

Expert Opinion

The Imperative of WTO Reform in an Era of Rising Protectionism and Trade Wars¹

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Abstract

This article substantiates the necessity of reform of the major institution of global economic governance, the World Trade Organization (WTO). A number of crucial problems facing the existing multilateral trading system (MTS) are explored: the problem of the development and efficiency of the WTO in the new environment; the weakening of the leadership role of the U.S.; regionalism; the crisis of the decision-making system in the WTO; and the recent rise of trade protectionism. These challenges point to the necessity of WTO reform, the latter two being particularly pressing since they eventually moved the issue from the realm of scientific discussion into the realm of practical initiatives. This article analyzes the first steps taken by members of the WTO in 2018 toward the organization's reform, focusing on the EU's concept paper on WTO modernization, which was the first such initiative. Emphasis is given to the pivotal role of the positions of the U.S. and China since it is hardly possible to successfully continue the process of WTO reform without them. The controversial position of the U.S., formed largely under the influence of the current isolationist and protectionist trade policy of the Trump administration, is analyzed in depth. The article concludes that the process of WTO reform is bound to be extremely complicated and may take years.

Key words: multilateral trading system; GATT; WTO reform; mega-regional trade agreements

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At the end of the second decade of the 21st century, international trade and economic relations are confronted by a number of serious challenges which, in the aggregate, restrain and even hinder international trade. Since at least 97% of world trade is regulated by the rules of the World Trade Organization (WTO), this article explores, first and foremost, the problems of the multilateral trading system (MTS) as it exists within the framework of the WTO. These problems came to the forefront during the Doha round of trade talks initiated in late 2001 but which ultimately reached an impasse. The post-2017 trade wars are the latest signals of the rising tension; the existing instruments of the organization were unable to prevent them.

The expert debate about WTO reform dates to the early 21st century. But until recently, reforms have not been put into practice due to the recurrent fears of harming the albeit im-

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perfect – but still functioning – institution which has existed for 70 years. Trade and political conflicts have emerged before and forced the participants to resort to the WTO's Dispute Settlement Body (DSB). But against the backdrop of trade wars even this mechanism faltered. The latter circumstance can be viewed as a decisive factor in the awareness of the inevitability of WTO reform because it forced the key players of international trade to finally move beyond rhetoric and to take action.

The WTO was the third institution born under the Bretton Woods system, following the establishment of the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD), which today is part of the World Bank Group. But, unlike the IMF and the IBRD, which became fully functional just after the end of WWII, the WTO took nearly 50 years to be created. The initial project of establishing the International Trade Organization (ITO) as the third Bretton Woods institution did not work, but the 23 participants of the negotiations to establish the ITO agreed to give temporary status to Chapter IV of the organization's charter ("the Havana Charter") which was called "Trade Policy." This took place on 30 October 1947. Thus, the General Agreement on Tariffs and Trade (GATT) was born, becoming the first institution of multilateral trade regulation in history.

Over 100 participating countries went through eight rounds of intense trade talks to eventually sign, in April 1994, several agreements known as the Uruguay round agreements, establishing the WTO and creating its legal framework. The establishment of the WTO became, without exaggeration, the landmark of international trade relations in the 20th century. Like the GATT, the WTO was based on the principles of non-discrimination and predictability of the trade regime, namely, the mutuality of the most-favoured-nation treatment, national regime, transparency, priority of tariff over non-tariff regulation and settlement of disputes through negotiation.

Both developed and developing countries obtained practical benefits from WTO membership. The liberalization of trade in the wake of the GATT/WTO negotiations served as a strong impetus for the economic growth of several less-developed countries, particularly in the East Asian region. However, following the Uruguay round, a number of problems and conflicts remained unresolved. A significant number of developing countries took the view that the Uruguay round agreements were more favourable to developed countries, particularly in the agricultural sphere with its wide use of subsidies – a practice that poor countries simply could not afford. In order to mend the situation another round of trade negotiation, the Doha round, also known as the Doha development agenda (DDA), was initiated. The emphasis on development was intended to highlight the round's exclusive aim to address imbalances which followed the Uruguay round, and to satisfy the needs of developing countries.

