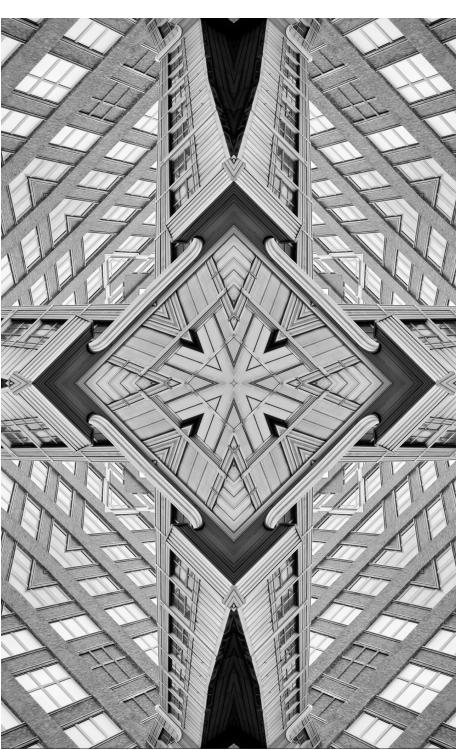


Issue Brief

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The World in Disarray: Is This the End of Multilateralism for Trade?

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Abstract

Russia's war on Ukraine, interrupted value chains, and increased regionalisation are putting pressures on the already-strained multilateral trading system. Though a strong World Trade Organization (WTO) is needed to navigate these challenges, the organisation risks becoming irrelevant if far-reaching reforms are not implemented as soon as possible. In the short- and medium-term, WTO members must agree on limiting export barriers, especially on vaccines and food products, and compromise on fisheries subsidies. In the long-term, the WTO rulebook must be updated, and the dispute settlement mechanism reformed for the organisation to remain relevant.



or decades, trade has been an important driver for economic growth, job creation, and wellbeing. It helped lift billions of people out of poverty, and promoted economic—and, in some cases, political—freedom. It allowed for a diffusion of knowledge and ideas and created interdependencies that—while not always preventing conflicts and wars, as Russia's war on Ukraine shows—contributed to international stability. The multilateral trading system, with the World Trade Organization (WTO) at its centre, held power politics at bay and allowed for the settlement of trade disputes in a rules-based and mostly fair way.

These times seem to be over. Great power politics, a competition of ideas and systems, cold and hot conflicts, and wars threaten to divide the world into new blocks—large autocracies on one side, and liberal democracies on the other. Trade is increasingly seen from a security lens—as a source of national vulnerabilities, and as a coercive, strategic instrument. This will massively impact trade flows. It will accelerate the re-regionalisation and re-nationalisation of value chains that began a few years ago, gaining momentum during the COVID-19 pandemic, and is fuelled by the power competition between the US and China. At the same time, the WTO, which is already fragile, could weaken even further, at a time when a strong institution is more important than ever.

What are the current trends in trade and how healthy is the multilateral trading system? What are possible scenarios for the WTO and what needs to be done to reform it so it can continue doing its job?



fter a steep drop in 2020 due to the pandemic, trade in goods and services grew strongly in 2021, experiencing an increase of about 13 percent relative to the pre-pandemic level of 2019, which was a faster and stronger recovery than in the aftermath of the 2008 financial crisis. However, global trade is facing serious headwinds in 2022. The IMF had already downgraded its growth expectations before Russia invaded Ukraine due to persistent inflation in the US and concerns related to China's real estate sector.²

Russia's war on Ukraine puts additional pressure on the global economy by interrupting the supply of basic commodities, due to which the prices for food and energy will rise, pushing up inflation, and thus depressing demand. Russia will be particularly affected, but the disruptions will also be felt globally.³ UN Secretary-General Antonio Guterres warned that the conflict could cause a "hurricane of hunger and a meltdown of the global food system".⁴ According to the Food and Agriculture Organization (FAO), the number of undernourished people could increase by eight to 13 million people during 2022-2023.⁵

Many countries, particularly in Europe, could slide into recession, while several may suffer from stagflation, i.e. high inflation and low economic growth with increasing unemployment. Poorer developing countries will suffer even more from high energy and food prices, and inequality is prone to increase between as well as within countries. The COVID-19 pandemic continues to take its toll, with new variants challenging the capacity of health systems worldwide.

