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International trade

Rekindling interest in a multilateral rules-based approach

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# Which role for the G7 in international trade

International trade is one of the themes that used to constitute the very *raison d'être* of the G7, alongside international security and energy policy.

The G7 approach to trade has been traditionally based on a set of key principles on which all member countries could agree, namely the commitment to fight protectionism and the prominence of the rules-based multilateral trading system, anchored in the WTO. But today these principles are increasingly under attack. Not only is protectionism on the rise, but there is also disagreement as to where the system should be headed, and discontent about its effectiveness, with substantial risks for the world economy. In particular, if the trade sanctions imposed by the US administration were to escalate further, this would affect global trade negatively and could even lead to a trade war in which all parties would lose. Moreover, global trade might also suffer if the current regionalization of trade flows were to further deepen as a result of the partial disintegration of global value chains.

The real challenge today is twofold, first to make G7 countries commit to engage in a discussion so as to find a new consensus, and secondly to find the appropriate way to adapt the current multilateral trading system to new realities (both in terms of power balance and of trade practices).

Recent initiatives and political statements<sup>1</sup> show that such willingness exists in several countries, rooted in the widespread acknowledgement of the shortcomings of the present situation. Yet the difficulties met to issue a joint statement on trade at the end of the 2018 Summit in Charlevoix are a testament to the deep disagreements prevailing on these issues within the G7. The depth of the disagreements is particularly clear with respect to the response to be given to the Chinese challenge resulting from its State-controlled economy. Overall, while there may be wide agreement on the nature of the concerns, the views are diverging with regards to

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1. EU initiative on WTO reform, Communiqués of the Ottawa Group on modernizing the WTO.

possible solutions. It is important, however, to preserve G7 unity, and avoid another 6+1 solution.

It may be worth reminding at this stage that the “informal minilateralism” exemplified by the G7 (as well the G20) should be seen as a new component of the larger multilateral system aimed at complementing the work of traditional multilateral organizations and, when relevant, at supporting their reform. The G7 per se cannot make decisions (let alone binding decisions), but sets the agenda and issues recommendations or lays the ground for further cooperation within formal multilateral fora. In other words, the primary role of the G7 is to provide strategic leadership and guidance, while the details are determined and implemented elsewhere, primarily within and by international organizations. However, it is important to make sure that concrete steps follow once the initial impulse has been given. Accordingly, institutional innovations are needed to ensure a better implementation and monitoring mechanism. Tightening and clarifying relations with international institutions are a way of achieving this goal and should therefore be a priority.<sup>2</sup>

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2. W. Lim, F. Nicolas, « The G20 from Seoul to Cannes: Towards a Global Governance Committee », *Rapport de l'Ifri*, April 2011, [www.ifri.org](http://www.ifri.org).

# State of play: what are the problems and why the world trading system needs reform

## The value of a rules-based trading system

Although global trade has proven relatively resilient over the past few years, its rate of growth is on the decline. Among the many factors underlying this trend, the rise of protectionism and unfair practices<sup>3</sup> are often pointed to. The importance of a strong set of multilateral rules based on principles of openness and non-discrimination is deemed particularly necessary to reverse the trend but it is under attack from many directions, be it from some emerging economies which deem some rules to be unfair or more precisely to be at their disadvantage, or from some advanced economies which choose to resort to traditional protectionist policies in the name of national security for instance or because they see countries using government-run industrial planning and state-owned enterprises to rig the system in their favor.

The attacks on the multilateral trading system and its very foundations should be taken very seriously. One of the major advantages of the current rules-based trading system is to make commitments by member-states clear and enforceable. In the past, uncertainty, unreliability, and in many cases unfairness prevailed, with widespread political interference, leading to distortions and hence sub-optimal outcomes. In the absence of rules, there is no reliability, no stability, and a high risk that weak countries be bullied around by stronger ones.

Empirical evidence also suggests that regulatory uncertainty is a major obstacle to the expansion of trade, which is a major driver of

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3. From May through October 2018, trade-restrictive measures were estimated to reach a maximum record of 481 billion US\$.

growth. Uncertainty is found to be even more harmful than rising tariffs, with a negative impact on investment plans, consumption behavior, inventories and prices. Returning to disorganized and unpredictable trade relationships would be especially costly at a time when international economic relationships are tighter than ever, with global value chains ubiquitous.