Unfortunately, the different views held by developed and developing members on the Doha development agenda manifested as early as 2003 and led to the notorious failure of the regular ministerial conference, the top authority of the WTO, in Cancún, Mexico. This marked the beginning of a protracted crisis of the Doha round. It was only in 2013 and 2015 that the ministerial conferences in Bali and Nairobi, respectively, saw the adoption of new agreements, the principal one being the multilateral Trade Facilitation Agreement. But the positive aspects were too limited to resolve the overall crisis permeating the Doha round. Further still, for the first time in the history of the GATT/WTO, the final declaration of the Nairobi conference revealed a rift between the members on a fundamental issue: the attitude toward the Doha round agenda. Some members, mostly developing countries, were committed to its preservation, while others, primarily developed countries, demanded crucial changes to the DDA aimed at saving the deadlocked negotiations. The developing countries considered that the Uruguay round agenda had not been completed, particularly in its treatment of their access to developed markets, hence their demands for preservation of the initial agenda. The developed countries, in

their turn, chose as their main objective further advancement toward market liberalization and the generation of trade rules in new areas, which required amending the agenda. This led to a split.

The Multilateral Trading System: The Most Pressing Issues

The beginning of the 21st century was marked by the significant economic rise of the newly industrialized countries (the NICs) led by China, India and Brazil among others, and their growing influence on the WTO negotiation process. In this sense, unlike the other major institutions of global economic governance, namely the IMF and the World Bank, the WTO better demonstrated its ability to adapt to the new economic environment. This ability, however, did not rid the organization of a number of serious challenges, namely:

- the problem of development and efficiency amid the new balance of powers in the wake of the rapidly growing influence of many developing countries, the NICs in particular;
- the weakening of the U.S. role in trade negotiations;
- a crisis of the WTO's decision-making system as the number of members increased significantly;
- as a consequence of the above, a drastic slowdown in the WTO's ability to generate new rules for changing trade; and
- a new rise in protectionism with Donald Trump in office and the new administration's willingness to forego WTO rules if they endanger the U.S.' national interests.

These challenges are tightly intertwined and interdependent. Each is worth a brief review.

The Problem of Development and Efficiency Amid the New Balance of Powers

Since the 1960s, a number of developing countries in Southeast Asia and Latin America achieved significant trade growth, which helped them maintain a high economic growth rate and to reduce poverty. This became possible largely because there were markets available for their exports, as well as opportunities to use new technologies in the globalizing world. Open markets, however, did not help the poorest African countries: their slow development remained a serious problem and their share of world trade continued to decrease. The bulk of developing countries were aware of the fact that open markets were crucial for their exports. But the extent to which these countries should go to reduce protectionism in their own markets became the subject of dissent among members.

The Uruguay round of trade negotiations brought together dozens of new participants. Nearly 70 developing countries were actively involved in the negotiations for the first time. In some instances they assumed obligations to open their markets and, having signed the Uruguay round agreements, they accepted the new rules. It later emerged, however, that it was rather their reaction to the agenda proposed by the developed countries than their actual readiness for tough negotiations. The developing countries were basically deprived of so-called "special and differential treatment" (SDT), which provided a long list of benefits to aid them in the process of fulfilling their obligations under the GATT. Under the new conditions, they were afforded an extended deadline for implementation of the new agreements and were promised technical assistance to fulfil the obligations they had undertaken. But as later became evident, the above measures were either insufficient or badly realized and many countries failed to fulfil their obligations in a timely way, mainly because a number of least-developed countries simply lacked sufficient resources to effectively participate in negotiations: they did not have permanent offices of representatives at the WTO headquarters in Geneva, they sorely lacked qualified

personnel in the area of trade policy and their national resources were too scarce to implement certain agreements, in particular, Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Agreement on Technical Barriers to Trade (TBT) and Trade-Related Investment Measures (TRIMS).

The democratization of the process of preparation and adoption of decisions at the WTO rid the developing countries of some problems but created new problems in their place. Unlike the GATT period, when any country was free to choose the instruments to which it would accede, the WTO's single undertaking principle² drastically changed the behaviour of the members. Failure to participate in the decision-making process became risky since these decisions could bind a member with new obligations which could be burdensome or even unacceptable for some members. This meant that fulfilment of some of the new obligations again implied the necessity of possessing sufficient resources.

After the formation of the WTO, over 40 states participated in the initial process of accession. An analysis of the accession terms leads to the conclusion that the process of WTO accession is becoming increasingly complex: the acceding countries have to stick to higher commitment levels while developing countries fail to obtain SDT [Ricipero, 2004, p. 61].

It is worth noting, however, that contrary to popular belief the aftermath of the Uruguay round was not entirely negative for the developing countries. They did indeed gain from the average reduction of tariffs to 4%. Research shows that, GDP-wise, developing countries and industrial nations benefited from the implementation of the Uruguay round agreements in almost equal measure [Short, 2001]. Sub-Saharan African states were an exception: their condition deteriorated since they lost some of the benefits of preferential access to the markets of developed countries.

