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POLICY BRIEF

WTO 2.0 – MAKING THE MULTILATERAL TRADING SYSTEM FIT FOR THE 21ST CENTURY AND HOW THE G7 CAN HELP

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Abstract

The World Trade Organization (WTO) is in its deepest crisis since its creation. This relates to each of its three pillars: 1. trade liberalization and rules-setting, 2. trade policy monitoring, and 3. dispute settlement. Germany's G7 Presidency will require a careful balancing between addressing long-standing issues such as aligning the WTO with the Agenda 2030 for Sustainable Development and reforming the dispute settlement process on one hand side and focusing on the immediate challenges presented by the geopolitical crisis as well as recovery from the Covid-19 pandemic. This requires, more than ever, multilateral collaboration and innovative and interdisciplinary solutions. The G7 countries, in close cooperation with their partners, have a unique opportunity to articulate a new vision for trade and the multilateral trading system. The G7 can lead by example while also incentivizing and supporting other nations to raise the level of ambition in aligning trade policies with current world challenges. As such, the goal should not be to try to re-establish the status quo but rather to adapt the world trading systems and its rules to the realities and necessities of the 21st century and the new geopolitical context. What is needed is a WTO 2.0 that responds to the world's peace, health and environmental challenges and proactively contributes to solving them.

Challenge

1. Introduction

The multilateral trading system, with the World Trade Organization (WTO) at its center, is in its deepest crisis since its creation.

In the course of the Covid-19 pandemic, world trade experienced a severe hit. Merchandise trade declined by eight percent worldwide and trade in commercial services contracted by 21 percent year-on-year in 2020 according to WTO data.¹ While global economic growth and trade are on a positive trajectory again in 2022, recovery is very uneven, and particularly poorer countries will take years to reach pre-crisis levels again. The pandemic also exposed the vulnerability of global value chains, disrupting many of them at its outbreak (in particular in the area of medical goods and equipment) and subsequently slowing down recovery due to a shortage of workers, ships, containers, air cargo space, and congested ports. In addition, the last years have witnessed a growing number of trade barriers. Many countries resorted to export restrictions at the beginning of the pandemic. While WTO members showed restraint in employing new protectionist policies in the further course of the crisis, even implementing a higher number of trade facilitating measures, there is little appetite for future trade liberalization.

In addition, trade is facing new headwinds following the war in Ukraine. Beyond the impact on trade in oil, gas, wheat and other food products, there could be long-lasting implications for global trade and the world economy. Trade also plays a role in responding to Russia's war against Ukraine and in isolating Russia from key global economies and in multilateral institutions like the WTO. G7 leaders have already announced to "stand ready to impose further restrictions on exports and imports of key goods and technologies on the Russian Federation" and are taking action – including with other WTO members – to revoke Russia's Most-Favored-Nation (MFN) status.²

For decades, the WTO has ensured open and rules-based trade, contributing to the spread of economic growth, jobs, and wealth across the globe, lifting billions of people out of poverty. Arguably, the recent world economic crisis would have been much worse without the WTO. The international trading system also showed a considerable degree of resilience compared to the financial crisis 2008-2010. Nevertheless, the pandemic also once more underlined that the multilateral organization is not fit for the 21st century. As its rules book neither fully reflects the characteristics of modern trade, nor answers sufficiently to the world's biggest challenges, the organization is in desperate need of an update to ensure that it can continue to contribute to global well-being, equity, and sustainability.

One of these developments is the massive increase in e-commerce, accelerated by the Covid-19 pandemic: In 2020, over two billion people purchased goods or services online, and e-retail sales surpassed 4.2 trillion U.S. dollars worldwide (+26% in 2020 on a year-on-year basis).³ While tariffs are still persistent – and in some cases increasing –, they are by no means the greatest barriers to trade anymore. Diverging technical standards and regulations increasingly obstruct trade. However, the WTO rules book says little about e-commerce and technical barriers to trade.

Approximately 70 percent of international trade is for the purpose of production in global supply chains. But while global supply chains have fundamentally changed international commerce, trade rules have not been updated to reflect the fragmentation of production across multiple countries.

The WTO framework also has little to offer regarding sustainability, labour and environmental issues. As the world is experiencing a triple crisis of climate change, nature loss, and pollution, aligning trade and trade policy to key environmental, social, and developmental objectives is one of the key challenges.