## The WTO-based trading order under attack

Due to rising distrust in the value of openness and non-discrimination, attacks on the system have intensified over the past few years. The fundamental problem is that since the WTO was founded – and with the economic strengthening of the major emerging economies, mainly China – it has not been possible to find an appropriate balance on key issues (including further market opening) between the interests of these countries and those of the traditional industrialized countries.

As a result, the current WTO-based system is blocked in its three functions, namely rule-setting, rule enforcement and monitoring, and dispute settlement/adjudication. Given the complementarities between these different functions, all of them must be dealt with jointly, in a coherent way. Moreover, addressing them jointly may provide opportunities for trade-offs.

Despite the agreements reached on trade facilitation (TFA) and export disciplines (which entered into force in 2017)<sup>4</sup>, **little has been achieved in terms of rule-making since the WTO came into existence in 1995**. This is a problem for a number of reasons and primarily because the way the world economy works has profoundly changed over the past two decades and a half (with the fragmentation of production, digitalization, emergence of new players). Information and communication technologies have created distant coordination capacities unheard of in the early 1990s. Digitalization is everywhere, ushering in what some have called a fourth industrial revolution, and giving rise to new forms of trade (i.e. digital trade).

**Surveillance** and monitoring of existing rules **has been markedly improved** compared to previous periods, significantly increasing the transparency of trade-related practices, **but it has**

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4. As of 14 May 2019, the TFA has been ratified by 143 Member-States (87% of the total).

**not been without issues.** In many areas, notification obligations have been met with very long delays, when they have not been purely and simply ignored. Deliberations have often left important questions unanswered, hence frustrating their capacity to develop into constructive dialogues. Additionally, ambiguities in certain rules have more often than not been exploited to pervert the spirit of the system.

Adjudication, i.e. the quasi-judiciary function of dispute settlement, has been widely lauded as one of the main achievements of the WTO. As a matter of fact, it has shown a previously unmatched capacity to settle trade-related disputes between sovereign states on the basis of internationally agreed rules. Today, however, this system is facing several difficulties. There are in particular **deep disagreements about the way the dispute settlement mechanism (DSM) is functioning and about what its mission should be.** The DSM and its Appellate Body (AB) are accused by the US of overreaching or exceeding their mandates and of being turned into a *de facto* rule-making body. As a result, the US is blocking the nomination of new AB members, leading to a *de facto* obstruction of the AB.

## **The shortcomings of the current system**

Actually, it should not come as a surprise that the rules adopted almost a quarter of century ago do not fit today's needs. These rules need to be updated to face new realities; first because they do not cover all dimensions of international trade (e-commerce in particular) but, more importantly perhaps, also because they did not anticipate the heterogeneity in member-states' economic systems. Lastly, the WTO also lacks rules on sustainability issues.

Countries' development levels and competitive capacities have evolved significantly, with several large emerging countries now playing a central role in world markets. In this context, **a major issue is that some of these economies do not share the same system nor the same values as the formerly dominant powers.** Of particular concern is competition coming from countries where the line between the public and the private sector are blurred, and firms have easy access to government funds and favorable policies, giving them an edge over their competitors.

Although China is a case in point on the latter, the issue of state control goes beyond China. The number of state-owned companies has sharply increased over the past decade<sup>5</sup>, and there is now a dividing line between liberal, open, and social market economies on the one hand, and state-controlled economies on the other hand. But given the size of the Chinese economy, it should not come as a surprise that it is the one which has attracted most of the attention.

When WTO member-states accepted China's entry, the assumption made was that engaging China would have a transformative effect (both politically and economically), but the gamble failed to pay off, and although China's economy has become much wealthier, it has not become progressively more open. On the contrary, instead of giving way to market forces, the Chinese Communist Party has intensified its efforts to steer and shape the national economy<sup>6</sup>. The Chinese economy is and will remain marked by substantial state control, and the growing competition is not only an expression of dynamic entrepreneurship in China, but is also largely due to targeted government support and guidance. This characteristic of the Chinese economic model has international implications. Due to the high presence of Chinese manufacturers on the world market, these resulting distortions and overcapacities in China are increasingly being transferred to other markets.