In recent years the intense and repeated debate about the problems developing countries are facing at the WTO only added to their disappointment with the outcome of the Uruguay round and their skepticism toward the Doha round. Overall, the membership of developing countries in the WTO led to a certain "participation paradox:" on the one hand, they obviously need liberalization and a rules-based trading system; on the other hand, implementation of these rules becomes quite challenging for them. It is this development problem that has recently achieved a high profile both at the WTO and in other international organizations.

The problem of development has recently revealed a certain downside as well. Around two thirds of the members had acceded to the WTO as developing countries, which entitled them to the above-mentioned SDT, in particular regarding preservation of higher import tariffs. As time went by some of these countries achieved noticeable economic progress, yet none of them abandoned their previous status or the accompanying benefits. This stirred up legitimate dissatisfaction among developed countries, ultimately prompting them to seek other negotiation platforms.

The Weakening of the U.S.' Role in Trade Negotiations

For over 50 years after the end of WWII, the U.S. was the undisputed leading force at the multilateral trade negotiations within the GATT/WTO. The abdication of this role first became apparent during the presidency of Barack Obama, with his administration increasingly leaning toward regional formats. Still, with Obama in office this loss was compensated for by the growing activity in creating mega-regional trade agreements (MRTAs) – the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP) – while

² "The single undertaking" principle at WTO negotiations implies mandatory agreement on all agenda items so that each and every one of them enters into force ("nothing is agreed until everything is agreed").

Obama's successor Donald Trump reduced the status of U.S. leadership in trade negotiations to questionable at best. This is evidenced by the repeated statements of the representatives of Trump's administration about their readiness to forego WTO rules if those rules "endangered U.S. national interests," as well as by the exit from the TPP and suspension of negotiations with the European Union (EU) on the TTIP at Washington's initiative.

Despite the substantially growing influence of developing countries, most notably China, India and Brazil, at WTO negotiations in the new century, none of them is ready to take the lead anytime soon. So, what we are observing now is the erosion of leadership at trade negotiations, the leader's role having been secured by the U.S. so far. This undoubtedly complicates any positive outcome at trade negotiations and, overall, has an adverse effect on the WTO.

The Crisis of the WTO Decision-Making System as Its Membership Increases

The decision-making system, which has worked based on a consensus mechanism since the signing of the GATT, is probably the most sensitive of all WTO issues addressed herein.

A consensus undoubtedly creates a semblance of sovereign equality among WTO members, but this is not warranted in a voting process where the economic and political might of a state inevitably comes to the fore. That said, a consensus mechanism allows every participant to have blocking power. When, under the GATT system, the number of negotiation participants rarely exceeded a few dozen developed countries whose representatives pursued similar goals and knew each other personally, the consensus mechanism functioned decently overall. But, amid the growing number of participants (exceeding 150), with virtually two thirds of them being developing states and many being natural protesters, reaching a consensus became an extremely complicated and cumbersome affair.

The tremendously acute nature of the issue became particularly evident in 2003 at the regular ministerial conference in Cancún, Mexico, which ended in failure due to the impossibility of adopting decisions on the key agenda items. As Robert Zoellick, the then-U.S. trade representative (USTR), pointed out, the Cancún rift lay not between rich and poor countries but between those able to negotiate (*can-do countries*) and those simply unwilling to talk (*won't-do countries*) [Zoellick, 2003]. In other words, the consensus mechanism at the WTO has transformed into a virtually unlimited right of veto which any participant can use to block a decision supported by a large group of other members.

But it is not as clear-cut as that. A consensus remains a unique way of ensuring the legitimacy that WTO-adopted decisions critically need. Thus, there is a feeling of some "institutional deadlock," the way out of which, obviously, should lie in the institutional reform of the system.

A natural extension of the decision-making crisis at the WTO is the *drastic slowdown in the generation by the WTO of new rules for the ever-changing trading environment*. After the GATT was signed in October 1947, for most of the post-war period this agreement handled the task of setting forth new rules for trade in goods fairly well, implementing three crucial basic functions: balanced mutual opening of markets (liberalization); development of rules in the process of negotiations; and pursuit of diplomatic settlement of disputes. In other words, for most of the second-half of the 20th century, the GATT was quite up to the task of trade regulation, which could be reduced to the following principle: "made-here-sold-there goods." With the onset of the new century the nature of trade has undergone a drastic transformation: in addition to goods and services (services do not necessarily cross borders) whole production facilities now may cross borders. As a consequence, cross-border product flows are accompanied by flows of investment, ideas, know-how and workforces. Therefore, a relevant set of new trade rules is required.

