



## ***Constructing the future global trade architecture: the role for China and other Asian emerging markets.***

*This article was written by Ed Ratcliffe, Head of Advisory, Asia House, and was published as a background paper for delegates at the China Development Forum, March 23-25, 2019*

### **Executive Summary**

The current global financial and trading system was developed primarily by the western powers in the period following the second world war. This rules-based order did not include the USSR and the countries aligned with it; despite being a signatory of the GATT in 1947, due to political circumstances China also did not engage in international trade until after the reforms of 1978, the significant opening up of China to the world. However, since the establishment of the WTO in 1995, many of these countries, including Russia and China have joined.

Assessments of what the WTO has delivered are mixed. At its best, the global trade system has delivered growth and prosperity. Increasing economic interdependence through international trade and globalisation has also proliferated peace. At its worst, the system has created a platform for the negative aspects of globalisation, exacerbating inequalities between and within economies. More broadly the system is accused of failing to keep up with the pace of geopolitical and global economic change.

The system now finds itself under political strain. Most recently this has taken the form of direct political attacks as US foreign economic policy is increasingly played as a zero-sum game. Given the endemic problems mentioned above, many observers have predicted the death of the WTO. Indeed, multilateral progress has stalled, the WTO's institutions have been hobbled, and as a result the most important trade discussion is being negotiated bilaterally between the US and China.

In the face of this sclerosis, most economies have invested time and resources in bilateral and regional trade agreements which now create a vast global web of trade corridors. Bilateral and regional arrangements are a form of progress but may not provide an adequate alternative to the multilateral system which has guarded against protectionism or the development of a bifurcated economic landscape of a new cold war.

There are two main paths ahead. Along one path the system adapts to the economic and political realities and undergoes reform, building in the interests of a new set of rising economic powers. The second path leads to protectionism and possibly the general weaponisation of all forms of economic management — trade, currency, inflation, immigration etc.

The key question is the potential for reform, and how far the world's major economic actors are prepared to go. Discussions between the US and China are at the core of this but are by no means the only variables.

Thankfully, as the system teeters major WTO members have mobilised. There are obvious, immediate challenges that require resolution such as appointments to the Appellate Body without which the system cannot function. However, there are other, much larger challenges that will



require significant negotiation on issues such as special treatment for developing countries and the role of the state in the economy.

This will require acknowledgement by all parties that the geopolitical and economic landscape has changed significantly, and that there are a whole host of middle-income countries, foremost of all China, who have a claim in reshaping the future of the global trading architecture. These countries are aware of the 'middle-income trap' that awaits them and identify that the current global trading system may be a cause of this.

Beyond recognising and dealing with the political issues that have almost capsized the system, there is an opportunity for stakeholders to go further than restoring a new status quo. There are global challenges that have been caused or exacerbated by globalisation, such as climate change, to which the global trading system could enable solutions. A modern and robust international trade system also needs to reflect these new realities, and support solutions to them.

## Part I – Taking stock of the current global trade architecture

### **The creation of a global trading architecture**

The current global trading architecture was born out of the post-war reconstruction years. The victors of the second world war, led by the US, had lived through decades of protectionist tendencies and economic chaos that had contributed to the outbreak of two world wars, the great depression and periods of volatile monetary policy. There was an overriding need for a system that would assist in post-war reconstruction and allow global trade to flourish, in order to foster and safeguard economic growth and stability. An attempt to create the International Trade Organization as a Bretton Woods institution alongside the IMF and the World Bank eventually failed. So, the General Agreement on Trade and Tariffs (GATT), signed by 23 countries in 1947, became the main multilateral instrument governing international trade.

Significant attempts at reform began during the Tokyo Round of negotiations in the 1970s, but the Uruguay Round produced the biggest milestone — the birth of the World Trade Organization in 1995. Comprised of 123 members, the WTO was more comprehensive, covering not only tariffs and quotas, but also investment, services, intellectual property, labour laws and environmental regulations, as well as introducing extensive dispute resolution mechanisms.

Due to the consensus model for most WTO decision-making there has always been the opportunity for any country to defend their interests in targeted policy areas — as the broad failure of the Doha Development Round has shown. However, there is little argument that the contemporary global trade architecture is characterised by the political, market-focused, economically liberal philosophies of the western post-war order. Further to any ideological view, in reality there have been accusations by some parties of attempts by the WTO management to railroad issues using the



'informal' meetings procedures, or Green Room processes which favour the larger incumbent economic powers.<sup>1</sup>

## Positive deliverables

The GATT and WTO system has undoubtedly produced positive results. Almost all countries experienced significant growth in the post-war period — 8 percent per year on average through the 1950s and 1960s.<sup>2</sup> Since its inception in 1995, the WTO has raised global income by up to US \$510 billion.<sup>3</sup> The system as a whole has prevented protectionism, most recently in response to the global financial crisis of 2008, as well as reducing trade tensions between states through the WTO dispute settlement processes.

Crucially, global trade integration has not only benefitted developed economies. The share of developing countries in global trade has risen from a third to almost half since 2000. In acknowledgement of the varied levels of development of WTO membership, "special and differential treatment" allowing longer implementation periods and other exemptions for developing countries is one of the defining aspects of the WTO.

## Criticisms

Through its history the WTO system has faced significant criticism, some of which have become major political challenges.