An outdated rules book is not the only problem of the WTO, however. Existing WTO provisions are being abused, circumvented, or ignored by major trading countries. Deep divisions among its 164 members prevent updating the existing trading rules, most of which were crafted in the 20th century. The world has fundamentally changed since China joined the WTO in 2001 and Russia followed suit in 2012. More and more, the organization is struggling with competing models of economic governance, values, and world views. This is likely to worsen over the coming months and years.

What's more, in December 2019, the organization's dispute settlement process broke down as the United States blocked the appointment of new members of the appellate body (AB). Without a functioning AB, appealed panel rulings are placed in limbo, delaying enforcement of WTO obligations indefinitely and consequently weakening the efficacy of the WTO's rules-based trading system.

Meanwhile, a variety of preferential trade agreements has led to a complex trading landscape of competing rules and standards. The WTO risks being overshadowed by regional trading blocs, especially those in the Asia-Pacific where China has become a dominant player.

Thus, each of the three pillars of the WTO is in crisis: 1. trade liberalization and rules-setting, 2. trade policy monitoring, and 3. dispute settlement. While there is a risk that the long-term reform agenda will be sidelined and the organization falls into irrelevance, there is also a positive scenario under which the current crisis shows that a functioning and rules-based international trading system is critical and spurs WTO members into action.

The crisis could therefore also become a window of opportunity for the G7. While the G7 states can certainly not break a stalemate in the WTO alone, they should play an assertive role by scoping room for compromise, by jointly proposing actionable reforms, and by leading-by-example in ensuring open, rules-based, fair, and sustainable trade.

The German G7 presidency will have to address the immediate challenges posed by the COVID-19 pandemic and Russia's war on Ukraine. At the same time, it has to make sure that key long-term issues do not fall off the table. As such, G7 countries and their partners need to articulate a new vision for the WTO, a vision that is aligned with the Agenda 2030 for Sustainable Development. The goal should thus not be re-establishing the status quo but rather adapting the multilateral trading system to the realities and necessities of the 21st century. In parallel, the G7 should act jointly to incentivize and support other nations to raise their level of ambition in aligning policies with current world challenges (such as health, climate, inequality, poverty, hunger, security).

2. The WTO at Crossroads

Pillar 1: Trade Liberalization and Rules Do Not Cover Modern Trade

Lack of Progress on Trade Liberalization

As more countries have joined the WTO and tariffs have decreased considerably, multilateral liberalization has become more difficult. Since the Uruguay Round, no comprehensive trade agreement has been achieved, with the exception of the Trade Facilitation Agreement (TFA). At the last Ministerial Conference (MC11) in Buenos Aires in December 2017, members failed to secure any multilateral outcome.

What's more, while the number of new restrictive measures has decreased since their peak during the last financial and economic crisis of 2007-2010, the WTO registered a steady flow of new barriers on an annual basis (an annual average of 138 measures 2012 to 2019). In the period mid-October 2019 to mid-October 2020, WTO members implemented 89 new trade restrictive measures; in the period mid-October 2020 to mid-October 2021 the number of restrictive measures increased yet again.⁴

Late November 2021, the General Council of the WTO agreed to postpone the 12th Ministerial Conference (MC12) after the outbreak of a new COVID-19 virus variant led several governments to impose travel restrictions. Since then, the Secretariat is trying to keep up the negotiation momentum – with mixed results. Topics on the agenda of MC12 are, among others, fishery subsidies, how trade and investment reforms can support responses to the COVID-19 pandemic, the advancement of gender equality and women's economic empowerment within trade, sustainability initiatives, as well as micro, small and medium-sized enterprises (MSMEs). MC 12 is now to take place in mid-June 2022.

Rules

Inadequate Rules for Industrial Subsidies

Industrial subsidies are nothing new but increasingly distort competition in home and export markets. This problem is likely to intensify as many countries are trying to re-shore production of critical goods and/or are aiming at strategic sovereignty in certain sectors such as semiconductors. A particular problem arises due to the myriad means of supporting domestic industries through a variety of governmental bodies and state-owned enterprises, a particular problem when dealing with China but also applicable to Western countries with government-owned/controlled agencies or corporations.

