

# **The Crisis of the Liberal International Order**

## **Thoughts on the Future of the Multilateral Trading System**

### **Remarks of**

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The most important legacy from the 20<sup>th</sup> century for international relations, next to the Allies winning the Second World War, was the creation of the liberal international economic order. The postwar economic structure that the Allies put into place underwrote the ensuing peace. It provided a foundation and made room for the creation of the European Economic Community and the European Union, which has now become the largest trading Member of the World Trade Organization. The Allies set in motion the process of integration of most of the world's nations into the global economy. It has been an engine for prosperity, lifting hundreds of millions out of poverty, particularly in Asia.

A central pillar of the order has been and remains the multilateral trading system. The system is nearing its Diamond Jubilee next year at age 75. There is, for the first time, a question of whether the nations of the world will squander their inheritance, whether the WTO can fulfill its promise, and whether the liberal international order will survive intact. It is true that there was recently a reprieve. The Trade Ministers of 164 economies came together in June and agreed to a series of decisions, most notably to begin to save the world's fish stocks from unbridled subsidized fishing. But their items of agreement were largely a way station, marking works in progress. The outcomes consist largely of a number of promissory notes – matters that the Members said that they would resolve. These notes are going to be coming due very soon.

In 1998, when the predecessor agreement to the WTO, the GATT (General Agreement on Tariffs and Trade) reached its 50<sup>th</sup> anniversary, world leaders, including Presidents Nelson Mandela and Bill Clinton, Prime Minister Tony Blair, and EU Commission President Jacques Santer, gathered in Geneva to celebrate what had been accomplished in the creation and continuous improvement of the multilateral trading system, they expressed their hopes for the future of the newly established World Trade Organization (WTO). The Prime Minister of Norway, Kjell Magne Bondevik, in his remarks on that occasion, provided a sense of the history that had led to the creation of the WTO. This is what he said:

*No one can tell what a different system - or indeed what an absence of multilateral trade rules - might have led to. Looking back, I believe it is fair to say that the provisions and principles of the GATT - and later of the WTO - have*

*made a decisive contribution to the progress large parts of the world have witnessed during the latter part of this century. I am not speaking of economic growth alone, but just as much of the social achievements, employment and political stability which prosperity generates. These are fundamental values. The multilateral trading system of today thus constitutes an important part of a global framework that fosters stability and peaceful relations.*

The Prime Minister also noted that there were challenges. He was concerned even then, a quarter of a century ago, about an adverse reaction to globalization, the “fear that our democratic institutions are losing control of the international economic forces and that environmental and social costs will be high”. He also was worried about the ability of the least developed countries to benefit from the trading system. He saw a need for the Members of the WTO to discuss how the qualitative aspects of trade – such as health, consumer protection, food safety, and the environment – could be brought more into focus. He said that labor standards should also be an issue for consideration by the WTO. His words stand before us today as a clear statement of much of the unfinished business of shaping the multilateral trading system.

Italian Prime Minister Romano Prodi, speaking at the same event in 1998, said that he believed that the WTO would need another 20-25 years to complete the rules of the trading system. Meeting here today, we now know for certain that there is no end date to the necessary evolution of the rules. The questions before us are: (1) whether the world’s trading nations will come together to cooperate to sustain the multilateral trading system, and (2) whether they will agree on improvements to the World Trade Organization (WTO) to meet current challenges.

To answer these two questions, we need to consider two environments that will shape potential international trade cooperation: one is external to the WTO, the forces that undermine or aid the process of nations working together, and the other is internal, relating to whether change is needed in how the WTO is currently structured and operates, whether it is fit for purpose.

## **The External Environment**

Confirmed multilateralists must recognize that the ground is shifting beneath their feet. The multilateral trading system was founded upon the continuing opening of markets, on the principle of nondiscrimination, and on the essential need for providing transparency.

Where are we today?