The WTO, which was launched in January 1995, was expected to trigger the introduction of new rules. But what looked good on paper did not always work satisfactorily in reality. In the WTO's entire history only one full-fledged multilateral agreement, the Trade Facilitation Agreement,³ was signed by the members. A shortage of up-to-date rules in the multilateral environment is felt, inter alia, in such areas as trade regulation in the context of global value chains (GVCs), use of green energy, investment and currency regulation. To make these rules effective at the WTO, the Doha agenda has to be amended correspondingly. But this is not an easy task: as was previously stated, such a measure is strongly opposed by a significant share of members (mostly developing countries) that insist on mandatory fulfilment of all items of the initial Doha agenda prior to moving on to new issues. The difficulty of generating new rules in a timely fashion inevitably weakens the efficiency of the WTO.

A New Rise in Protectionism After Donald Trump Took Office

As was previously noted, the rise of protectionism was a crucial incentive for the start of meaningful WTO reform. The administration of the 45th U.S. president has completely abandoned the trade policy principles pursued by each of Trump's predecessors since Franklin D. Roosevelt. These principles involved gradual liberalization of markets, compliance with international trade rules and jointly-established institutions of multilateral regulation, primarily the GATT and the WTO.

The U.S.' closest trade allies reacted extremely negatively to the repeated statements of the representatives of the U.S. administration in connection with its willingness to forego the WTO rules if those rules endangered the country's national interests, as well as to Washington's strictly one-sided and subjective interpretation of the GATT/WTO provision on threats to national security which was used by the U.S. to justify raising import tariffs on steel and aluminum in 2018. To make matters worse, the United States triggered an extremely tense situation in late 2018 in connection with the functioning of the Appellate body of the WTO's Dispute Settlement Body. The U.S. simply blocked the process of appointing new judges, putting this crucial element of the DSB at a risk of having to suspend its work, and putting at stake the entire dispute settlement mechanism at the core of the WTO. These developments finally prompted the EU and Canada to pave the way for practical measures aimed at reforming the organization.

A Search for New Solutions in Alternative Fora

The primary imperative of the global economy, that is, ongoing trade expansion and the drive toward further market liberalization, remains in effect. Neither a global economic crisis nor the Doha deadlock nor the weakening of the WTO's rules-generating function can diminish this imperative since it is engrained in the very nature of capitalism as described by Karl Marx. If we adapt this imperative to the current global economy, we can say that if new rules are not generated multilaterally they will inevitably be produced outside of the WTO.

It was for this reason that in the early 21st century negotiating activity has shown a noticeable shift from the multilateral to the regional level for the purpose of the development and conclusion of regional/preferential trade agreements (RTAs/PTAs), setting out new forms of regulation. As a result, we have recently witnessed de facto bilateral and even unilateral, rather than multilateral, reductions of tariffs and the opening of markets under RTAs and PTAs [Portanskiy, 2017].

³ The Trade Facilitation Agreement was signed at the 9th Ministerial Conference of the WTO in December 2013 in Bali.

The first major breakthrough in the development of new trade rules outside of the WTO took place in early October 2015 with the news from Atlanta about the completion of protracted and extremely complicated negotiations on the Trans-Pacific Partnership among the 12 states of the Asia-Pacific region (Australia, Brunei, New Zealand, Vietnam, Singapore, the U.S., Canada, Chile, Japan, Mexico, Malaysia and Peru). A new type of treaty had developed within a relatively short time frame. The agreement was signed by the ministers of the 12 states on 4 October 2016 in Auckland, NZ. The initial potential of the TPP was viewed extremely favourably: its share in global gross domestic product (GDP) was expected to reach approximately 40%, with its global trade share amounting to 30% [Farrer, 2015]. The published text of the agreement confirmed that the TPP contemplated an impressive list of measures aimed at elimination of trade barriers [USTR, n. d.]. The agreement set out rules which embraced virtually every aspect of trade. Concerning market access, tariffs on 18,000 goods were abolished. Partners agreed even in such sensitive areas as access to auto and agricultural markets.