Global value chains are likely to witness an acceleration of re-regionalisation and re-nationalisation in the coming years. This is not an entirely new phenomenon. The 1990s and early 2000s where characterised by a rapid globalisation of value chains, but it lost momentum in the second decade of the 2000s, even before the pandemic hit, due to several reasons. First, digitalisation is changing industrial production in a way that makes international merchandise trade more and more obsolete. New technologies such as 3D printing or selective laser melting facilitate production on-site. Second is the technological catch-up of large emerging economies. China, in particular, has become more technologically independent and increasingly manufactures high-tech products domestically rather than importing them.⁶



Third, since the 2008 financial crisis, there has been a steady flow of new protectionist measures, with the WTO registering new barriers with an annual average of 147 measures from 2012 to 2020. The share of trade being affected by these measures rose from 1.17 pecent in the period from mid-October 2013 to mid-October 2014 to 3.84 percent in the period from mid-October 2018 to mid-October 2019 with a decrease to 2.4 percent in the period from mid-October 2019 to mid-October 2020.7 While WTO members showed restraint in employing new protectionist policies and implemented numerous trade facilitating measures amid the COVID-19 pandemic, there is little appetite for further trade liberalisation. In addition, the 2017-2020 period was characterised by numerous trade conflicts, many originating in the US under former President Donald Trump. New and stricter laws regarding export controls for dual-use products and investment screening in the US and China led companies in a variety of industries (including semiconductors, autos, and medical equipment) to re-localise parts of their supply chains and production. Additionally, at the beginning of the pandemic, many countries resorted to export restrictions, particularly on medical and pharmaceutical products.

Fourth, companies have increasingly tried to reduce vulnerabilities and the exposure to global risks in the aftermath of the last financial and economic crisis. Another driving factor is the increasing frequency and severeness of natural desasters. The pandemic further exposed the vulnerability of global value chains, first disrupting many (particularly those for medical goods and equipment) and then slowing down recovery due to a shortage of workers, ships, containers, air cargo space, and congested ports. Consequently, companies around the world intensified diversification strategies and the restructuring of their value chains.

The localisation and re-regionalisation of value chains are not driven only by companies. Reducing dependencies has been high on the agenda of many Western governments for some years. Many governments are increasing investment in ports, airports, and other infrastructure, while supporting research and development (R&D) and the production of critical materials. The US, the European Union (EU), and Japan are striving for greater technological sovereignty. For instance, the US CHIPS Act and the European Chips Act⁸ seek to reduce the dependence on Taiwan and South Korea for semiconductors. The US government has, for some years, pushed for reducing dependencies on China (another example being the Entity List), but the EU is quickly catching



up. The motto of the EU's new trade strategy is "open strategic autonomy"; it wants to be more assertive against unfair trade practices abroad, strengthen existing trade defence instruments, and create new ones.⁹

Lastly, the Ukraine crisis is likely to speed up the re-regionalisation of value chains. Ukraine's production capabilities are severely impaired, ¹⁰ and Western countries have agreed on a set of powerful sanctions targeting Russia. ¹¹ Western companies are pulling out of Russia because of these sanctions, and many more are boycotting the country, even if not forced to do so by the law. ¹² Companies around the world are re-evaluating their sourcing strategies in an attempt to reduce dependencies on Russia for transportation and raw materials, and China for components and finished goods. ¹³ The war has had a massive impact on transportation and logistics, as train lines between the EU and China (through Ukraine and Belarus) are disrupted and air transport is also blocked. ¹⁴ Producing closer to home promises lower costs and lesser risks of supply interruptions.