- Trade liberalization: But for additional countries acceding to the WTO, whose trade accounts cumulatively for no more than 2% of the global total, the march toward the continued opening of markets across all sectors – that is, multilaterally – was suspended a decade and a half ago during the financial crisis in 2008 with the failure of the last multilateral trade negotiation.<sup>1</sup> No nation, no government, has called for a

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<sup>1</sup> This is not to discount the importance of the Trade Facilitation Agreement. Removing red tape at the border creates very large benefits. But there has been no further broad reduction in trade restrictions, domestic subsidies either for

major global negotiation to open markets since that time, nor do any appear to be on the cusp of doing so now. In fact, but for recently acceded Members, the multilateral trading system is based largely on contractual commitments with respect to tariffs and other trade measures negotiated three decades ago.

- **Transparency:** The system has not fully met the test of providing transparency either. During the pandemic, government measures affecting the availability of necessary medical equipment, goods, and vaccines were most often opaque when transparency was most called for. The record of compliance with the notification requirements of the WTO, especially with respect to subsidies, remains short of what is acceptable.
- **Non-discrimination:** This bedrock principle of the WTO is no longer featured in government pronouncements. If anything, the straws in the wind suggest the reverse. The U.S. Treasury Secretary called a few months ago for “friend-shoring”, which she defined in a July 2022 speech that she delivered in South Korea. She said, “friend-shoring is about deepening relationships and diversifying our supply chains with a greater number of trusted partners to lower risks for our economy and theirs”. EU Trade Minister Dombrovskis in that same month announced renewed EU efforts to obtain bilateral trade agreements with “like-minded partners”. While neither was excluding trade relations with others, the emphasis was clear: improved trade relations were to be largely selective. The term “most-favored-nation treatment” has been turned into something Orwellian, having the exact opposite meaning of what the words are supposed to convey. MFN applies only to trade for which a better deal has not otherwise been negotiated bilaterally or regionally. It is the least common denominator in the treatment of foreign trade.

### *Geopolitics and Geoeconomics – Centrifugal Forces*

Political scientists debate whether the course of human events is dictated primarily by forces largely beyond human control, or whether individuals play a major role in shaping the flow of history. I interpret the existence of the Nobel Peace Prize as coming down definitively on the side of individuals. If they do not control our destiny, they are at least able to make a significant difference. To be sure, most often any political leader is riding a wave, but in many cases, at least to some extent, he or she creates it, shapes it, and takes advantage of it.

The two World Wars in the first half of the last century shattered the world economy. But the reactions of the victors differed greatly. After the Second World War, the United States put into place the Marshall Plan, open to all who would join. The Soviet Union refused to participate and the Cold War ensued. China decided in 1949 to withdraw from the GATT. Decisions were taken by leaders. With the onset of the Cold War, the world economy fractured. An East-West split was created. But there were positive developments as well. The European Economic Community was created. Robert Schuman and Jean Monnet crafted important policy proposals. With strong U.S. leadership, the liberal international order was created. But the East-West divide persisted. A healing process with China began with the visit of President Nixon in 1972,

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industry or agriculture, nor additional disciplines added to the rulebook with respect to internal measures that curtail or distort trade.

beginning the normalization of relations between China and the United States. There followed a few years later the opening of the Chinese economy.

Decades later, in December 1991, the Soviet Union was no more. By then, China had opened itself increasingly to foreign trade. There was reason for optimism. International economic cooperation became the norm. In 2001, China formally acceded to the WTO, and became the world's largest trading country. Russia was admitted to the WTO in 2012. History was shaped by human intervention. Choices were made. The international liberal order was on its way to becoming universal.

That there were issues in dealing with the entry of a country the size of China with its kind of economy was to be dealt with by transitional measures. There was a Western assumption (perhaps shared by most WTO Members) that there would be convergence toward a market-oriented economy. This was not the first occasion of a rising economic power joining the world trading system. While there are many major differences in the circumstances surrounding Japan's rise during the final third of the last century as compared with that of China during the time that it has been a WTO Member, there are some parallels too. During the 1960s, 70s, and 80s, there was considerable trade friction between Japan and its trading partners. Japan chose to align its economy with the tenets of the multilateral trading system provided by the GATT and the WTO. During the first years of China's participation in the WTO, it changed thousands of laws and regulations to meet the expectations that accompanied its WTO Membership.