Rules of origin, as well as rules on technical barriers, sanitary and phyto-sanitary measures were unified, and new norms for financial and telecommunication services were developed. The TPP took a step further than the WTO in liberalizing government procurement and in the protection of intellectual property rights. Finally, certain areas which until recently had not been covered by relevant norms or WTO rules had such norms and rules developed, in particular in the areas of investment, competitive policy, protection of labour and environment and e-commerce. In addition to the main document, TPP participants signed a separate joint declaration on currency policy which was to enter into effect along with the framework partnership agreement. The special statement was timed to the signing of the declaration and stressed the importance of macroeconomic stability for the overall success of the TPP.

As data from the Peterson Institute for International Economics shows, the partnership was expected to increase the real national income of the 12 members by \$295 billion annually, with Japan and the U.S. accounting for 64% of that amount. Total exports of TPP members were expected to grow by \$440 billion, or by 7% [Petri, Plummer, 2012]. Overall, as President Obama stated during the fall session of the United Nations General Assembly in 2015, the Trans-Pacific Partnership would “promote growth through trade that meets a higher standard.” Thus, in terms of the elaboration of rules and liberalization, the first of the established MRTAs, the TPP, substantially surpassed the achievements of the WTO.

After taking office in 2017, Donald Trump changed the situation drastically, signing an executive order which effectively withdrew the U.S. from the TPP. No meaningful explanation of this measure was provided. After the U.S. pulled out of TPP, the remaining 11 members were initially divided on whether to keep the project afloat, but later concurred that new negotiations were necessary. As a result, the agreement was amended and executed in the first half of March 2018 as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership” (CPTPP) [ICTSD, 2018]. The signing was almost immediately followed by a ratification process with the participation of the 11 members and the agreement came into force on 30 December 2018.

Another MRTA project with an even higher initial potential than the TPP was the Transatlantic Trade and Investment Partnership (TTIP) between the U.S. and the EU. The relevant negotiations began in 2013 and, according to the statements of the representatives of the U.S. administration, were expected to meet Barack Obama’s presidential mandate for conclusion. This was not to happen, though, due to a significant number of outstanding trade issues and contentious points between the partners. With Trump succeeding Obama in office, the TTIP negotiations were suspended at the initiative of the United States. The principal explanation of the U.S.’ withdrawal from the partnership was that the Trump administration intended to build

political, trade and economic relations with each EU member individually rather than with the EU as a whole.

After the collapse of the TPP and TTIP projects, the Comprehensive Economic and Trade Agreement between the EU and Canada (CETA)⁴ became the first functioning MRTA. The agreement was signed by the parties on 30 October 2016 in Brussels and was ratified in February 2017 by the EU and Canadian parliaments. Following that, it entered into force on a temporary basis since EU rules require it to be ratified by all national and regional parliaments. This must be done before the end of 2019.

As Canada's prime minister Justin Trudeau noted in his post-ratification speech to the European Parliament, the CETA is the most progressive trade agreement that has ever been concluded between Ottawa and Brussels [Prime Minister of Canada, 2017]. Trudeau emphasized that the CETA set the highest standards of modern trade. In other words, the agreement implements what had been already contemplated by the two prominent trade mega-projects, the TPP and the TTIP.

The CETA provisions embrace not just trade in goods and services, investment and government procurement, but also areas either not yet covered by WTO norms or covered insufficiently, namely environmental issues, labour standards, functioning of state-owned enterprises, sustainable development and e-commerce. The most delicate and sensitive point of the agreement is the procedure for settling investor-state disputes in investment courts, created under some of the MRTAs but not yet available in the WTO.

Since 2012, the APC countries have been engaged in negotiations on the creation of yet another MRTA, the Regional Comprehensive Economic Partnership (RCEP). The object is to achieve a "modern, comprehensive, high-quality and mutually beneficial agreement" (as stated repeatedly by the leaders of these countries) between the 10 ASEAN members and the six Asia-Pacific states with which those 10 ASEAN countries have free trade agreements. The agenda includes issues like trade in goods and services, investment, economic and technical cooperation, protection of intellectual property rights, promotion of competition and the creation of a dispute settlement mechanism. The agreement conclusion date has been repeatedly shifted since the end of 2016 and at the time of writing of the agreement is scheduled to be signed in 2019.

MRTAs are essentially capable of bringing significant changes in international trade, when and if they are fully realized. Estimates are that if the initial TPP and TTIP aspirations had been realized, they would in total account for approximately two thirds of global GDP and more than half of world trade. This development would have inevitably affected the rules existing in international trade today, which are mainly WTO rules, because the TPP and the TTIP would set their own rules and norms of trade. And, with the above-mentioned trade exchange volume falling under said legal norms, they would have inevitably collided with the rules and norms of the WTO [Portanskiy, 2016]. The MRTAs currently implemented have a more limited potential than the TPP and the TTIP, yet the prospect of future collision of WTO and MRTA legal norms remains strong. This raises concerns among many participants in international trade. In order to avoid an adverse scenario, at least two closely linked conditions must be met: the gradual harmonization of MRTA and WTO legal provisions and the reform of the latter. Without reform of this universal organization, the harmonization of legal norms loses all meaning.