**A particularly sensitive issue has to do with state's involvement in the economy**, either through State-owned enterprises (SOEs) or subsidies. While the rules and disciplines included in the Agreement on Subsidies and Countervailing Measures (SCM) were designed to make sure that such involvement is not incompatible with a fair competition, concerns have been widely voiced about their suitability in today's context, where the modalities of states' involvement have evolved significantly and are taking central importance in some sectors. In particular, it is questionable whether the way SOEs and subsidies are defined is clear and precise enough. In addition, in this area where information is often difficult to collect and interpret, transparency is indispensable to make disciplines effectively enforceable. Judging by the latest report of the relevant committee, the current situation is not satisfactory in this respect (WTO, G/SCM/152, 29 October

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5. 23 per cent of the Fortune 500 companies are state-owned in 2018 (against 9 per cent in 2009).

6. C. Boustany, A. Friedberg, "Answering China's economic challenge – Preserving Power, Enhancing Prosperity", *NBR Special report*, The National Bureau of Asian Research, n° 76, 20 February 2019, [www.nbr.org](http://www.nbr.org).

2018). A last dimension of this question relates to countervailing measures, since these are instruments supposed to level the playing field, where appropriate. The rules defining the conditions under which such measures can be used are an integral part of a suitable framework to deal with states' involvement.

**Technology and intellectual property rights are another bone of contention** between WTO member-states. Technological innovation and capacity are key determinants of competitive positions on world markets and need to be appropriately protected as a result. The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) as well as disciplines related to investment and market access already constitute a set of rules which are relevant in this respect, but it is necessary to make sure that existing rules and their practical enforcement are suitable to strike the right balance in this area.

In order to protect its own market and acquire technology and know-how, China has since the middle of the past decade cemented new restrictions on foreign firms, going beyond previously existing investment barriers, which has led to repeated complaints by foreign investors who feel at a disadvantage on the Chinese market. Problems include forced technology transfer and the lack of implementation of intellectual property rights, among others. As for the former, they clearly are beyond the scope of existing regulations. As a result, new rules need to complement existing regulations which should also be enforced more effectively.

Lastly, developing countries have become an increasingly heterogeneous group, and **one problem of the WTO today pertains to the undifferentiated developing country status** of large emerging economies. The WTO Agreements contain special provisions which give developing countries special rights and which give developed countries the possibility to treat developing countries more favorably than other WTO Members. These special provisions include, for example, longer time periods for implementing Agreements and commitments or measures to increase trading opportunities for developing countries. The problem is that this status is self-declaratory and while the use of the special and differentiated treatment (SDT) for developing countries remains justified for a large number of them (and in particular the least developed ones which may even enjoy further benefits), this is more debatable for others. China, which continues to claim the right to maintain its status as a developing country, is a case in point.



The simplistic distinction between developed and developing countries, with the latter group including some of the world's top trading nations and some of the poorest ones, has been a major source of tensions and an obstacle to the progress of negotiations.

## **The very idea of a rules-based order is under attack**

Another major source of concern is that the benefits of a rules-based order are no longer unanimously recognized. Moreover, they are challenged by one of its earlier supporter, namely the United States. In Donald Trump's view, trade is a game of winners and losers, not an exchange that generates mutual gains (Ikenberry, 2017)<sup>7</sup>. The Trump doctrine on international trade is based on four tenets at variance with modern economic analysis: overlooking the gains from trade, focusing on the trade deficit, ignoring the changing nature of trade, and disdaining the need for cooperation.<sup>8</sup> This mercantilist approach (which sees trade not as win-win but by definition as win-lose or zero-sum game) leads him to the conclusion that an outcome-based order should be favored over a rules-based order, as the existing rules are perceived to be unfair on the US. This is also why so much emphasis is placed in trade negotiations on achieving trade balance rather than on balancing concessions.

From a world order perspective, there is a clear risk that outcome-oriented practices in the form of voluntary export restraints or quotas, for instance, may become increasingly popular. This is reminiscent of the debate on managed trade dating back to the 1980s with the United States and the European Communities on the one hand and Japan on the other hand.

With the very foundations of the multilateral rules-based order undermined, the need for a reform of the WTO is even more pressing.

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7. J. Ikenberry, "The Plot against American Foreign Policy – Can the Liberal order Survive?", *Foreign Affairs*, vol. 96, n° 3, May-June 2017, pp. 2-9.

8. W. Nordhaus, "The Trump doctrine on international trade", *VoxEU*, August 2017. [www.voxeu.org](http://www.voxeu.org).

