamental change in the manner of negotiating multilateral trade agreements, which was opposed by some major developing countries such as India and South Africa.

As against the established practice of making progress in a

‘multilateral track’, several groups of member countries including some developing and least developed countries adopted a ‘plurilateral track’. They announced their Joint Statements of Intention on a number of new trade-related issues such as electronic commerce, investment facilitation, treatment of micro, small and medium enterprises, and trade and gender.

While it is true that all WTO members are not taking part in negotiations/discussions on these issues/subjects, there is no denying the fact that they are important for strengthening the relationship between trade and development including for achieving the 2030 UN Sustainable Development Goals (SDGs).

What is Happening Now?

As the complexities of the trading system continue to increase, the multilateral trading system faces an ambiguous future. Along with the increasing complexities of the trading system comes immense pressure on the WTO as its functions and dispute settlement areas are being questioned by many member states.

While trade multilateralism has played a prominent role in ensuring peace among nations, however, due to the increasingly complex challenges of dealing with global public goods such as peace and security, climate change, they got reflected in the functioning of the WTO as well. Therefore, much discussion took place about reforming the functioning of the WTO including its dispute settlement role.

In this regard, it is important to mention that since 2018 some developed country members of the WTO such as Australia, Canada, the European Union have put forward a number of proposals including agenda items for the next Ministerial Conference for reforming the functioning of the WTO including its negotiating function and future mandates of negotiations.

In short, a common theme of such proposals is that the existing and emerging challenges of international trade in the 21st Century cannot be tackled by the rules and regulations including their process of governance which were adopted by keeping in mind the 20th Century's trade challenges.

Many of these proposals were expected to be discussed at the Twelfth Ministerial Conference of the WTO in Nur-Sultan, Kazakhstan in June 2020. However, due to the outburst of the COVID-19 pandemic, the Ministerial got postponed and is expected to take place in the summer of 2021.

In the meanwhile, and as a result of the COVID-19 pandemic, international trade including its governance system is facing another unprecedented crisis, much bigger than the one faced in the aftermath of the financial crisis of 2008 and perhaps even bigger than the one that the world had witnessed during the period of the Great Depression of the 1930s.

Not only will that international trade experience a negative growth during this year, but this trend may also continue in the next year. More importantly, many countries are taking measures

As a result of the COVID-19 pandemic, international trade including its governance system is facing another unprecedented crisis



relating to export restrictions, particularly in medicines and medical devices, and in food and food items.

Ironically, the WTO disciplines are weakest in dealing with export restrictions. In this context, it is important to remember that we need to balance the importance of keeping 'policy space' for developing countries and consumer welfare dimensions of trade of importing countries.

In other words, the very existence of the multilateral trading system under the aegis of the WTO is under threat. Therefore, to deliberate on the importance and future of the multilateral trading system, CUTS International, a reputed pro-trade, pro-equity southern voice on trade, conducted a series of webinars under the title: 'What would happen to a world without the WTO.'

This series of six webinars, held across the world virtually, have specifically addressed the rising

concerns regarding the functioning of the WTO. Along with debating the broader role of the WTO in under-writing peace, security, stability, and prosperity in the world, they have discussed the following specific suggestions for trade multilateralism under the aegis of the WTO to reinvent itself in a new avatar:

- the revival of the built-in agenda of the existing WTO agreements;
- absorption of the values of the WTO Agreement on Trade Facilitation; and
- reforming the WTO's dispute settlement system.

In short, the underlying theme was that WTO as an institution is essential to bring order to the chaotic world we live in today.³¹ Since the Second World War, the world has seen immense changes in trade volumes. During the first of this series conducted on the 18th of May 2020, a line of panelists discussed the rising concerns regarding the proper functioning of the WTO.

There is a need to balance the importance of keeping 'policy space' for developing countries and consumer welfare dimensions of trade of importing countries

The question is how to deal with this threat when it is needed most. The WTO is on a ventilator and it has to come out of it

Suresh Prabhu
Former Trade Minister of India and the Prime Minister of India's Sherpa to the G20

Speaking on the occasion, Pradeep Mehta, Secretary General, CUTS International launched this series of webinars by stating that "Contrary to a popular belief, the World Trade Organisation is not facing any existential crisis. What we are witnessing today is a crisis in its leadership."