In recent years, trade frictions have been growing between China and its trading partners. China and the United States have exchanged salvos of increased tariffs without claiming a WTO justification for doing so. China is seen by a number of its trading partners as deploying coercive measures. China finds its foreign trade subject to other countries' export restrictions for high technology and associated products and equipment. The EU is developing defensive measures that China will view as being aimed at its trade and investment.

These trade tensions have not to date disrupted the work of the WTO. There were other issues that determined the rate of progress on a wide variety of issues. There remains a question of whether a kind of Thucydides Trap can be avoided, of a rising power increasingly coming into contact with a trading system it did not design. The situation has become even more dangerous with the Russian invasion of Ukraine, which one major group of trading nations condemns and the others have not. There are additional areas of potential conflict, such as over the fate of Taiwan. In short, there are too many geopolitical tripwires tied to explosives for comfort.

At present, there are limits to the distancing that the U.S. and Chinese governments can achieve in their trading relations. While a government policy inclination in the direction of less interdependence can create enough uncertainty to offset business arrangements based on commercial considerations, the effects are likely to proceed slowly. Global value chains are resilient because there were economic imperatives that created them. This was shown to be the case in responses to the pandemic. Absent an emergency in international affairs that drives the imposition of measures to cut trade ties completely, a drift apart in the direction of decoupling

may continue, but it is a slow process with some limits.<sup>2</sup> The two largest trading nations will continue to find their economies intertwined to a significant degree because it is to their mutual economic benefit. Trade between the two countries remains strong, as measured by imports and exports of goods.<sup>3</sup>

Within the WTO, there is an internal division as to whether the Organization is necessarily built upon an assumption that Membership requires economic convergence. China argues, with some support from other Members, that the choice of organization of a Member's domestic economy should not be a matter of WTO concern. Others, and in particular the United States, argue that a market-oriented economy is needed to complement the rules of the multilateral trading system. The question is not about the degree of state ownership present. The key to WTO rules being effective is that competitive outcomes are to be determined by market forces rather than government fiat. What is key is the behavior of enterprises, whether under state or private ownership, recognizing that there may often be pressures for an SOE to align its selling and purchasing to government priorities rather than market forces.

A second cause of fragmentation is a growing emphasis on supply resilience. This came to the consciousness of government officials very much when the COVID-19 pandemic struck, and key supplies were found to be lacking for such simple products as masks and other personal protective equipment. The concern spread eventually to the availability of vaccines. Even as the pandemic has receded, the availability of therapeutics and diagnostics is being raised as an issue. In parallel, as supply chains were curtailed due to measures aimed at dealing with COVID and then demand rebounded, semiconductors began to be in short supply, interfering with automobile production. There followed the Russian invasion of Ukraine, resulting in a concern of many countries over the loss of supply of grain and fertilizer via the Black Sea, as well as a look to the supply of rare earths and energy, as sanctions became more prevalent. Governments began to look more closely at supply vulnerabilities, seeking to understand where key commodities are sourced. Despite their concerns, in fact, global value chains have proved remarkably resilient so far.<sup>4</sup>

A third potential disruption of open trade under current rules is the desire on the part of a number of countries to limit greenhouse gas emissions. The European Union is contemplating the imposition of Carbon Border Adjustment Measures (CBAM), which other WTO Members may view as unduly trade-restrictive. The issue is likely to become a major subject of WTO

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<sup>2</sup> The Rhodium Group assigned the economic costs of decoupling with China to the U.S. economy in key industrial sectors.

"Understanding US-China Decoupling: Macro Trends and Industry Impacts." Rhodium Group. February 17, 2021. <https://rhg.com/research/us-china-decoupling/>.