Russia's war on Ukraine is likely to further escalate, and the Western alliance will then react with additional economic sanctions. Moscow would in this case probably restrict exports of energy resources, metals, minerals, and agricultural products to Western countries. It is also likely to shift its economic focus towards Asia, deepening ties with China. Beijing will continue its decoupling from the West, heavily subsidising R&D and the production of critical technologies. It is also likely to continue to increase its global influence by investing more in the Belt and Road Initiative. It will probably also build up a new payments system, offering an alternative to SWIFT. Conflicts in the Indo-Pacific region are prone to escalate with China becoming increasingly aggressive towards Taiwan. Western companies will speed up the restructuring of their value chains, while governments heavily support their economies to advance the digital revolution and the green transition and to stabilise economic growth and employment. The war will thus fundamentally alter the global economic and geopolitical order.



strong, healthy WTO is needed now more than ever to help navigate governments and businesses through these troubled times. However, the organisation is in its deepest crisis since its creation. All of its pillars—trade liberalisation and rules-setting, trade policy monitoring, and dispute settlement—face huge challenges.

As more countries have joined the WTO and tariffs have decreased considerably, multilateral liberalisation has become increasingly difficult. Since the Uruguay Round, no comprehensive trade agreement has been achieved, with the exception of the Trade Facilitation Agreement. At the last Ministerial Conference in Buenos Aires in December 2017, members failed to secure any multilateral outcome. For years, WTO members have shown little appetite for further trade liberalisation. In addition, the WTO's rulebook neither fully reflects the characteristics of modern trade nor does it answer sufficiently to the world's biggest challenges. It has little to offer regarding digital trade and is weak on industrial subsidies. There is also little in the WTO framework on labour and environmental issues.

Additionally, existing WTO provisions are being abused, circumvented, or ignored by major trading countries. Deep divisions among the 164 members prevent the updating of existing trading rules, most of which were crafted in the 20th century. The world has fundamentally changed since China and Russia joined the WTO in 2001 and 2012, respectively. It is increasingly struggling with competing models of economic governance, values, and world views, and this is likely to worsen in the coming years. ¹⁵

In December 2019, the WTO's dispute settlement process broke down as the US blocked the appointment of new appellate body (AB) members. Without a functioning AB, appealed panel rulings are placed in limbo, delaying the enforcement of WTO obligations indefinitely, and consequently weakening the organisation's effectiveness. While some countries have presented proposals for a reform of the dispute settlement process and the AB, the US does not seem keen on reviving the mechanism, pointing at considerable deficits regarding the AB.



Following the postponement of the 12th Ministerial Conference (MC12) in late 2021, the WTO Secretariat is trying to keep up the negotiation momentum, with mixed results. One success relates to trade in services. In early December 2021, more than 60 member countries successfully concluded negotiations of the WTO Joint Statement Initiative (JSI) on Services Domestic Regulation. The initiative aims at simplifying unnecessarily complicated regulations, ease procedural hurdles, and increase transparency and fairness. The participating members are to make specific commitments by the end of 2022. ¹⁶

Another positive sign is the provisional compromise to waive intellectual property rights for COVID-19 vaccines between the EU, the US, India, and South Africa.¹⁷ However, there is still some controversy around the agreement. While some criticise that it goes to far, others are disappointed that it only covers vaccines and not treatment for COVID-19. Furthermore, while the compromise has been negotiated by the European Commission, the EU member states still have to consent to it. Only when the four countries have found a final compromise will it be presented to all 164 WTO members, who then need to reach consensus for the agreement to enter into force.¹⁸

The MC12 is scheduled to take place in mid-June 2022. However, the road to a successful ministerial remains rocky as many countries have objected sitting at the same negotiation table with Russia as long as the war continues.