Adding to the discussion, Suresh Prabhu, a veteran parliamentarian, former Trade Minister of India and the Prime Minister of India's Sherpa to the G20, added: "The question is how to deal with this threat when it is needed most. The WTO is on a ventilator and it has to come out of it."

According to Pascal Lamy, a former Director General of the WTO: "A multilateral, rules-based and open trading system will be even more challenged in a post-COVID world. There has to be a balance between market access needs and regulations related to ensuring safety and security for consumers."

"From open trade, the underlying doctrine of trade policies of various countries is becoming protectionist. We expect massive interventions in all economies and that will inevitably distort trade by stifling competition."

"Also, it is expected that there will be a steep increase in precautionary measures, which will further harm cross-border trade. In sum, we will see a more fragmented trading system," he argued.

"However, the good news is there will be further digitisation of trade

and India will be in a position to take advantage of it" he added.

According to him, in the short-term, we have to take measures to address the negative impacts of trade distortionary measures such as food restrictions. Unilateral trade liberalisation measures are needed in the medium-term and for that, a coalition for open trade is needed. In the long-term, we need to re-negotiate the WTO's rule book.

"For that, we need to focus on trade and environment, disciplines on state aid, and give impetus to digital trade. Furthermore, we need some sort of global system to level the field for taking precautionary measures. We need a new coalition of trade people and other regulators dealing with the safety and security of trade."

The second of the series was held on 10th June, 2020. Speaking on the occasion, Supachai Panitchpakdi, another former Director General of the WTO and a former Secretary General of the United Nations Conference on Trade and Development (UNCTAD) said: "A more pertinent question may be what would happen to a world as a whole, not just trade. We may witness a deep recession including a food crisis. We have to keep working on ending this pandemic including a Marshall Plan kind of an approach to particularly help poor countries."

"From our experience of past disruptions, the world will recover when the global trading system recovers. The recent drop in

imports to China is much more alarming than the decline in exports that they are witnessing. WTO can bring order back to a chaotic world," he underlined.

"Along with more and more isolationist stance, we may witness shorter supply chains. In near future, geographic proximity and digital transactions will emerge as major determinants of trade and value chains. Trade restrictions are to be looked at in this new context," he added.

According to the noted political scientist, Kishore Mahbubani, Distinguished Fellow at the Asia Research Institute of the National University of Singapore: "For preserving global peace, we have to encourage trade. The fundamental threat to the global trading system comes from the fact that the United States has lost its confidence in various spheres of life, particularly cultural confidence. By contrast, China is much more confident than ever before. As a result, more China

supports anything the United States is expected to say no".

Regarding the WTO's dispute settlement system, he said that "it is not just about fixing but more about re-building the confidence in settling conflicts by keeping in mind that trade is good for the world. For this to happen we have to go back to the basics. The question is: can we re-build it? Unfortunately, no Asian countries are taking the lead that they should", he added.

All the panelists agreed that to reform the functioning of the WTO, all member countries need to come together under a 'set of common thinking' and do something innovative about making them operational. There needs to be an interrogation of the whole process of the functioning of the WTO as that will help us have a better understanding of why there are so many systematic challenges.³²



A multilateral, rules-based and open trading system will be even more challenged in a post-COVID world. There has to be a balance between market access needs and regulations...

Pascal Lamy
Former Director General of the WTO

In short, this discussion suggested that we have to keep working on ending this pandemic including a Marshall Plan kind of an approach to help poor countries.

While analysing the roots of the problem is important i.e., in this case, having a better understanding of the functioning of the WTO, issues like linkages between global trade and development were put forward in another webinar.

On June 24, 2020, speakers representing various regions of Africa took part in a webinar in the same series, highlighting the necessity of addressing development concerns, particularly in regards to access to basic needs.