These issues cannot be resolved by individual countries alone, and not bilaterally or in regional agreements. Global rules are needed. But the WTO is ill equipped to solve this problem. The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) regulates in which cases countervailing duties (CVMs) can be employed to counteract subsidies provided by governmental bodies. The prerequisite is that such a subsidy is granted to a specific firm, industry, or group of firms or industries. Export subsidies and specific subsidies

based on using domestic goods over imported ones are prohibited under WTO rules; subsidies applied to specific products or sectors are actionable if they cause or threaten injury to domestic industry in the importing country. There are also considerable limitations in the definition of subsidies in the international rule book. For example, it is controversial whether a state-owned enterprise (SOE) is a “public body”, subject to the WTO anti-subsidy regime. Furthermore, transparency about subsidization is very weak.

Despite these challenges, discussions about reforming the SCM Agreement have made little progress. The changing landscape of industrial subsidies is making it more and more difficult to reach WTO consensus even on the definition of what constitutes a public body whose actions could be construed as conferring subsidies. Crafting a general definition/rule that China could accept is a major challenge. But even Western countries are struggling to agree on how to deal with industrial subsidies.

The Rise of Plurilateral Initiatives

The WTO agreement in 1994 substantially augmented the multilateral trading rules book, based on the principle of MFN, though it also included several plurilateral agreements such as the Agreement on Government Procurement. Since then, however, concluding new multilateral agreements has proven difficult as WTO members have diverging appetites for new market access and new rules. As a consequence, some members have decided to move forward by negotiating and concluding new plurilateral agreements. One example is the Information Technology Agreement (ITA), originally signed by 29 participants at the Singapore Ministerial Conference in December 1996, expanded as ITA II at the Nairobi Ministerial Conference in December 2015, by more than 50 WTO members. The ITA is embedded in the WTO and based on MFN, i.e., WTO members who are not part of the agreement still benefit from the agreed-upon market access.

At MC11 (2017), new plurilateral initiatives to advance talks at the WTO were announced on the issues of electronic commerce, investment facilitation, as well as micro, small and medium-size enterprises (MSMEs). Furthermore, a group of WTO members have been negotiating on domestic regulation in services (Joint Initiative on Services Domestic Regulation, established in 2017 and concluded successfully in December 2021). Since MC11, work has advanced on other Joint Statement Initiatives with a specific focus on sustainability.

Some WTO members see the Joint Statement Initiatives as a way to negotiate modern trade rules that better reflect today’s trade realities, serving as stepping-stones for the multilateral process. They are, however, contested among the WTO membership. Countries like India and South Africa argue that plurilateral agreements are legally inconsistent with WTO rules and principles, warning against a fragmentation of the multilateral trading system. They also fear that they would be pressured into joining such agreements, even if they are not prepared to implement and enforce them, reminiscent of what happened at the end of the Uruguay Round.

Special and Differential Treatment

The WTO has no criteria differentiating between developing and industrialized countries. Rather, members self-determine their development status. Consequently, large emerging economies, such as China, still retain benefits from special and differential treatment (SDT) provisions for developing countries. This means, for example, longer periods to phase in existing obligations and more lenient responsibilities. WTO members like the EU and the United States want to differentiate more between developing countries and emerging market economies such as China, India, and Brazil, and urge these members to take on more responsibilities for global trade. This conflict contributed to the negotiating impasse in the Doha Round and is a cloud over future negotiations in the WTO. Despite numerous attempts, WTO members continue to be at loggerheads about revamping the SDT rules; new SDT definitions and categories for existing agreements are impractical and highly contentious even when discussed in the context of prospective accords. So far, there is no consensus in sight, as e.g., China and others are not willing to give up their developing status. A glimmer of hope comes from the TFA, which for the first time linked the implementation period of the agreement to the individual capacity of a country to do so.

Pillar 2: Inadequate Monitoring Mechanism

Another important pillar of the WTO is monitoring of compliance with already established WTO rules. The WTO's monitoring activities centre around its Trade Policy Review Mechanism (TPRM) and the accompanying country reports (TPR). Each country is reviewed regularly; the frequency of each country's review varies according to its share of world trade. Larger members, such as the EU, the United States, and China, are examined every two years; developing countries at least every six years. The TPRs, however, only produce descriptions of trade policies and trade actions taken by the subject country but are not allowed to make assessments as to the conformity of those measures with WTO obligations.