A strong WTO is needed now more than ever, but the organisation is in its deepest crisis yet. All of its pillars—trade liberalisation and rules-setting, trade policy monitoring, and dispute settlement—face huge challenges.



hat is in store for the multilateral trading system? While uncertainties concerning Russia's war on Ukraine remain, there are two possible scenarios for the WTO in the coming months amid the likely fragmentation of the global economy (as described above).

Scenario 1: WTO Becomes Irrelevant

The number of trade conflicts increases dramatically; the WTO dispute settlement system is hardly able to keep up. Several countries appeal cases after the first panel report and consequently, these end in limbo as the appellate body remains dysfunctional. While countries are still using the WTO to solve disputes, many take immediate unilateral action or resort to bilateral dispute settlement mechanisms. The MC12 is cancelled as countries are not willing to sit at the negotiation table with Russia. Negotiations on fishery subsidies and on the TRIPs waver fail, and reform efforts are bogged down. As plurilateral initiatives within the WTO face increasing headwinds and critical mass (a prerequisite of plurilateral agreements on trade liberalisation) cannot be reached, countries take these initiatives outside the WTO. While bilateral and plurilateral trade agreements have always been a feature of the global trading system, their numbers are increasing, with many being partial agreements that do not meet the criteria of the WTO and are incompatible with the rulebook. More and more countries are turning their back on the organisation, investing in new initiatives, which are considerably more discriminatory. The WTO loses relevance and is less and less able to ensure open and rules-based trade.

Scenario 2: A New Impetus for WTO

WTO members acknowledge the seriousness of the situation and show greater willingness to compromise. MC12 takes place, and members conclude negotiations for a comprehensive agreement on fishery subsidies. A compromise for a TRIPS waiver for COVID-19 vaccines is presented and agreed upon. Members mandate the WTO, UN Conference on Trade and Development, and FAO to set up a working group to analyse the effects of Russia's war on Ukraine on global agriculture markets. Furthermore, members agree on a work plan to help Least Developed Countries recover from COVID-19 and deal with increasing prices for agricultural products



and food shortages. The plurilateral JSIs gain speed, particularly on micro, small and medium enterprises and electronic commerce. Negotiations on environmental goods and the WTO's pharma agreement are revived. While no far-reaching reforms are agreed upon at MC12, members set up a roadmap to address the WTO's structural deficits, particularly the dispute settlement mechanism. Following MC12, more countries join the JSIs on sustainability issues, advancing discussions on trade and the environment. The US tables proposals for a reform of the WTO's transparency mechanism and for trade dispute settlement, particularly the AB. This way, it initiates a real discussion on reform that can eventually lead to a revival of WTO's third pillar. The WTO, thus, receives the long-awaited impetus to allow it to be an effective guardian of open and rules-based trade.

Unfortunately, scenario 1 currently seems to be much more likely than the positive reform scenario 2.

There are two possible scenarios for the WTO in the coming months: the organisation becomes irrelevant, or there is an impetus for reform. Unfortunately, the first scenario seems more likely.



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lobal economic growth, prosperity, and well-being will be severely impacted if Scenario 1 becomes reality. The following steps need to be taken to ensure Scenario 2.¹⁹

Short and Medium Term

It is pivotal that MC12 takes place in June 2022, despite the difficulties arising to the negotiations due to the war on Ukraine.

Export Restrictions: The pandemic showed that export restriction or bans are bad policy instruments; they fail to secure supply of critical products for the implementing country and also hurt the global economy by severely disrupting supply chains. Amid the Ukraine crisis and the many bottlenecks in global supply chains, the risk of new export barriers is on the rise again. While sanctions on Russia and export restrictions blocking access to goods and technologies are instrumental in countering Moscow's aggression, other export barriers could easily exacerbate global commodity shortages and pose major risks to food security and heath in many countries. Thus, WTO members should commit to refraining from new export barriers, particularly on energy resources, metals, minerals, and agriculture products.