The MRTAs in effect since the start of 2019, namely the CETA, the CPTPP and the EU – Japan FTA, set higher standards for trade than the WTO as has been rightly emphasized by Canada's prime minister Justin Trudeau and previously by former U.S. president Barack Obama.

⁴ There is yet no strict definition or criteria defining MRTAs. Based on the TPP and TTIP projects, it was expected that MRTAs would account for at least 25% of global trade. The CETA does not meet this criterion but it does meet another one that is equally crucial: it operates according to rules and norms more advanced and up-to-date/modern than those of the WTO.

ma. These agreements contain provisions which do not yet exist within the WTO, in particular, in areas such as investment, competitive policy, labour standards, environmental protection and e-commerce, as well as more advanced norms of protection for intellectual property rights and a number of other norms.

WTO Reform Initiatives and Their Prospects

The summer and fall of 2018 revealed the initial positions and proposals of some members on WTO reform. The most active stance in this respect was taken by the EU and Canada with support from several other members. The ministers from 12 countries (Australia, Brazil, Canada, Kenya, Mexico, New Zealand, Norway, Singapore, Chile, Switzerland, Korea and Japan) and the EU held a meeting on 24–25 October 2018 in Ottawa to develop the key provisions of WTO reform. The U.S. and China, the key players of global trade and economy, were noticeably absent from the meeting, and not without reason. The two economic superpowers have been engaged in a trade war since 2017, albeit with an occasional ceasefire. Obviously, participation of these two players in the meeting would reduce the entire agenda to the U.S.-China trade standoff.⁵ The trade war was triggered by deep divisions between Washington and Beijing, as outlined below.

In March 2019, U.S. trade representative R. Lighthizer announced the U.S. administration's latest annual agenda for trade policy [Thompson Hine, 2019]. The agenda included issues such as WTO reform, trade agreements with other countries and the application of American trade laws. The document was critical of the trade policies of previous administrations, simultaneously striving to achieve a new quality of trade policy with the Trump administration.

The Lighthizer report highlighted the current administration's discontent with the existing rules and their application in areas such as labour conditions, competitive policy and the medical equipment market. Investigations into violations of intellectual property rights in connection with American business in China were also mentioned. The report justified instances in which U.S. trade laws were applied in the 1960s and 1970s for the purpose of protecting national security interests. This is quite worrying since said laws are applied in isolation from WTO rules and the U.S.' own WTO commitments.

Significant emphasis is given to the WTO status of a large group of states which acceded to the organization as developing countries and which are still comfortable with that profile, even while many of them have achieved noticeable progress in a number of economic sectors, outperforming some of the developed states. That said, the trade policy of many these developing countries is not transparent. As a result, these WTO members are granted *de facto* benefits which Washington considers unjustified and which inhibit the development of new WTO rules and further liberalization. Of those countries, China is the main focus of the U.S.' concerns. The Chinese economy, as repeatedly stated by representatives of the U.S. administration, has significant advantages over the American economy because of the previously obtained privileges.

This sums up Washington's approach toward WTO reform: it should focus on the elimination of unjustified, outdated benefits extended to a group of developing countries which today bring trade negotiations and the multilateral trading system to a virtual standstill. This approach can be appreciated but cannot be fully justified. Pushing through its requirements, the United States basically blocks any progress at preliminary consultations on WTO reform. This is obvi-

⁵ The November 2018 Asia-Pacific Economic Cooperation (APEC) summit in Papua New Guinea had exactly this experience when the participants failed to agree on a final communiqué due to "deep divisions" between the U.S. and China.

ously inconsistent with the very spirit and decades-long tradition of multilateral negotiations under the GATT/WTO, let alone the fact that the long-standing leadership of the U.S. at the negotiations is now seriously at stake.

The EU, as noted above, took the most active stance on WTO reform, being the first to come up with a list of concrete proposals. Even though the EU's position was initially a direct response to the illegitimate protectionist measures of the U.S. against European producers, the EU had enough sense not to incriminate Washington, directly or indirectly. Reform of one of the major institutions of global economic governance is too serious an issue to be allowed to fall prey to settling scores with the main trade partner. The EU produced a concept paper [EC, 2018] which outlines three key directions for reform:

- bringing the WTO rules in line with the modern global economy;
- enhancing the WTO's role in trade monitoring; and
- overcoming the imminent deadlock over the WTO dispute settlement system.