"What's At Stake If the US and China Really Decouple." Boston Consulting Group. October 20, 2020. <https://www.bcg.com/en-ca/publications/2020/high-stakes-of-decoupling-us-and-china>

<sup>3</sup> US Census figures place annualized trade in 2022 (7 months annualized) up by nearly 7% for Chinese exports to the United States, and down by only 2.7% in terms of US exports (with COVID lockdowns in China being a possible explanation).

<sup>4</sup> [WTO | 2021 News items - New publication examines global value chain resilience, shift beyond manufacturing sector](#). "Global value chains (GVCs) have proven to be resilient in the face of the challenges posed by the COVID-19 pandemic as well as environmental and geopolitical shocks according to a new report co-published by the WTO, the Asian Development Bank (ADB) and three other institutions on 16 November 2021."

Member concern.

It remains to be seen whether the current rules of the trading system can deal adequately with current circumstances. The liberal international economic order was based on increasingly open trade dictated by comparative advantage. Considerations of national security, security of food and critical supplies, and dealing with global warming may not fit simply as potential overlays to the existing multilateral trading system. The 21<sup>st</sup> century issues will need to be addressed.

The spirit of the times does not favor mid-20<sup>th</sup> century liberalism. There is populism as a strong force on both the right and the left. The nation that led the establishment of the post-WWII international order has stated its support for the multilateral trading system, but its role is unlikely to be the same as it was in either the GATT or early WTO eras. The Biden Administration has said that it must get its domestic house in order before engaging in broad multilateral initiatives. It desires to improve the lot of American workers and has chosen selective, bilateral and regional fora in which to pursue this objective.

Friend-shoring can be calculated, to the extent that it is possible, in terms of geopolitical rivalries, in terms of those living by the same environmental or worker-related standards, or simply those dictated by bilateral mercantilist trade deals. Good causes can devolve into fractures, further divisions of the world economy, in the name of greenhouse gas reduction and promoting the welfare of workers. Good intentions can devolve into protection. Friend-shoring is inconsistent with a multilateral system. In a world that has become multi-polar, WTO Members need to decide how much priority they will give to investment in the multilateral trading system. Either there will be a conscious attempt at having one set of global trading rules, or there will increasingly be fragmentation, with costs to themselves and to the world economy.

The future is not yet written. The outcome can still be influenced by individuals. It is still up to individuals to manage the evolution of great power relationships, meet common challenges, move toward greater cooperation, or allow or even promote disintegration, with a re-ordering of trading relationships.

In this city of the Nobel Peace Prize, it should be evident that one antidote to the problems we face is leadership. It mattered during the Great Depression that Franklin Roosevelt was the U.S. President. And it mattered that he and his successor, Harry Truman, were the leaders in place at the time, along with Winston Churchill, when the global postwar economic system was being designed, and that Jean Monnet and Robert Schumann were on the stage in Europe.

The principal question today facing the trading system is whether its Members will rise to the challenge. It is in order to examine why they might be able to do so.

### *Forces for Cooperation*

There are some positive straws in the wind. For one thing, deglobalization, which is much in the press as imminent or already occurring, has not shown up demonstrably in the trade

numbers. Economists measure the import share in a country's GDP as compared with the rest of the world. Dr. Rolf Langhammer of the Kiel Institute performed this analysis for five-year intervals during the 15 years from 1990 to 2005. He found that globalization was on average continually increasing at a brisk rate for the 100 countries sampled.

What Gary Hufbauer of the Peterson Institute discerned, in updating the data, is that on average, in the decade from 2010 to 2020, local residents were still increasingly buying from foreigners as easily as from domestic suppliers, although the rate of increase was declining.<sup>5</sup> The increase took place in the face of a relatively negative global policy environment characterized by the Financial Crisis, the failure of the WTO's Doha Round, the suspension of the environmental goods negotiations, the US deciding not to join the TPP, the failure to reach a Transatlantic Trade and Investment Partnership Agreement (TTIP), and the vote for Brexit. The increase took place at a strong rate from 2005 to 2019, followed by a weaker increase during the COVID-19 pandemic.