According to Erastus Mwencha, Chairman, TradeMark East Africa, and a former Deputy Chairman of the African Union Commission: "We need to interrogate the whole process of the functioning of the WTO. That will help us have a better understanding of why there are so many systemic challenges.

"We need to reinvent the WTO through a structural transformation to derive better values out of it through a more balanced but faster decision-making process. This is imperative in the post-COVID world. We need better global leadership," he added.

Speaking on the issue, Magda Shahin, Professor and Director of the School of Global Affairs and Public Policy at the American University in Cairo and former

Egyptian Ambassador to Greece underlined the irreplaceability of the WTO as it is a rules-making and enforcing body.

She said: "Following the conclusion of the Uruguay Round, a fundamental dis-balance emerged. While developed countries wanted to move too much and fast on new issues, developing countries placed excessive emphasis on deriving developmental benefits out of the multilateral trading system. The WTO as a whole system could not take forward new issues in a manner that they should have been."

This point was backed by Faizel Ismail, Director of the Nelson Mandela School of Public Governance at the University of Cape Town, and a former Ambassador of South Africa to the WTO, as he highlighted the root cause of the crisis of globalisation. It has long ignored the basic needs and requirements of the poor countries and hence when thinking about the reform of the WTO, it is important to work towards a more balanced trading system.

The fourth webinar of the series was held on July 08, 2020, in the Americas region. Presenting the impact of the COVID-19 pandemic on the global economy and trade, Fernando de Mateo, a former Ambassador of Mexico to the WTO and invited Professor at El Colegio de Mexico, said: "While the global economy is expected to shrink hugely as an aftermath of the COVID-19 pandemic even under a most optimistic scenario, global trade will bear much more burn. It



is not expected to recover to its pre-pandemic level even in 2021.

“While noting that various trade facilitation measures are showing positive results in reducing the time and cost of doing trade, which, in turn, showing positive impacts on trade volumes, necessary reforms for better functioning of the WTO are to be undertaken for the WTO to benefit all its members,” he argued.

According to Chad Blackman, Ambassador and Permanent Representative of Barbados to the United Nations Offices in Geneva and the WTO, “The rules-based multilateral trading system continues to be the best option, particularly for developing and small island economies. While the WTO is an improvement of its predecessor, the General Agreement on Tariffs and Trade, it is not a perfect system.

“The organisation had and continues to face some significant systemic challenges. Most importantly, the recent trade disputes between major members

have put considerable pressure on the system to function in a better manner. Without the WTO, developing and small economies will face more challenges and it is this that forced them to call for reforms of the WTO by taking into account the current geopolitical issues,” he added.

Drawing from the historical role that multilateralism has played in fostering global peace and stability, Rohinton Medhora, President of Canada-based Centre for International Governance Innovation, said that “the COVID-19 crisis has challenged the confidence in cooperation, which underlines trade. Not just the decline in the volume of trade, we need to understand how that undermined the values of the multilateral trading system”.

“This lack of confidence in global cooperation is worrisome. This is expected to get reflected in the future governance of the global health system including how the expected vaccine to prevent the COVID-19 is going to be administered. This is where the flexibility of the multilateral trading rules will be useful. We need to see how smoothly that is done,” he added.

Alejandro Jara, former Chilean Ambassador to the WTO and former Deputy Director General of the WTO underlined the importance of the WTO’s dispute settlement system and why it should be revived and reformed at the earliest. “While that is agreed by all, it is still not clear what would be their critical elements.

A more pertinent question may be what would happen to a world as a whole, not just trade... follow a Marshall Plan kind of an approach to particularly help poor countries

Supachai Panitchpakdi
Former Secretary General
of the UNCTAD

We need to interrogate the whole process of the functioning of the WTO...a better understanding of why there are so many systemic challenges

Erastus Mwencha
Chairman, TradeMark
East Africa

We need to first understand the meaning of 'transparency' in this new, digital world as things can change very quickly".

Talking about free trade agreements, he underlined that as they are reciprocal, "there is not much need to have flexibilities in them. Those countries who are heavily dependent on flexibilities to balance their trade and developmental needs are finding it difficult to adjust to two different systems of their engagement with international trade".