# Policy proposals to make the multilateral rules-based trading order more attractive and efficient

Two big players, China and the United States, are challenging the multilateral rules-based trading order anchored in the WTO. In order to rekindle interest in a multilateral approach to trade, the G7 could support WTO reform and call for rules which would better take into account:

- The new forms of international competition and in particular the importance of technology-related issues (intellectual property theft and forced technology transfers, among others);
- The way some economies, primarily emerging economies, operate (with an emphasis on the role of state-owned enterprises, of public subsidies and of other allegedly discriminatory and unfair market-distorting practices);
- The rising weight of emerging economies in international trade and the need to redefine the distinction between developed and developing economies;
- The importance of social and environmental norms as well as the potential contribution of international trade to sustainable development.

The rest of this section deals with four issues that are deemed to be priorities and that are, at least for three of them, closely related to the rise of China as a competitor and potential spoiler of the multilateral rules-based order: forced technology transfers, industrial subsidies and the SDT issue. Addressing these issues does not necessarily call for new rules, but requires to update the organization's outdated rules, and to improve transparency in their enforcement.

In addition to complementing the existing set of rules, a special attention should also be paid to the reorganization of the appellate

body of the WTO dispute settlement mechanism, in order to keep the United States onboard.

## **Forced technology transfers**

A forced technology transfer refers to a situation when a company that wants to enter a foreign market (China for that matter) has to surrender its technology to local companies through a joint venture agreement or regulations. Restrictions on foreign ownership constitute the major means of forced transfer of technology.

Whether the transfers are really forced or not is actually debatable. The coercive element may actually be quite weak, but the attractiveness of the Chinese market is too strong for the foreign company to resist if access comes at the cost of technology transfers. Moreover, traditionally, technology transfers occurred in exchange for various benefits in the form of reduced land and rent costs, and reduced utilities costs, among other things.

After China entered the WTO, these incentives were gradually withdrawn since China made a formal undertaking at that time that it would no longer require technology transfers (Annex 1 of the Protocol). The pledge was made to comply with TRIMs. Similarly, the need for a foreign company to operate as a joint venture with a domestic firm that it would not be able to control and to which it would thus have to transfer technology gradually disappeared.

Yet forced technology transfers persist, but this time they are not “compensated” for by any benefits. The transfers are obtained through indirect means or pressures that cannot be easily traced. They simply arise from how business is conducted in China and not from the implementation of formal legal rules. Actually, rather than pushing foreign companies to transfer their technology to domestic companies, Chinese government policies induce foreign companies to produce in China. However, once manufacturing has been moved to China it becomes very difficult to protect technology from infringement. One may thus talk of forced manufacturing in China rather than forced technology transfer per se, but the result is the same. Forced manufacturing in China results from a government policy which aims at pushing Chinese firms to limit their purchases to products manufactured in China. And this policy is unlikely to be reversed any time soon given the overall objective of making China the new technology factory of the world.

The recent adoption of a new Foreign Investment Law that will guarantee equal treatment for foreign and national companies does not provide any solution to the forced technology transfer issue. This new law does not confer benefits on foreign investors; it merely represents the final step in the process of elimination of incentives to foreign investors that were formerly used to encourage foreign investment in China. One article of the new law (article 22) deals with forced technology transfers; it asserts the protection of intellectual property rights of foreign investors and bans the transfer of technology through administrative measures but it does not solve the issue of forced manufacturing in China highlighted above.

The only option left to address the issue of forced manufacturing in China is to suggest rules that would improve overall market access conditions for foreign investors as well as address distortive and discriminatory practices including in particular performance requirements such as the sourcing or production of goods and services locally.

## **Industrial subsidies**

Industrial subsidies are not a problem per se for the trading system, they only become a concern if and when they distort competition and harm the partner countries. The overarching objective of the WTO Agreement on Subsidies and Countervailing Measures (SCM) is therefore to define disciplines so as to keep these distortions minimal, either by eliminating those that are excessively distortive (because they are contingent on export outcomes or on the use of local products), or by making actionable those that are harmful to partner countries.

In practice, though, this framework falls short of delivering on this objective, chiefly because its rules are excessively restrictive in their definition or too demanding in the proof they require. In particular, a subsidy can only be characterized when a financial contribution by the government or a public entity can be identified (except in the case of income or price support), and the WTO Dispute Settlement Appellate Body has interpreted that an entity must "possess, exercise or be vested with governmental authority" to be considered a public body.<sup>9</sup> This case only covers part of the

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9. WTO, "Definitive Anti-Dumping and Countervailing Duties on Certain Products from China", *Appellate Body Report*, 2011. This very strict definition has been criticized by the US and this is why the US administration has since decided to block the renewal of the Appellate Body's judges.

practices. In China, for example, some firms and sectors are *de facto* subsidized in a number of ways, such as through access to capital and various inputs at preferential conditions, transiting through a multitude of channels and structures.<sup>10</sup> Also very often companies cannot provide the necessary evidence of “material injury”.