It is not possible to forecast what the current decade will look like in terms of continuing integration of national economies into the global economy. On the positive side is the impact of digital commerce, if it is not impaired by domestic regulation that would fragment the global digital economy. In addition, there is the force of businesses and individuals acting in their own self-interest to compete in the global economy, with a net benefit for the world. Global value chains have proved to be remarkably resilient.<sup>6</sup>

There are some other potentially positive signs. Until mid-June of this year, the WTO was largely written off as being comatose, with poor prospects for its future. This image was overcome by the array of positive results reached at the WTO's Twelfth Ministerial Conference, giving the Organization a new lease on life. The Conference provided relief from a multi-year drought of negotiated outcomes. Due to the appropriately celebratory reaction to this positive multilateral development, it is easy to overstate the progress that was made. Nevertheless, the WTO's Members did agree to some restrictions on subsidies that lead to despoiling the planet's oceans' fish supplies. The Members did agree for the time being not to assess duties on digital commerce. They did agree, within limits, not to impose restrictions on food destined for the poorest nations through the World Food Program. They did agree that it would be best to cooperate with respect to dealing with the COVID-19 pandemic. They did agree to work on reform of their shared trade institution, the WTO. And they did agree to seek to resolve the impasse over restoring binding dispute settlement by 2024.

It is easy to be critical of individual results – a pledge to feed others but only after the needs of the domestic market are satisfied, a listing of what would be good policies to deal with the pandemic but no binding commitments at present to implement any of them, combined with an easing of intellectual property requirements whose beneficial effect is at present unclear, a fisheries deal with a net designed to catch some prominent subsidies but with large holes in it, and a commitment to work on WTO reform without specifying what possible outcomes would

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<sup>5</sup> Remarks of Gary Clyde Hufbauer. "Conference – 50 Years Rolf J. Langhammer: Turn of An Era? Globalization, Geoeconomics and Multilateral Disorder." Kiel Institute for the World Economy. May 2022. <https://www.ifw-kiel.de/institute/events/conferences/2022/turn-of-an-era-globalization-geoeconomics-and-multilateral-disorder/>

<sup>6</sup> *Supra*, n. 4.

be. While all of these negotiated outcomes are less than optimal, they do illuminate a path forward, which if taken could lead to a substantial number of future agreements being reached. The Conference proved that cooperation is possible.

Despite a global environment characterized by sharp and growing geopolitical tensions, by East/West distrust, by some North/South divisions, and by an upsurge of populism and nationalism in far too many countries, it is possible that global problems will drive global, that is multilateral, solutions. Several of these problems cannot be managed without broad participation: dealing with climate change, preparing for the next pandemic or a worsening of the current one, preservation of fish stocks and curbing pollution of the ocean, and achieving disciplines over agricultural subsidies and industrial subsidies.

What are the chances of the world's trading nations finding the will to provide common responses to these challenges?

An initial test was whether the WTO's Members would come together quickly to react to the COVID-19 pandemic. They fell short. No country appears to have been willing to obligate itself through making a binding international commitment to a specific target for reserving a specifically defined "equitable share" of medical equipment, pharmaceuticals, or vaccines for export to other countries, despite the GATT rule calling for this.<sup>7</sup> There is little evidence that this point was even discussed at the WTO. There is no clear indication that the continuation of this pandemic in the form of variants will spur action. Moreover, governments remain ill-prepared in their own planning for another pandemic. It is too early to be optimistic that WTO Members will put into place a reliable agreed collective trade response by or at the next Ministerial Conference in 2024 to address the largest problems of world health.

With the impact of COVID-19 potentially receding, one would expect attention naturally to be given increasingly to another threat to the wellbeing of humanity that is constantly gathering force - climate change. This is a challenge that cannot be managed successfully without broad participation. Despite cataclysmic weather events of drought, flood, and persistently high temperatures, the most likely driver for a WTO-agreed approach may not be nature but the imposition of unilateral measures by a major trading WTO Member, such as the EU in its consideration of Carbon Border Adjustment Measures (CBAMs). Unilateralism has a history of provoking international cooperation and was a principal motivation for the successful conclusion of the Uruguay Round and therefore the creation of the WTO itself. In that instance, the unilateral actions were largely from the U.S.