Two additional review mechanisms were added during the last financial and economic crisis. The reports of the WTO Director-General give an overview of the current state of world trade and of WTO members' trade policy measures. The first report was published in January 2009. In addition, the WTO Reports on Trade and Investment Measures (TRIM) of the G20 countries are commissioned by the G20 and written in cooperation with the OECD and UNCTAD.

Nevertheless, in many respects, the transparency mechanism leaves much to be desired. For instance, the WTO does not evaluate the actual impact of individual measures on the flow of trade and does not indicate to what extent the decline in trade can be blamed on protectionism. Moreover, all of the above-mentioned mechanisms lack an estimate of the economic costs of the various national measures.

Another important transparency mechanism is the notification of subsidies – as foreseen in the SCM Agreement. The United States has, however, continually criticized that WTO members – particularly, China – have not fulfilled their notification requirements. Therefore, the U.S. government introduced a transparency and notification proposal at the WTO Council on Trade in Goods in 2018, which was co-sponsored by the EU, Japan, and others. One of the main elements of the proposal is the idea of possible counter-notifications. However, there has been no progress so far.

Pillar 3: Blocked Dispute Settlement System

Since the WTO took up its work in 1995, the Dispute Settlement Mechanism (DSM) enabled the settlement of trade conflicts in a (mostly) timely, unpolitical, and objective fashion, promoting the enforcement of rules and thus contributing to rules-based, open and fair trade. According to WTO data, members referred a total of 607 disputes to the Dispute Settlement Body (DSB) as of 31 December 2021. Not all requests for consultation were followed by the establishment of a panel and subsequently by a panel report, as WTO members also solved disputes amicably. In the period 1995-2021, a panel had been established in respect of 365 disputes (that is, in 60 percent of all disputes initiated). In 277 of these disputes a panel report was issued. The request for consultations was considerably lower in 2019, 2020, and 2021 (5,9,3) as was the number of established panels (7,10,0) than in previous years.⁵ The reason for this is the crisis of the appellate body. The second instance of the dispute settlement process added considerable credibility and legitimacy to settling conflicts and was used frequently. In 68 percent of all cases, an appeal was notified. Since December 2019 the AB, however, has ceased to function. A binding resolution of current and new disputes is only possible if the ruling is not appealed. Several WTO members have, nonetheless, appealed cases in 2020 (four appeals) and 2021 (six appeals).⁶

There is agreement among the WTO members that the dispute settlement process needs to be reformed – both regarding procedural and substantive issues, but there is no agreement on how. One of the prevalent concerns is the frequent disregard for the 90-day deadline for deciding appeals provided for in Article 1 of the Dispute Settlement Understanding. Another criticism concerns the transition rules: outgoing AB members have increasingly stayed on past the expiration of their term to finalize cases. Concerns also arise that the AB has created binding precedents and that panels/appellate reviews issue unnecessary advisory opinions or findings on facts related to domestic law. Furthermore, the AB is criticized – by the United States in particular – for judicial over-reach (interpreting or redefining the WTO obligation at issue), although the DSU states that rulings cannot add or diminish the rights and obligations of members. The United States in particular points at cases concerning trade remedy laws (safeguards, antidumping and countervailing measures).

WTO members have put forward reform proposals covering both procedures and administration of the dispute settlement understanding. The most comprehensive reform proposal is contained in the multi-party interim appeal arbitration arrangement (MPIA) that the EU now applies together with 22 other WTO member states. This arrangement will help settle disputes between the participating countries until the WTO member states agree on a reform of the dispute settlement system; disputes involving the United States, for example, are not covered by its rules since the United States does not participate in the MPIA. And there is increasing uncertainty whether the United States wants to go back to the two-tiered WTO litigation system at all.⁷

Proposals

Even though the war in Ukraine is likely to overshadow many of the items of the German-led G7 agenda, trade and WTO reform remain an important and urgent topic for the informal group. Without a stable, transparent, and sustainable rules-based global trading system, the humanitarian, economic, social, environmental, and developmental shocks from the war will be even worse for the global economy.

G7 countries and their allies and partners should develop a new vision for the WTO – a vision that is fully aligned with the 2030 Agenda and with the current environmental, health, social and development challenges that the world is facing. Credible signals of joint G7 action and joint commitments to support countries in need would make WTO modernization more likely. The G7 can help to bridge divides and shift debates on WTO reform. At the same time, G7 members need to offer support to and engage in dialogue with developing countries to ensure that they fully benefit from the opportunities and protections afforded by the multilateral trading system.