On July 15, 2020, another webinar was organised, having speakers from various parts of Europe. Speaking on the occasion, Anders Ahnliid, Ambassador of Sweden to Finland, said: "Trade wars are not good and not easy to win as it were. It is essential to stick to the economic basis of WTO based on knowledge about trade theory and how trade works in the real world, to realise the benefits and minimise the cost of protectionist measures."

He emphasised that, "the small and medium-sized powers still have a key role for seeking to regenerate consensus in the multilateral trading system".

According to Marion Jansen, Chief Economist of the International Trade Centre, "Everywhere majority of the workforce is employed by small and medium-sized enterprises. Therefore, if small and medium enterprises do not take advantage of trade rules or the multilateral trading system, then probably the majority of the population is not going to take

advantage. Therefore, small and medium-sized entities are to be cared about".

Bernard Hoekman, Professor at the European University Institute, highlighted the tendency of overloading the WTO with issues where it does not have a comparative advantage to deal with. He hoped that there will be a substantive discussion on the institutional design of the WTO system.

According to him, "The WTO has to focus on the systemic questions about the dispute settlement system needed by WTO and about the key constraints that needed to be addressed by the WTO, rather than discussing the issues that the US has put on the table".

Speaking on the occasion, Pasi-Heikki Vaaranmaa, Director, Trade Policy Unit, Ministry of Foreign Affairs, Finland, said: "The WTO is a global public good in itself and is primarily contributing to economic security. It provides global trade a rules-based framework that promotes certainty and trade security for traders around the world. Economic security fosters peace and it is another public good."

He reiterated the need for every member state of the WTO to do their bit to create a better balance in the system.

The final webinar of this series was held on September 23, 2020. It was organised as part of the World Trade Forum, a joint initiative of the Robert Schuman Centre for Advanced Studies of the European

University Institute, Florence and the World Trade Institute, Berne, and in partnership with the Geneva Office of Friedrich Ebert Stiftung.

There was a consensus among the panelists and participants that peace, security, stability, and prosperity that the post-war world has witnessed over the last 75 years are largely due to the rules-based multilateral trading system, which has underlined them. They are now under attack from various quarters.

Moderating the discussion, Pradeep Mehta, Secretary General of CUTS International, said: "The world can no longer afford to keep the World Trade Organisation, which governs the rules-based multilateral trading system, in a ventilator."

As the WTO has effectively been rendered dysfunctional to stop it from being misused, there should be a new global compact for its reforms including a dispute settlement mechanism so that no country can take undue advantages.

"As an aftermath of the COVID-19 pandemic, a new world is going to unfold and we don't know as yet how it would look like.

Multilateralism *per se* and trade multilateralism in particular is under a very serious threat. The question is how to deal with this threat when it is needed most. The WTO is on a ventilator and it has to be brought out of it," he argued.

Speaking on the occasion, Bernd Lange, Member of the European Parliament from Germany and Chairman of the European Parliament's Committee on International Trade, said: "I am convinced that in this Corona pandemic the tendency of undertaking protectionist measures is causing much disruption to trading relations as well as employment worldwide. The world without the WTO may look more mercantilist.

"We need to re-organise the WTO. We have to find a way forward to modernise its rulebook. We have to also look at how digitisation can improve trading relations including its employment generation prospects."

According to Emily Jones, Associate Professor of Public Policy, Blavatnik School of Government, University of Oxford, "Without the WTO, we will continue to see a transactional approach, the outcomes of which depend on differential powers of countries."

"The starting point for reforming the WTO should not be an exclusive focus on how we get



We need to first understand the meaning of 'transparency' in this new, digital world as things can change very quickly

Alejandro Jara
Former Deputy Director
General of the WTO

China to play by the rules. Right across the world, we are seeing recalibration between domestic economic concerns with the requirements of a liberal international economic order. We need to move towards a system that enables countries to pursue different approaches to managing their economies, while also limiting harmful spill-overs, rather than pursuing a deep harmonisation agenda. We also need to understand the needs of the poor countries who think that they have not benefited much from the existing trading system."