After proposing its comprehensive approach, the EU immediately initiated consultations with its leading partners, including the U.S. and China. Brussels notably sides with the above position and shares Washington's concerns about a group of developing countries which have reached a relatively high level of development but remain unwilling to waive the benefits they had been previously obtained. In this regard Brussels proposes to "improve transparency and subsidy notifications" [EC, 2018]. The proposals involve, *inter alia*, enhancement of transparency of SOEs (state-owned enterprises) and subsidies. The latter issue has become acute "to the extent that as of end of March 2018 over half of the membership (90 Members) had not made any notification." The bulk of these members are developing states and obviously such a situation cannot be tolerated any longer.

The EU position emphasizes the need to modernize the appellate body (AB) of the WTO's Dispute Settlement Body. This issue became a head in 2018 after the United States blocked appointments of new judges to the body citing its "dissatisfaction with its functioning." This became genuinely worrying for many WTO members since by the end of 2018 there were only three AB members instead of the required seven. The continued blocking of new members could effectively stop the functioning of the DSB, which is considered to be the core of the entire organization. The EU's position was supported in November 2018 by Canada, India, Norway, New Zealand, Switzerland, Australia, Korea, Iceland, Singapore, Mexico and China, responding to Brussels' initial intention to form a coalition of countries on this issue.

In its proposals concerning the body, Brussels in many ways takes note of Washington's concerns with the current functioning of the AB. More specifically, a 90-day deadline for an appeal was proposed, a provision which in fact had already been in effect but was violated on many occasions. Nevertheless, in mid-December 2018 the United States rejected the EU's proposals on modernization of the AB on the grounds that these proposals failed to "respond to the concerns raised by the United States" [Miles, 2018]. It should be noted in this regard that these concerns, apart from demands in connection with the functioning of the AB, are easily reduced to concerns of a general nature repeatedly raised by the Trump administration in connection with the insufficient transparency of China's economy. But the problem with the WTO dispute settlement system is too crucial and sensitive an issue to require a solution as a prerequisite. It is, therefore, quite natural to see the U.S. position on this issue as counterproductive.

The EU's proposals also indicate that "current debate promotes the view that global trade rules are somehow an impediment to development and therefore that developing countries need to be exempt from current and future rules" [EU, 2018]. Today the differences between developed and many developing countries are no longer as significant as they were when the WTO was created, and therefore this view is fundamentally wrong. It is clear that certain flexibility must be preserved in connection with the developing countries' compliance with WTO

rules but it should be applied only when strictly necessary. Brussels' proposals include effective mechanisms to solve this dilemma.

The EU concept paper also contains several initiatives expected to enhance the multilateral trading system and improve the efficiency of the WTO.

An active stance on WTO reform is voiced by China which has lately sought to collaborate with other countries sharing its disapproval of Washington's protectionism. The latest of the traditional EU-China summits in July 2018 achieved a common understanding of the intention to reform the WTO. That said, Brussels still largely shares Washington's concerns about violations of the intellectual property rights of foreign companies by Beijing and insufficient freedom of access to Chinese markets.

While voicing its support for WTO reform, China is content with general statements stressing the importance of the inviolability of the basic principles and rules of the WTO. It appears that Beijing would hardly be willing to unconditionally succumb to Washington's demands to withhold existing benefits for the developing members of the WTO. As an alternative, China will more likely bring to the fore the necessity of combating protectionism which endangers free trade.

Russia eagerly supports the idea of WTO modernization, as recently expressed by President Vladimir Putin and Minister of Economic Development Maxim Oreshkin. Moreover, Russian trade diplomacy has created prospects for active participation in the process.

The above leads us to believe that the process of WTO reform is bound to be complex and may take more than a few years. At a certain future stage the most complicated issue will probably be the issue of the transformation of the decision-making system. The consensus mechanism which has been employed by the GATT/WTO for over 70 years has become, with 164 members, a clear impediment to decision-making. But foregoing this mechanism is not easy either. This is probably one of the crucial challenges of WTO reform. The nascent reform process has identified an issue requiring an urgent response: modernization of the appellate body of the DSB. The failure to resolve this issue may seriously harm its ability to settle disputes, which is a crucial function of the WTO.