Efforts to revitalize the organization stand the best chance of success if they proceed incrementally – step-by-step –, starting with short-term positive results in advance of and at MC12 (for example on fishery subsidies). To keep the WTO relevant, however, comprehensive reform is necessary in the medium- and long-term. This includes updating the WTO rules book (including on digital trade and industrial subsidies), reforming the dispute settlement mechanisms, a new agreement on trade and health, and broadening the sustainability program (for example specific disciplines on fossil fuel subsidies, plastics, circular economy, biodiversity, and resilience to natural disaster).

The 12th WTO Ministerial Conference (MC12), which is now scheduled for June 2022, will not fully redress the substantive and institutional shortcomings that have in the past undercut confidence in and support for the multilateral trade institution. But WTO members can commit to a clear and ambitious roadmap towards making the WTO fit for the 21st century. And the G7 can play a central role in that effort, both by committing to reforms in their own countries and by leading inclusive discussions at the WTO that bring all countries on board.

Pillar 1: Progress on Multilateral and Plurilateral Trade Liberalization and New Rules

Priorities in the Run-up and for MC12

Avoiding new Export Barriers as Reaction to Russia's War on Ukraine: In the context of the war in Ukraine, it will be important for the G7 to agree on ways to avoid new and unnecessary export restrictions on food and medicines. Such restrictions have, particularly in the last years during the covid pandemic, proved to disrupt supply chains, exacerbate commodity shortages in world markets and pose major risk to food security and health in many countries. Sanctions or other export restrictions that block access to goods and technologies, imposed to impair military capabilities, however, are instrumental to avoid human catastrophes.

Strengthening the Positive Link between Trade and Health: In the area of trade and health, WTO members need to respond to the COVID-19 pandemic by making sure that the trading system speeds the flow of essential goods to fight the pandemic, including vaccines across borders. No country is fully self-sufficient in the goods, medicines, and equipment that are essential.⁸ An important step in the right direction was the provisional compromise to waive intellectual property rights for COVID-19 vaccines between the EU, the United States, India and South Africa in the WTO in mid-March 2022. The agreement entails a waiver on intellectual property rights on vaccines. This does not include treatments for COVID-19 yet. The provisional compromise, which still needs a formal approval by WTO member states, is a sign that there is movement towards an agreement to waive IP rights for COVID-19 vaccines.⁹

In addition, in the medium-term, the Ottawa Initiative on trade and health, which includes all G7 countries apart from the United States, is a good basis for progress to increase cooperation and work toward enhanced global rules to facilitate trade in essential medical goods. The G7 need to lead by example and commit to zero tariffs on pharmaceutical goods and substances through an update to, and broadening the scope of, the Agreement on Trade in Pharmaceutical Products. Furthermore, the G7 could advocate for a plurilateral COVID-19 Vaccine Investment and Trade Agreement that focuses on accelerating immediate-term production 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.¹⁰

Paving the Way towards an Agreement on Fisheries Subsidies: The second issue relates to the multilateral negotiations on fisheries subsidies. It is the first time all WTO members committed to negotiations, which have the UN Sustainable Development Goals (SDGs) at their core. A failure to conclude an agreement would not merely be detrimental from an environmental perspective but would also undermine the credibility of the WTO. On the other hand, if the WTO demonstrated the ability to craft and adopt an environmentally ambitious trade agreement on fisheries subsidies, it would show that it can live up to the sustainable development objective anchored in its own charter.

The G7 need to send a clear signal of being strongly committed to a new multilateral agreement. This will require bringing on board key subsidizing nations, including China and India and supporting developing countries in the implementation of new disciplines.

Priorities beyond MC12

1. Establishing a Greater Focus on Sustainability Issues within the WTO

A top priority is related to the fight against climate change, biodiversity loss, and pollution and what international trade can do to address this triple crisis and facilitate a smooth and inclusive transition towards clean energy and a healthy environment. Important progress has been achieved through the adoption of three ministerial declarations on trade and environmental sustainability: Trade and Environmental Sustainability Structured Discussions (TESSD), Informal Dialogue on Plastics Pollution (IDP), and Fossil Fuel Subsidy Reform (FFSR). To build momentum, G7 members need to positively engage with these efforts, bring more countries on board and ensure that the current declarations are translated into real actions.