This problem is compounded in many cases by a lack of transparency, to the extent that notification obligations are often poorly respected or even simply ignored.<sup>11</sup> Witness the tensions induced by the implementation of these obligations, as highlighted by the counter-notifications made five times since 2011 by the United States, concerning nearly 500 Chinese subsidy measures that, according to the United States, should have been notified and but had not been notified.<sup>12</sup>

A direct consequence of this lack of transparency is that these subsidies are difficult to measure, but there are many reasons to believe they are wide-ranging, and more often than not large. For instance, a recent OECD study of the aluminum sector, focusing on 17 of the largest firms, found that total government support reached up to USD 70 billion over the 2013-17 period, of which USD 63bn came from the Chinese government alone.<sup>13</sup> For the whole sample of firms, this support represented 8.9% of average yearly revenue over the period, a ratio reaching 16.8% for Chinese firms.<sup>14</sup> Even this ratio may be an understatement, since many of these firms have activities outside the aluminum sector, which increase the denominator without changing the numerator. Back-of-the-envelope calculations suggest this total probably exceeds one fifth of the value of Chinese output in the primary aluminum sector over that period, a staggering level of distortion.<sup>15</sup>

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10. M. Wu, “The ‘China, Inc.’ Challenge to Global Trade Governance”, *Harvard International Law Journal*, Vol. 57, 2016, pp. 1001-1063.

11. Annual reports of the WTO Committee on subsidies and countervailing measures (the latest one, G/SCM/152, was issued on 29 October 2018). Chair Jin-dong Kim told members at a meeting of this committee in 2016 that compliance with the obligation to notify subsidies “remains discouragingly low”, [www.wto.org](http://www.wto.org).

12. Office of the US Trade Representative, “Trade Policy Agenda and 2017 Annual Report of the President of the United States on the Trade Agreements Program”, pp. 105-106, March 2018.

13. OECD, “Measuring distortions in international markets: the aluminium value chain”, OECD *Trade Policy Papers*, n° 218, 2019, [www.doi.org](http://www.doi.org).

14. The authors are thankful to Jehan Sauvage for making available to them the detailed data required to make these calculations.

15. Over this five-year period, China’s output of primary aluminum was approximately 30M metric tons, for an average price hovering around USD 2,000 per metric ton, suggesting an order of magnitude of USD 60bn for the value of yearly output.

Studying several Chinese industries over the years 2000s, Haley and Haley already found very large subsidies, like USD 33bn from 2002 to 2009 for paper production, USD 27bn for steel between 2000 and 2007 (in energy subsidies alone), or USD 27.5bn for the auto-parts industry from 2001 to 2011.<sup>16</sup> Regarding access to capital, Harrison's et al. analysis of detailed data for the period between 1998 and 2013 shows the existence of significant state support: on average, since 2010, interest rates paid by SOEs were 3 percentage points lower than those paid by privately owned enterprises, for total loans which were twice as large as a proportion of output; their chance of receiving a subsidy was two to three times larger, and its size was on average at least five times larger.<sup>17</sup> The econometric analysis by these authors shows that these differences cannot be explained by the different characteristics of these firms, for example in terms of size. The authors also show that this support also extends, although with less intensity, to former SOEs after they were privatized.

It was always clear that the disciplines on subsidies would be difficult to apply and monitor, and that their implementation would necessarily remain far from perfect. However, the magnitude of the subsidies uncovered by these studies suggests that they are generating massive distortions, at least on some markets. In addition, their importance is amplified in some sectors by the growing importance of intangible capital, which is reflected in higher sunk costs and large synergies.<sup>18</sup> This context makes subsidies a powerful tool, as they may be the means of dominating the market at the expense of competitors. Models demonstrating the strategic use of subsidies in an international context,<sup>19</sup> developed in the 1980s to illustrate situations such as the competition between Airbus and Boeing, might come back into fashion: A subsidy may be a beneficial economic policy for a country if it is the only one to apply it—or if it can exceed the others in terms of scale—, as the profits that it enables more than compensate for the distorting effects on public finances;

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16. U. C. V. Haley, G. T. Haley, *Subsidies to Chinese Industry. State Capitalism, Business Strategy, and Trade Policy*, Oxford University Press, 2013.