There are problems other than external threats that call for a coordinated response. Industrial and agricultural subsidies cannot be regulated on a bilateral basis. International cooperation can be driven by a desire to reduce constant trade friction, or by governments wishing to reduce subsidies because of budgetary pressures, but not wishing to be subject to a

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<sup>7</sup> GATT Art. XX: ... *nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:*

*(j) essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products...*



competitive disadvantage from unilateral disarmament. The truce in the Boeing-Airbus case after nearly two decades of exchanging threats and countermeasures was called, one suspects, to end this cause of trans-Atlantic friction.

Reducing stress on fish stocks can come from the depletion of marine species, a crisis that provokes more effective action, or through the adoption of a more rational view of longer-term self-interest, unfortunately usually a secondary motive for governments to act. A trade agreement that aids in reducing plastic pollution in the oceans may be motivated by coming to a broadly shared realization that an amazing natural resource is being irreparably harmed.

To this list of challenges requiring a common response, one would hope to be able to add providing the means to assure effective food security. There are too many instances in the last two centuries of catastrophic famines that did not result in a sufficient common approach to alleviate the suffering and reduce the number of deaths. Climate change is itself a serious new threat to food security. It is to be hoped that a compelling case will be made to convince governments that effective common action is necessary.

### *Rising to the Challenge*

There are always reasons why international cooperation may fall short of what is necessary to meet a challenge. It could be argued that the pandemic arrived too quickly to formulate a common response, and then the pressure for action appeared to have receded. For its part, the climate crisis may for the time being seem less than immediate. Reasons for an absence of joint action will always be present. Changing this unsatisfactory situation will take leadership.

Where will the leadership come from? The European Union, the WTO's largest trading Member, would need to prioritize the often-unrewarding task of pressing forward with multilateral negotiations, rather than placing even more emphasis on bilateral agreements. The United States would have to regain the vision of the world it was working towards until relatively recently. China would have to take its place in providing leadership in support of the trading system. And cooperation would be needed from India and South Africa and others, or they will and should be bypassed.

We are left to fall back on faith rather than much evidence (aside from the initial fisheries subsidies agreement) that the Members of the WTO will rise to meet global challenges. Humanity has repeatedly found a way to continue to make progress, despite dramatic lapses and retreats. At the opening of the 20<sup>th</sup> century, in the United States, Theodore Roosevelt, a Nobel Peace Prize winner, determined that some of the remaining wilderness areas needed to be preserved against the encroachment of development. A combination of leadership and circumstances allowed this American President to meet the moment. Likewise, a generation later, his cousin Franklin Roosevelt, faced with the great Economic Depression, was able to propose that tariff walls be dismantled because they were self-defeating. There was a recognition of a trade policy that was both saleable and appropriate to meet the challenge. In the face of widespread devastation from two World Wars, the Allies put into place the liberal international order rather than a draconian peace settlement, a mistake they had made a generation earlier. Leadership was required, and it was forthcoming.

While the tide in world affairs appears to have taken the direction in too many instances toward nationalism rather than international cooperation, I do not believe that this is what the future holds. Ever since the Enlightenment, the possibility of continued human progress has been recognized, and that possibility has become a reality. The future is not, despite all too many descriptions in novels and movies, one that need be dystopian. This is not to expect a straight path and an easy journey toward greater global economic integration. A book by an American economist was published this past summer with the unpretty but probably not wrong title “Slouching Towards Utopia”.<sup>8</sup> It is the story of the struggle for economic progress. International cooperation is required if the human race is to survive and prosper. The process will continue to require a major effort.

To support an outward-looking trade policy, a government needs positive leadership, vision, and the ability to deal with the domestic disruptions resulting from living in a more interconnected world, including coming to grips successfully with the problems of domestic income inequality, maintaining levels of employment, and assuring the dignity of work. Without supporting domestic policies, governments will lack the political support needed to conduct a policy that prizes international cooperation.