This also entails that they agree on a concrete road map to phase out fossil fuel subsidies and to close existing loopholes. WTO subsidy rules should bar support for new coal-fired electricity generation plants while allowing carbon abatement upgrades to existing facilities.

In addition, negotiations on an Environmental Goods Agreement should be revived to promote the diffusion of green technologies by lowering trade barriers to a narrow list of environmental goods. Trying to pick up where negotiations stalled due to divergences in interests and difficulties concerning how to define an environmental good, does, however, not promise success. Rather, a new approach and creative thinking are necessary. Thus, a new list of environmental goods, and possibly services, could be drawn up, focusing on those which can contribute to mitigating climate change on an industrial scale, in other words on those that have a positive and measurable climate impact.¹¹ This could also help to fulfil the critical mass requirement for plurilateral sector agreements. In addition, the pact should commit to a built-in agenda for negotiations to regularly update the product coverage. To fully bring on board developing countries, the agreement could build-in a special and differential treatment approach as in the TFA.

G7 members could also start negotiations on how trade measures can support carbon abatement commitments. In the ongoing debate around the possible introduction of a Carbon Border Adjustment Mechanism (CBAM), EU and U.S. officials claim that carbon border measures are WTO-legal. However, many other WTO members criticize the introduction of a CBAM as they would see it as a “disguised” form of protectionism. Resolution of these differing perspectives is needed to avoid the introduction of national policies that could have the perverse effect of undercutting global decarbonization objectives. The G7 should take the lead to promote a WTO dialogue on these issues, with the aim of aligning trade and climate objectives, engaging with China and other G20 countries as the problem will not be solved without the buy-in of countries such as China and India.

In this context, the G7 need to discuss possible topics including new provisions covering green subsidies. In its early years, the WTO classified subsidies supporting environmental objectives as “non actionable” under unfair trade laws, i.e., not subject to dispute or retaliation. Consideration should be given to recreating rules comparable to the “green box” subsidies of the late 1990s. This reform would create a “safe haven” from countermeasures for environmentally beneficial subsidies supporting R&D in renewable energy, investment in carbon scrubbers, and other GHG abatement technologies. Thus, narrowly targeted, and possibly time-bound, support to facilitate/expedite the transition away from fossil fuels should be sheltered from countervailing duties (CVDs) for the next decade. As such, there should be a clear definition of which measures should be excluded from CVDs to avoid creating more loopholes for industrial subsidies. Subsidies for transition energies such as gas and nuclear energy should, for example, not fall under such an exclusion.

In addition, G7 members should push for a WTO road map on circularity. This could include encouraging the WTO to develop a better knowledge base on how trade interacts with the circular economy. In the medium-term, WTO members should take concrete steps to facilitate trade in key areas of the circular economy. The G7 can play an important role by supporting efforts in developing countries to seize the potential environmental, economic and trade benefits of a circular economy.

In all these efforts, G7 could support and further promote close collaboration between the WTO and relevant organizations, such as UNEP and the Multilateral Environmental Agreements (MEAs).

2. Update Rules for Digital Trade and Innovation

The rapid development of digital markets was not accompanied by a similar evolution of global rules in digital trade: the existing multilateral trade agreements at the basis of the WTO (GATT, GATS and TRIPS) provide some shared principles to regulate the provision of e-commerce services, but the lack of a full-fledged multilateral framework results in a fragmentation of digital trade transactions.¹² A major step forward was the creation of the JSI on e-commerce, which aims at setting new global rules for digital trade and removing tariff barriers. Some progress was achieved, for example in December 2021 on online consumer protection and transparency,¹³ but results have not been fully satisfactory so far. Deeper and better regulation could be enhanced by improving transparency (for instance through the adoption of a taxonomy including different types of data) and inclusivity (to promote MSMEs' participation in e-commerce by strengthening digital skills and infrastructure). But more work needs to be done to ensure connectivity and interoperability of digital markets, facilitate digital trade, and provide legal certainty. The G7 should push for accelerating e-commerce negotiations and look for common grounds on contentious issues.

The G7 could also advocate for making permanent the moratorium on customs duties on electronic transmissions. The moratorium prevented the imposition of burdensome tariffs. A termination would lead to serious new trade barriers which would also hamper trade and development.