Trade and Health: WTO members should agree on strengthening the positive link between trade and health. The US, EU, India, and South Africa should present their compromise on the TRIPs waiver to the other WTO members. If consensus cannot be found, members should agree on a roadmap for further negotiations.

WTO members should also revisit the plurilateral pharma agreement; an update of the products covered and a wider WTO membership will enhance its effectiveness. Furthermore, interested WTO members should explore the possibility of a plurilateral COVID-19 Vaccine Investment and Trade Agreement that focuses on accelerating the production and distribution of vaccines. In this regard, it is important to design this initiative to support COVAX. Another component of this agreement, apart from production commitments, should be that signatory countries pledge to refrain from export restrictions on supplies of vaccines and related materials.²⁰



Agreement on Fisheries Subsidies: WTO members need to agree on a compromise on fishery subsidies. A failure to conclude an agreement will be detrimental from an environmental perspective and will undermine the WTO's credibility. On the contrary, if WTO members are able to craft and adopt an environmentally ambitious trade agreement on fisheries subsidies, it will show that the organisation can live up to the sustainable development objective in its charter.

Long-Term

The WTO needs serious reform. The goal should not be re-establishing the status quo but adapting the multilateral trading system to the realities and necessities of the 21st century. If multilateral progress is not possible, willing countries should advance negotiations for plurilateral agreements within the WTO, while ensuring that these do not hurt the unity of the organisation.

Updating the WTO Rulebook: The WTO currently offers few rules on digital trade. A comprehensive agreement on e-commerce is needed to prevent a fragmentation of world markets. The plurilateral JSI on e-commerce, which aims at setting new global rules for digital trade and removing tariff barriers, is a step in the right direction.²¹ In addition, WTO members should make permanent the moratorium on customs duties on electronic transmissions. The moratorium prevented the imposition of burdensome tariffs, and a termination will lead to serious new trade barriers that would also hamper trade and development.²²

Additionally, WTO rules do not adequately address the role of state-owned enterprises and industrial subsidies. Given the geopolitical environment, subsidies can be expected to rise further in the coming years. As a first step, WTO members need to increase transparency for subsidies, revisiting the enforceability of notification requirements. Furthermore, if a multilateral agreement is out of reach, willing countries should push for a plurilateral agreement that could build on the trilateral initiative by the US, the EU, and Japan to tackle non-market policies and practices.

Trade can play an important role in fostering the green transition. However, for the WTO to perform better, new rules on sustainability are needed. The JSIs on environmental issues are a step in the right direction, but these efforts need to go further. Negotiations on an Environmental Goods





Agreement should be revived to promote the diffusion of green technologies by lowering trade barriers. In addition, WTO members should agree on a concrete roadmap to phase out fossil fuel subsidies and bar support for new coal-fired electricity generation plants while allowing carbon abatement upgrades to existing facilities. WTO members should also agree on a roadmap on circularity, including developing a better knowledge base on how trade interacts with the circular economy. In the long-term, WTO members should take concrete steps to facilitate trade in key areas of the circular economy.

Reforming the WTO Dispute Settlement Mechanism: The two-tier dispute settlement mechanism has been a crown jewel of the WTO. Restoring and reforming the mechanisms must be a top priority for members. Elements of such a reform could include having a mandatory, binding, independent, and swift dispute settlement; maintaining a two-tier system of dispute resolution; and preserving the negative consensus rule to avoid blockage. At a minimum, WTO members should engage in an open and frank discussion, where a landing zone for reform could be.

A strong WTO is more needed than ever. WTO members need to acknowledge that the organisation stands at a crossroad. The multiple global crises could serve as a catalyst for reform, ensuring a rules-based trading system for the future. The risk is high that, in the future, the rule of power and not the rule of law will reign in international trade. Unless WTO members stop standing by and blocking reforms, the organisation will continue to lose relevance. ©RF

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