"We need a system to enable countries to take different approaches to trade liberalisation and to do it peacefully. We have to create space for new ways to collaborate and not just to focus on negotiating new issues," she added.

Echoing the thoughts of other speakers, Kimberley Botwright, Community Lead on Global Trade and Investment of the World Economic Forum stressed the founding objectives of the WTO.

"We need to go back to the Preamble of the Marrakesh Agreement of 1994, which established the WTO and revisit its objectives to underline the need for enhancing living standards and for ensuring sustainable development through optimal use of resources," she added.

"The question is has the WTO been an effective organisation to meet these objectives. There is no doubt that on average living standards have gone up.

Regarding sustainable development, the situation is not that good. While the scorecard is mixed, can we revisit those objectives under the present system of governance of the multilateral trading system? We need to make systemic changes in the functioning of the WTO to address new challenges that are and will arise as an aftermath of the COVID-19 pandemic.

"A more advanced organisation than what was established in 1995 is required so that we can conduct necessary interfaces between trade and other important subjects such as finance, tax reforms, climate change," she argued.

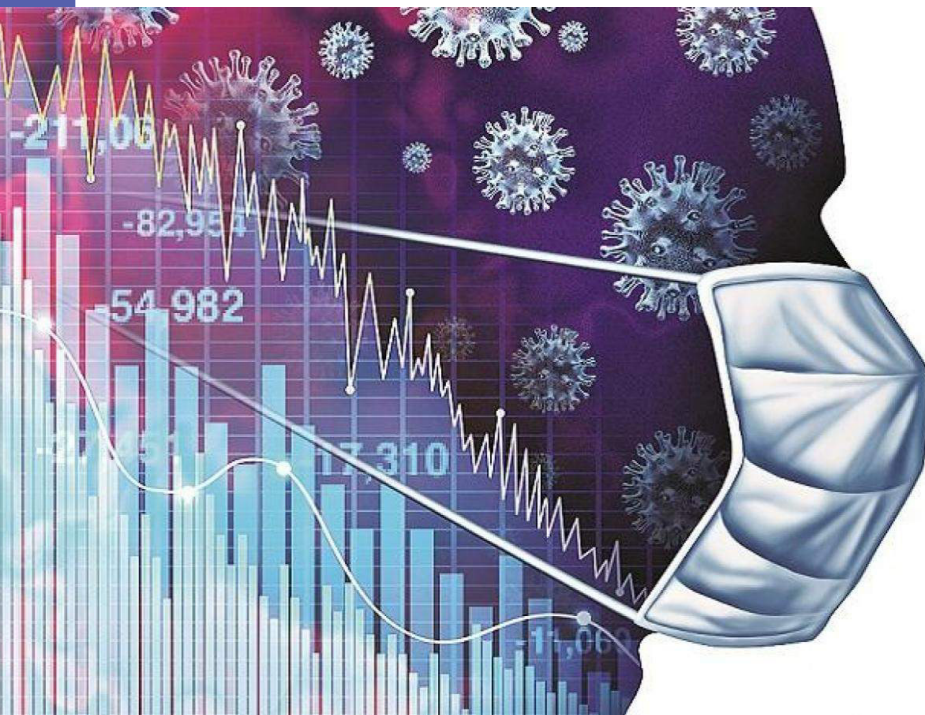
Taking part in the deliberations on the need for systemic reforms of the WTO, Pradeep Mehta argued that we often tend to equate sustainable development with environmental concerns only. "That is not correct. Economy, equity, and environment are three equally important components of sustainable development and we need to see how trade can address them in a balanced manner."

He also argued for enforceable special and differential treatment provisions in multilateral trade agreements so that poor countries can draw more benefits out of them.

In his concluding remarks, Bipul Chatterjee, Executive Director of CUTS International, underlined the importance of 'trust-building' among various countries and interest groups including labour and consumer communities for

There is a need for every member state of the WTO to do their bit to create a better balance in the system

Pasi-Heikki Vaaranmaa
Director, Trade Policy
Unit, Ministry of Foreign
Affairs, Finland



effectively reforming the functioning of the multilateral trading system. "It can't be made hostage to a country, which has made a mockery of it over the last two decades."