### **The Internal Environment**

At their June Ministerial Conference, a significant task that the WTO’s Members have set for themselves is WTO reform. If WTO Member policies are aligned to make progress, they will then require an organization, a structure that facilitates finding multilateral solutions. They will need to make the WTO an organization more fit for purpose.

#### *What Reforms Are Needed?*

It has never been clever to use dull tools, or those ill-adapted to the task at hand. If a committee of wise persons were today to design a World Trade Organization, having before them over a quarter-century of experience with this Organization, they would reach four basic conclusions:

- The WTO must be a workable venue for reaching multilateral agreements.
- The WTO must be a place where trade disputes are settled fairly in a timely manner with binding outcomes.
- The WTO must become a central source of trade intelligence.
- The WTO must be given a strong executive branch to support all of the WTO’s functions and provide strategic foresight as well as policy planning.

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<sup>8</sup> J. Bradford DeLong. *Slouching Towards Utopia: An Economic History of the Twentieth Century*. New York: Basic Books. 2022.

What specific changes would bring about *Revitalizing the WTO* (this is the subject of a guidebook to the WTO that I have written, with that title, which will be published by Cambridge University Press in Spring 2023).<sup>9</sup>

Most Members would envisage modest, incremental changes, with a restoration of an appellate body for dispute settlement. A world trade organization should instead be re-imagined.

### *Negotiations*

The WTO Members have reached very few agreements during the 27-year history of the Organization. They have not managed to conclude anything like the grand rounds of negotiations that took place in the last two decades of the preceding period under the GATT, from the 1970s to the 1990s. One problem is that the WTO operates by consensus, a practice that is very firmly entrenched. As applied, consensus is taken to mean that if any Member does not want an agreement to come together, at present there will be no WTO agreement on the subject.

The WTO has to be a place where groups of willing Members can, consistent with the objectives of the WTO, agree among themselves to make progress in the form of new agreements. The agreements would be open plurilateral agreements, with any who wish to join permitted to do so – in effect, a form of multilateralism. A major remaining question will be whether the agreements will be non-discriminatory, providing the benefits equally applicable to non-signatories. The answer would probably differ from agreement to agreement and perhaps even from provision to provision. The WTO can no longer afford a convoy system whereby the unwilling prevents any progress at all. Failing to resolve this fundamental impasse will increasingly cause countries to choose to make progress bilaterally or in regional or smaller groupings outside the WTO, with no global set of rules. The result can only be the world trading system fragmenting.

The WTO should become more than what I have just described. It should be the place where regional and special purpose trade agreements (such as a digital partnership agreement) are negotiated, administered, and where disputes under them are resolved. The sole criteria for the docking of these sub-multilateral agreements at the WTO should be that they are consistent with the purposes of the Organization, and that the signatories defray any expenses involved. Making the WTO the place for all forms of trade agreements would assure a coherence that is currently absent from regional, bilateral, and special purpose agreements. Centralizing the

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<sup>9</sup> Detailed recommendations are contained in various papers available under my name at the PIIIE.com website. The most complete discussions are contained in four working papers published spring 2022: <https://clicks.piiie.com/e/709263/-constructing-executive-branch/2wd6pn/387935905?h=F8qtLlrYdJv-hgmPUR5G8WPylRCD-EhrVKwiRF-r1MQ>. <https://clicks.piiie.com/e/709263/getting-back-negotiating-table/2wd6pv/387935905?h=F8qtLlrYdJv-hgmPUR5G8WPylRCD-EhrVKwiRF-r1MQ>. <https://clicks.piiie.com/e/709263/cing-global-trade-intelligence/2wd6q2/387935905?h=F8qtLlrYdJv-hgmPUR5G8WPylRCD-EhrVKwiRF-r1MQ>. <https://clicks.piiie.com/e/709263/ing-binding-dispute-settlement/2wd6q8/387935905?h=F8qtLlrYdJv-hgmPUR5G8WPylRCD-EhrVKwiRF-r1MQ>. Further elaborations of these ideas are contained in subsequent speeches also on the web at PIIIE.com.

negotiation and administration of multi-party trade agreements would go a long way toward preventing the fragmentation of world trade.