That many WTO members signed onto the Joint Initiative on Services Domestic Regulation, concluded on 2 December 2021, can be viewed as a success. This agreement will help reduce administrative costs and create a more transparent operating environment for service providers. The G7 should lead by example in terms of implementing the new obligations.

3. Tackle Negative Spillovers of State Intervention in the Economy

As mentioned above, WTO rules do not adequately address the role of state-owned enterprises and industrial subsidies, which have become an increasingly important issue. Subsidy disciplines need to better ensure that support to state-owned or controlled enterprises is provided on commercial terms so that there is a level playing field for private firms competing with them; subsidy notifications are submitted in a timely fashion with penalties for extensive delays; and that subsidy rules need to be reinforced to forestall subsidy competitions in pursuit of national industrial policies. In addition, WTO members could consider how to curb SOE support sector-by-sector, beginning with steel and aircraft. Efforts could build on the trilateral initiative by the United States, EU, and Japan to tackle non-market policies and practices. Such steps would not only address competition and fairness but help to rebuild trust in the rules-based multilateral trading system. The G7 could lay the groundwork for these reforms.

4. Integrating Special and Differential Treatment Provisions in New Agreements

It is high time to question the conventional binary distinction between developed and developing countries in the WTO. However, for developing countries, negotiating the development status of WTO members seems

to be a non-starter. There is thus a need for a new approach with more fine-grained case-by-case options built into the plurilateral initiatives. The TFA already set the precedent for this. The G7 should join this discussion more actively and provide a bridge among WTO members to promote a more robust and inclusive multilateral trading system.

Pillar 2: Monitoring

The WTO's monitoring mechanisms can be made more effective by increasing the transparency of members' trade practices and improving how the WTO committees work. As the EU suggested, this could entail the following improvements: all WTO committees, which oversee notification obligations on trade in goods, could evaluate how to make the notifications more effective. This could include allowing the WTO Secretariat to make qualitative assessments on the notifications. If this was not possible due to the strong opposition by many WTO members, the G7 could support other initiatives like the Global Trade Alert and/or joint monitoring by outside experts led or commissioned by the WTO, OECD, and World Bank.

In addition, there could be an assistance fund and capacity building for small and poor developing countries to help with notifications. And lastly, there could be work on how to enforce notification compliance. The G7 member states should try to agree on common positions for further WTO notification reform and as such enhance the work and impact of the Trilateral Initiative. This includes pushing for stronger notification requirements along with third-party notifications to supplement national submissions.

Pillar 3: Dispute Settlement

Reforming the WTO dispute settlement system is a priority, but very challenging. A key question is whether it should be linked to the other aspects of WTO reform. The current crisis of the dispute settlement function of the WTO is closely linked to the breakdown in the negotiation function. As long as the dispute settlement system remains non-functional, why would countries be motivated to update the WTO rules if they cannot enforce them?

While immediate progress on the thorny issue of dispute settlement is unlikely, the G7 could advance principles that underpin WTO dispute settlement. Elements (which can also be found in the EU reform proposal as of 2019 as well as the "Walker Principles" put forward by Ambassador David Walker in 2019) 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. As the lowest common denominator, the G7 should engage in an open and frank discussion, where a landing zone for reform could be. As such, everything should be put onto the table, including limiting the substantive coverage. The G7 should also agree on a timeline, setting a clear date for concrete reform proposals.

Implementation

All these trade and WTO reform issues are global in nature and also on the agenda of the G20. Accordingly, the question arises: What can the G7 achieve at all? The G7 can certainly not solve the major global problems on its own. However, the problems cannot be solved without the G7 countries either. And because of their economic size, they bear a special responsibility.

In order to create momentum and foster like-mindedness on some shared priorities related to WTO reform, the German presidency could seek to build a “bridge” between the G7 and the G20. This could be achieved by using last year’s UK presidency as a model for inviting other countries, including Australia and South Korea. Strengthening cooperation with other fora, such as the OECD and UNCTAD, could also support analytical input and cross-fertilization to make meaningful progress on key issues of WTO reform.

The G7 has an important role to play in creating a new consensus based on solidarity, responsibility, sustainability, and in leading by example. This could pave the way for reform commitments in the G20 and give the WTO reform a much-needed new impetus. The commitments included in the G7 Trade Ministers’ Declaration from October 2021 seems to go in the right direction. Now it is time to go one step further, with the aim of extending negotiations to a broader and more diverse groups of countries.

Endnotes

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