Recalling a thesis on reasons behind the coming together of Southeast Asian countries propounded by Kishore Mahbubani of the National University of Singapore, Chatterjee said that it is the 'dis-trust' over an authoritarian, managed trade regime on the part of China will 'force' other trading powers including middle powers like India to arrive at a new global compact for a better-governed multilateral trading system in the 21st Century. "That process has started with the shifting of supply chains away from China," he argued.

One of the major points that emerged from this series of

webinars was that to work towards reforming the WTO and ensure global peace, all the member states must cooperate and come to common grounds. However, with the increasing tensions between the United States and China, it is not possible to say much about the future.

The fundamental threat to the global trading system comes from the fact that the United States has lost its confidence in various spheres of life, particularly cultural confidence.

As a result, the more China supports anything the United States is expected to say no. With the withdrawal of membership from the World Health Organisation, the United States is reconsidering being a part of the WTO - a body it helped create.

According to a poll conducted by TradeVistas, "Americans want the United States to be "the leader of the global economy, However, they do not see membership in the WTO as critical to that goal." Another survey found that most Americans are not even aware of the benefits a WTO membership brings to the United States.

Hence, even though a large number of Americans support leaving the WTO, most of them are unsure of how to do it. Along with this, the TradeVistas survey also highlights that the United States believes that China is the biggest beneficiary of the WTO as the organisation has shown favouritism towards the country.

We need to re-organise the WTO. We have to find a way forward to modernise its rulebook

Bernd Lange
Chairman, European
Parliament's Committee
on International Trade

To put it in a clearer perspective, many believe that China has taken undue advantage of the provision of the WTO without itself abiding by the rules when it comes to problems like state-owned enterprises, its developing country status, subsidies, intellectual property rights, non-tariff barriers, etc. This has further strengthened the need for every member state of the WTO to do their bit in fostering a better balanced global trade system.

In short, through these and many other recently held discussion webinars on this subject, it has become clear that there is a need to think about the reform of the WTO more holistically but without rushing into an immediate conclusion. All the member countries need to come together and work towards a more balanced international trading system, which would help to protect them but specifically the poorer countries.



Conclusion and Way Forward

There is no doubt that the multilateral trading system is undergoing a crisis. This is exacerbated by the fact that traditional trading powers are not taking enough interest in the functioning and progress of the WTO. This is evident at two levels:

- in two out of three (negotiating and dispute settlement) functions of the WTO and also less important to its third function, which is deliberative; and
- in a plethora of bilateral/ regional free trade agreements.

It seems that many of them, particularly the bigger powers, are more interested in taking forward their trade interests through non-multilateral means. This is also true for traditional middle powers as well as emerging powers.

Given this nonchalance to the functioning and progress of the WTO, the following are some key points of conclusion and recommendations to ponder over:

1) As an aftermath of the COVID-19 pandemic, a new world is going to unfold and we don't know as yet how it would look like. Multilateralism *per se* and trade multilateralism in particular is

under a very serious threat. The question is how to deal with this threat when it is needed most.

The WTO is on a ventilator and it has to come out of it. Here, it is important to remember that global crises such as the COVID-19 could be a building block for multilateral cooperation.

2) Another pertinent question may be that given the dysfunctional state that the WTO finds itself in today what would happen to the world as a whole, not just trade. We may witness a deep recession including a food crisis. We have to keep working on ending this pandemic including a Marshall Plan kind of an approach to help poor countries.

We should also draw lessons from good practices such as the lowering of artificial trade barriers, facilitating exchange in critical goods that many countries have adopted to address health-related challenges emanating from this crisis.

3) From our experience of past disruptions, global trade will recover when the world economy recovers. The recent drop in imports to China is much more alarming than the decline in

The WTO is on a ventilator and it has to come out of it... global crises such as the COVID-19 could be a building block for multilateral cooperation

Should it not be that the WTO brings back order to a chaotic world?

exports it is witnessing. This may result in a more chaotic trade-induced world.