### *Dispute Settlement*

A hallmark of the WTO was, as compared with almost all other international agreements, that its obligations were binding, that is they were enforceable through dispute settlement if necessary. Absent any checks and balances lodged in the Membership or elsewhere in the Organization, it will be difficult to restore binding dispute settlement,<sup>10</sup> other than on an *ad hoc* basis among groups of Members making arrangements amongst themselves, as the EU has done with Canada and a few other trading partners. Restoration of the Appellate Body – which had become a court, with its judgments effectively final, setting the rules for trade through its interpretation of WTO rules – will be unlikely without bringing about changes in the structure of the WTO, with the introduction of checks and balances, or in the alternative, a much more circumscribed mandate for dispute settlement panels and for any restored Appellate Body.

### *Trade Intelligence*

It is essential for the making of trade policy, for considering what rules are needed for the international trading system as well as administering the current system, that there be very clear information on the forces and conditions that give rise to trade, and as complete information as possible on measures that impede or distort trade. During the pandemic, the WTO's Members and the Secretariat made progress in creating more transparency, but this did not go far enough. There was insufficient transparency, even with respect to vaccines, pharmaceuticals and the equipment needed to combat a pandemic. In order to make sensible trade policies and have the appropriate international rules, the conditions surrounding trade and vulnerabilities have to be understood. At present, individual Members are making their own plans for “supply chain resilience” and greater self-sufficiency, planning to rely less on trade for certain products. Lack of information can only make these trends of disintegration more pronounced, with consequent major costs for the world economy.

### *Executive Functions*

It is impossible to conceive of a government, nor any system of governance on any level, that has a working court system and no effective legislative or executive branch.

There needs to be a holistic approach to governance. The WTO's sister international economic organizations, the IMF and the World Bank, accord a more active policy role to their chief operating officers. A defect in the structure of the WTO is that it did not follow the precedent set by the Bretton Woods institutions and the OECD. This is a defect that needs to be remedied.

## **Conclusion**

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<sup>10</sup> “Binding” in this context simply means “final”. The WTO is made up of sovereign Members. They cannot be forced to change their measures. But they can be induced to do so through either the need to pay trade compensation or accept retaliation against their trade.

In a world of change, there are some constants. The primary purposes of the multilateral trading system – to provide stability, transparency, and fairness – are as valid today as they were 75 years ago. There is still a need for a central place where the trading nations of the world can negotiate the rules, a place where trade disputes among nations can be resolved. There is still a need for an institution to administer the rules of the system, to provide clarity for its Members on every measure that has a significant effect on trade.

### *Overcoming the Great Fractures*

A large part of the reason for international cooperation is that the alternatives are even less acceptable. There are enormous stresses in the world. Technological change has caused disruptions and will continue to do so, probably with greater frequency and deeper effect. No country can successfully resist technological developments. Geopolitical tensions will always be present, even if there are periods of respite, such as were the years during which the WTO was conceived and born. Fragmentation of the global trading system would involve severe costs for all economies. Assurance of supply requires more trade not less. Differences in interests need to be worked with, with divisions reduced to the extent possible.

It is the responsibility of leaders, in governments, in business, and in non-governmental organizations, to seek to shape the external environment in which they exist. The rules of the trading system need to evolve to adapt to new circumstances. It is the job of trade negotiators to manage to find solutions that can be agreed to.

Fragmentation is not preordained. It is a choice, whether through action or inaction. While there dwells within each nation political forces calling for greater protection, there are also those who can see the possibilities for greater cooperation. DeLong, whose book I cited earlier about humankind moving slowly and painfully towards utopia, quotes John Maynard Keynes, who described the permanent problem as being how “to live wisely and agreeably and well”. Keynes was present at the creation of the multilateral trading system. His epigram should guide the WTO’s Members now as they consider how to bring about a revitalized WTO.