17. A. Harrison, M. Meyer, P. Wang, L. Zhao, M. Zhao, "Can a Tiger Change Its Stripes? Reform of Chinese State-Owned Enterprises in the Penumbra of the State", *NBER Working Paper*, n° 25475, 2019.

18. J. Haskel, S. Westlake, *Capitalism without Capital*, Princeton, Princeton University Press, 2018.

19. J. A. Brander, B. J. Spencer, "Export Subsidies and International Market Share Rivalry," *Journal of International Economics*, n° 1-2, 1985.

the corollary is that countries competing in the sectors concerned post a net loss.

This background implies that the rules on subsidies should be updated. To do so, three avenues could be followed, focusing on transparency enhancement and clarification efforts:

- Improving notifications, for instance by strengthening the incentives to comply properly with notification requirements by introducing more effective processes, including reporting on non-compliance and sanctions (naming and shaming, withdrawal of members' rights, additional budget contributions). Creating a rebuttable presumption according to which non-notified subsidies would be regarded as those that seriously affect other WTO members. This boils down to reverse the burden of proof and is in line with the EU proposal.<sup>20</sup>
- Adapting the definition so as to focus on behavior, not on status (the spirit rather than the rule). Because the objective should remain to level the playing field, what matters is not whether entities are directly owned by the State or vested with government authority, but rather whether they behave in a market-oriented way or not.
- Combine disciplines with clear rules on trade defense. The SCM agreement already specifies the rules governing the use of countervailing measures. They could be reviewed and discussed to make sure they make it possible for member countries to protect swiftly and efficiently against significant distortions, without giving ground to abusive uses.
- Introduce new rules capturing market-distorting support for/provided by SOEs as well as improving transparency over level of state control and ownership (BDI 2019).

On these two issues (subsidies and forced technology transfers), the EU works closely together with the US and Japan in the Trilateral Initiative to address their shared concerns. The G7 thus appears to be ideally placed to push this initiative further.

A key issue is to avoid that protection against distortions slide into protectionism. Striking the right balance is challenging.

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20. The proposal under discussion by the Trilateral (US-EU-Japan) similarly advocates new multilateral rules on subsidies notifications and SOEs.

## **Redefining “developing countries” and the SDT issue**

As recalled by the WTO website, “members announce for themselves whether they are “developed” or “developing” countries. However, other members can challenge the decision of a member to make use of provisions available to developing countries”, and in practice, it is the preference-giving country which decides the list of developing countries that will benefit from the preferences.

Yet, the self-declaratory nature of the developing country status leads to an excessive use of the flexibilities provided for developing countries. Developing countries should be allowed the assistance and flexibilities they need to meet their development goals, but a more flexible approach would allow taking better into account the wide variety of development levels and competitive capacities among developing countries, while recognizing that the value of less stringent commitments to cope with development needs and economic vulnerabilities greatly differs across issue areas.

Leaving aside the additional flexibilities allowed for LDCs, flexibilities available to other member-states should move away from open-ended block exemptions toward a needs-driven and evidence-based approach that will ensure that SDT will be as targeted as possible.

As suggested by the EU in its proposal for WTO reform, member-countries should be encouraged to graduate and opt-out of SDT, and they should clarify if and how they use existing flexibilities.

Even though their context is different, the graduation processes included in various Generalized Systems Preferences (GSPs) shows that such flexibilities can actually be put into practice.

## **“Greening” trade agreements**

Sustainable development is a global challenge in many respects, not least with regards to climate change, with significant global externalities in many cases. As such, it cannot be ignored among the organizing principles guiding international trade. While this is recognized through the general exceptions of GATT Article XX, more should be done to make trade agreements a useful tool in moving toward achievements of sustainable development goals.



Several tools can be used to move in this direction. Inclusion of social and environmental provisions in trade agreements are among them. Sanctioning countries if they don't adhere to the Paris Accord on climate change would be another route worth considering in order to create incentives for all countries to play by the rules of this global agreement.

In WTO rules, while Article XX already establishes that “nothing in this Agreement shall be construed to prevent the adoption or enforcement” of policies aimed at sustainable development objectives, the problem lies in many cases with the very strict attached conditionality. While this conditionality is necessary in order to avoid these exceptions being used to pursue protectionist objectives, it would be useful to think about changes or interpretation lending more certainty, and in some cases more space, regarding policies that can be used without being challenged.