Should it not be that the WTO brings back order to a chaotic world? The pertinent question is how do we change the equation from the thinking of big powers that 'it is in my interest to go it alone' as against 'it is in my interest to collaborate'.

4) As a result of COVID-induced disruptions, the rules-based, and open multilateral trading system will be even more challenged. There has to be a balance between market access needs, and regulations related to ensuring the safety and security of consumers.

5) More importantly, as against policy-induced distortions to trade, we are now witnessing physical obstruction to trade. This calls for a new global initiative by recalling the genesis of the General

Agreement on Tariffs and Trade. The traditional trading powers will have to take this initiative and middle and emerging powers like India will have to join in with full vigour.

It is time for a new global compact, particularly to convince the bigger powers to engage. A new equilibrium of accommodation of various interests has to emerge and that will depend on existing and emerging power relations among major players.

6) To preserve global peace, we have to encourage trade. The fundamental threat to the global trading system comes from the fact that the United States has lost its confidence in various spheres of life, particularly cultural confidence. By contrast, China is much more confident than ever before. As a result, the more China supports anything the United States is expected to say no and



We need to reinvent the WTO through a structural transformation to derive better values out of it through a faster decision-making process

there may be bipartisan support in the United States for this approach.

7) It is also important to underline that this crisis of globalisation in general and international trade in particular is a result of inequalities as hyper-globalisation, as we witnessed since the early 1990s, largely bypassed the needs of the marginalised and the poor.

This is true in many developing and least developed countries as well as in advanced economies, which is largely a result of less-than-effective redistributive policies from gains from trade as well as due to the absence of large-scale retraining through trade adjustment programmes.

This resulted in populism in various avatars with shifting power dynamics within and across countries. The COVID-19 crisis exposed the inherent contradictions in the WTO-led trading system, which was already asymmetrical. As a result, we are seeing increasing instances of export restrictions and other trade barriers.

The impact of this shift on poor countries will be severe due to a double whammy of facing adverse terms of trade with respect to their commodity exports as well as increased imports due to the food crisis in particular.

8) The rules-based multilateral trading system continues to be the best option for all countries. At the same time, we need to understand that while the WTO is an

improvement of its predecessor, the GATT, it is not a perfect system and can never be. The system has to make incremental progress through a consensus-driven approach.

9) The WTO as an organisation had and continues to face some significant systemic challenges. Most importantly, the recent trade disputes between major members have put considerable pressure on the system to function in a better manner. Without the WTO, developing and small economies will face more challenges and it is this that forced them to call for reforms of the WTO by taking into account the current geopolitical issues.

However, and in contrast, we are yet to see significant reform proposals from them. Furthermore, the COVID-induced crisis has challenged the confidence in cooperation, which underlines trade. Not just the decline in the volume of trade, we need to understand how that undermined the values of the multilateral trading system.

Both soft and hard infrastructure facilitating the functioning of the WTO are to be reformed. While the WTO members must arrive at a consensus for these reforms, a strong political case must be made by a group of eminent persons.³³

10) This lack of confidence in global cooperation is worrisome. This is expected to get reflected in the future governance of the global health system including

We need better global leadership, which is difficult

how the expected vaccine to prevent the COVID-19 is going to be administered. This is where the flexibility of the multilateral trading rules will be useful.

We need to see how smoothly that is done. We have already started seeing differences emerging among some developed and developing country members of the WTO on the treatment of intellectual property rights over the COVID-19 vaccines.

While India and South Africa are in favour of more flexibilities as per Paragraph 6 of the Doha Declaration of TRIPs and Public Health, the US, the EU, United Kingdom, Brazil are not.

11) We need to reinvent the WTO through a structural transformation to derive better values out of it through a more balanced but faster decision-making process. This is imperative in a post-COVID world. We need better global leadership, which is difficult. Therefore, and despite having differences in many other issues, it is the responsibility of the middle and emerging powers including India to collectively provide strong leadership for the resurrection of the multilateral trading system.