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Императив реформирования ВТО в эпоху роста протекционизма и торговых войн¹

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В статье обосновывается необходимость реформирования важнейшего института глобального экономического управления – Всемирной торговой организации (ВТО). Рассматриваются основные накопившиеся проблемы современной многосторонней торговой системы (МТС): проблема развития и эффективности ВТО в новых условиях, ослабление лидерской роли США, регионализм, кризис системы принятия решений в ВТО, обострившийся в последние годы протекционизм в торговле. Все эти вызовы в сумме обусловили необходимость реформирования ВТО, однако острейшими – теми, которые в конце концов перевели вопрос из сферы научных дискуссий в сферу практических инициатив, – оказались два последних. Анализируются первые шаги государств – членов ВТО на пути реформирования организации, сделанные в 2018 г. В этом плане основное внимание уделяется Концепции ЕС по реформированию ВТО – первой среди других стран инициативы в данном направлении. Отмечается важность позиций США и Китая, без учета которых вряд ли возможно успешно продолжать процесс реформирования ВТО. Особое внимание уделяется позиции США, которая носит противоречивый характер и сформирована в значительной степени под воздействием нынешней изоляционистской и протекционистской торговой политики администрации Дональда Трампа. Предварительный вывод, к которому приходит автор, состоит в том, что процесс реформирования ВТО будет весьма сложным и может растянуться на годы.

Ключевые слова: многосторонняя торговая система; ГАТТ; реформирование ВТО; мегарегиональные торговые соглашения

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NATIONAL RESEARCH UNIVERSITY HIGHER SCHOOL OF ECONOMICS

XXI April International Academic Conference on Economic and Social Development April 6–10 2020, Moscow

On April 6–10, 2020 in Moscow, National Research University Higher School of Economics (HSE University), with the support of the World Bank, will be hosting the **XXI April International Academic Conference on Economic and Social Development**. The Conference's Programme Committee will be chaired by Professor Evgeny Yasin, HSE University's academic supervisor.

The Conference features a diverse agenda concerning social and economic development in Russia. The Conference programme will include presentations by Russian and international academics, roundtables and plenary sessions with participation of members of the Government of the Russian Federation, government officials, business representatives, and leading Russian and foreign experts.

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PROPOSAL REQUIREMENTS AND SUBMISSION PROCEDURE:

Papers presented at the Conference should contain the **results of original research** based on up-to-date research methodology. The Conference Programme will be developed based on accepted proposals.

WORKING LANGUAGES of the conference: Russian and English.

TIME LIMITS of the conference are the following ones:

- Presentation: 15–20 minutes;
- Roundtable discussions: 5–7 minutes.

DEADLINES for proposals:

- Submit the proposal through HSE University's online system from **9 September** until **15 November 2019 (the link will become available later)**.

The application should include a detailed summary of the proposed presentation in Russian (for Russian-speaking participants) and English (for all participants) in either Word or RTF format. The summary should be between 1–3 pages, 1.5 spacing (up to 7,000 symbols) and should clearly state the problem, research approach used (particularly, if there is a model on which the analysis is based), and the main results. In addition, the abstract should indicate the novelty of

the obtained results in comparison with previously published works. Proposals that do not meet these requirements will not be considered.

- **A group of authors**, each individually registered on the Conference system, may request permission from the Programme Committee to present their reports in one session. To do so, they must complete the form on the Conference website by **15 November 2019**.

One author may present one individual paper and no more than 2 co-authored papers at the Conference. A session should contain no more than two papers submitted by the same organization. A standard session lasts 1.5 hours. Proposals for the formation of sessions will be considered by the Programme Committee when reviewing applications and developing the Conference Programme.

- The Programme Committee's decision about the acceptance of the papers will be made by 24 January 2020, based on the reviews conducted by independent experts. The preliminary programme will be available on the Conference's website.
- Scholars whose papers are included in the programme must confirm their participation through their personal account in the HSE University's system by 10 February 2020 (otherwise, their paper will be excluded from the programme) and provide slides of their presentation in English by **13 March 2020** for publication on the Conference's website.

Papers included in the programme after additional reviews by the editorial board will be considered for possible publication in leading Russian journals on economics, sociology, management, public administration, etc. These journals are either cited in the Scopus and WoS databases or included in the list of peer-reviewed journals of the Russian Higher Attestation Commission.

- Online registration to attend the Conference (**without presentation**) will be open until **March 20, 2019**.

PARTICIPATION FEE:

Information about the participation fees, payments deadlines and procedures will be available on the respective section of the Conference's website.

The Conference Organizing Committee
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