They have done so in the past such as the resurrection of the Doha Round of negotiations at the Hong Kong Ministerial Conference in 2005 after its collapse at the Cancun Ministerial in 2003 and it's time to do it again.³⁴

Therefore, other than debating the broader role of the WTO in underwriting peace, stability, security, and prosperity, we need to have an immediate focus on the following three 'doables' for trade multilateralism under the aegis of the WTO to reinvent itself in a new avatar:

- a revival of the built-in agenda of the existing WTO agreements by advocating for greater transparency in the functioning of the WTO's Committees, particularly to deal with sudden disruptions to trade and supply chain such as those emanating from the COVID-19 pandemic including export restrictions;
- absorption of the values of the WTO Agreement on Trade Facilitation for future multilateral negotiations so that countries at various levels of development are more comfortable in committing their obligations as per their capabilities and needs; and
- reforming the WTO's dispute settlement system, particularly the functioning of its Appellate Body as suggested by the U.S. trade representative Robert Lighthizer (a one-stage process with a review mechanism) but by balancing the concerns and proposals of other trading powers including middle and emerging powers and the poor countries.³⁵



The moot question is how to reconcile two different types of economic and political governance while reforming all three functions of the WTO

Unless it is done, we will revert to a world where while production and consumption including that of services will be separated and fragmented but cross-border trade may largely take place in the absence of multilaterally agreed rules and regulations.

This means that we may go back to a trading regime, which was not governed by multilaterally agreed rules and regulations, and largely prevalent before the advent of the Bretton Woods System of multilateral governance.

However, a critical difference will be about the nature of today's trade as compared to what it was in the first half of the 20th Century and before. Today it is much more inter-connected and fragmented.

In the absence of a multilaterally agreed rules-based trading regime, countries having less economic and other powers will not only be subjected to unfavourable terms of trade but they will not even be in a position to influence the process as well as outcomes of standard-setting.

Over the last seven decades, multilaterally agreed rules-based trading regime has underlined the fact that trade is not an end in itself but a means to achieve several ends; productive engagement through job creation resulting in poverty reduction being among the most important.

This is the ethos of the WTO-led multilateral trading regime as enshrined in the Preamble establishing the WTO. That was possible because of rules and regulations governing international trade, howsoever distorted that they may be against the interests of poor countries in particular.

In the absence of a rules-based trading regime that may no longer be possible and may result in a further backlash against trade in particular and globalisation in general. As a result, we may not only see a further impetus to populism but large-scale social unrest as well.

This may sound familiar to a world that we witnessed during the inter-war years. Humanity cannot afford that to happen again. At the same time, we have to understand that the two big powers - the United States of America and China - while suffering from Thucydides as well as Kindleberger traps, have certain values such as the freedom of expression, state-led economic development on which they are unlikely to compromise in near future.³⁶

The moot question is how to reconcile two different types of economic and political governance while reforming all three functions of the WTO for taking forward its virtues while plugging loopholes for the greater good of the society. They need to understand the value of 'agree to disagree'. It is the responsibility of the middle and emerging powers to convince them.

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About the Paper

This Discussion Paper analyses a forward-looking agenda for the multilateral trading system to reinvent itself in a new avatar. This agenda is based on a series of six webinars, organised by CUTS International, which was held across the world virtually during April-September, 2020.

These webinars have specifically addressed the rising concerns regarding the functioning of the WTO. Along with debating the broader role of the WTO in under-writing peace, security, stability, and prosperity in the world, they have discussed the following specific suggestions for trade multilateralism under the aegis of the WTO to reinvent itself in a new avatar:

- the revival of the built-in agenda of the existing WTO agreements;
- absorption of the values of the WTO Agreement on Trade Facilitation; and
- reforming the WTO's dispute settlement system.

CUTS International

Established in 1983, CUTS International (Consumer Unity & Trust Society) is a non-governmental organisation, engaged in consumer sovereignty in the framework of social justice and economic equality and environmental balance, within and across borders. More information about the organisation and its centres can be accessed here: <http://www.cuts-international.org>.



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