**Developing country needs** — There are a raft of criticisms made by, or on behalf of, developing countries about the entire WTO project. International Non-Governmental Organisations (NGOs) such as Oxfam criticised the outcome of the Uruguay Round on various issues including agriculture liberalisation, intellectual property, and industrial tariffs. These supported criticisms from developing countries that they felt compelled to liberalise their economies based on WTO rules, despite feeling that the liberalisation was not appropriate for their history, culture, or level of economic development.

**Subsidies and state aid** — Subsidies have become a major political issue in WTO discussions. More recently these have concerned state support for the industrial or manufacturing sectors, the basis of accusations made by the US against China. However, the interests of the Cairns Group of 19 agricultural exporting countries predate this. A mix of developed (Australia, New Zealand) and developing (Argentina, Peru, Malaysia, Vietnam) countries, the group sought to liberalise the trade in agricultural products and abolish export subsidies. The interests of the group are aimed firmly at countries seeking to protect their domestic agriculture, including the US, the EU, Japan, Norway and Switzerland.

**Import competition** — In general terms, the WTO supports import competition – the exposure of national economies to the external competition of imported goods. On one level, import competition can lead to lower prices, increased productivity, and expanded exports, but it has also

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<sup>1</sup>[Developing Countries in GATT/WTO Negotiations](#), Sheila Page, February 2002 (ODI website)

<sup>2</sup> [The GATT years: from Havana to Marrakesh](#) (WTO website)

<sup>3</sup> [The Challenges to the World Trade Organization: It's All about Legitimacy](#), Joshua P. Meltzer, April 2011



been blamed for job losses in both developing and developed economies. However, the impacts of specific events on job losses such as China's accession to the WTO may be overstated, with longer-term trends in technology having a greater impact on global manufacturing processes.

**Intellectual property** — Debates around intellectual property (IP) are extremely complex. The WTO agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) provides for the protection and enforcement of rights in another WTO member. The policy has come under fire on several levels around issues of access to medicines, wealth concentration, and its failure to promote investment in middle or low-income countries.

The specific issue of 'forced technology transfer' is a major one in the current US-China negotiations. While the Chinese government has pushed back against the "monopolisation of technology" through policies such as TRIPs, its views may change as it increasingly becomes an IP holder in areas such as artificial intelligence.

**Sovereignty** — Accusations that international laws and bodies undermine sovereignty can be made against any such organisation. In the case of the WTO several examples are commonly given – that internationally developed rules on GMOs and environmental labelling undermine a state's ability to decide its own environmental protection policy. Similarly, what developed markets consider to be the promotion of baseline labour protection is interpreted as meddling by countries whose main global advantage is plentiful low-cost labour.

**Poor enforcement** — While the WTO does have dispute settlement and enforcement mechanisms, many view them as frustratingly weak and the timeframes lengthy. The recent complaints by President Trump about countries cheating the system are nothing new, they have been a common complaint by several US administrations, and other actors such as the EU and Japan.

## **Broader challenges**

There are other challenges for the WTO which are a result of the changes in the economic and geopolitical landscape, and which will be much more difficult to address without significant change.

### ***The limits of the consensus model and multilateral progress***

The Doha Development Round of multilateral trade negotiations started in 2001 but were effectively stalled by 2008. This failure exposed the limits of progress at the multilateral level; countries were unwilling to commit to further liberalisation on the promise of growth when it was clear that there would be significant internal disruption. It was a sign of disillusionment with the system by many parties.

The negotiations also exposed the limits of the consensus decision-making model by which WTO decisions are made. Consensus is deemed to have been made when 'no member, present at the meeting when the decision is taken, formally objects'. Considering there are 164 members, consensus is notoriously difficult to obtain.

### ***Rethinking a single global economy***

Since 2001, the WTO has been a system developed around a western market economy ideal, where one of the largest players is not a classically-structured western market economy; China.



The incumbent powers at the turn of the 21st century did not expect the velocity of China's economic expansion. The speed of growth and manufacturing sophistication, which lead to competition in high value-added sectors were not adequately planned for.

In the meantime, many western corporations were quite happy for China and other manufacturing-focused economies to operate the way that they did. They provided a new and ready source of low-cost labour at low-cost export manufacturing hubs, as well as adding billions of new potential customers to global markets.

From a policy perspective, western economies were underprepared for the long-term implications of developing economic dependency on these manufacturing hubs to fuel their consumption-driven developed economies. From a strategic perspective, they were not prepared for the speed of development of economies like China, without a concurrent speed of liberalisation and market access.

Many commentators have said that for western policymakers to understand China, it requires a certain level of cognitive dissonance. The Chinese economy operates like a capitalist economy on many level levels, but with Chinese characteristics. The soaring towers in Pudong, Shanghai's meteoric business district look like a developed country, but much of China's interior is still very much developing. The size of the Chinese economy is second only to the US, but the quality of the economy remains a concern and major development point for the current leadership under President Xi Jinping. China complies with WTO rulings, yet its economic structure seems to flaunt the foundations of a market-driven global trading system.

Given the issues that this has given rise to, what may be required therefore is a compromise on how a single global economy can work, where not all of the major economic players have the same economic and political structure. It is no longer a case of holding China to account with the current rulebook,<sup>4</sup> but rather acknowledging that the rulebook is outdated and incapable of managing trade disputes given the economic and geopolitical realities.

### ***Tariffs based on national security***

Beginning under the Obama administration but ramping up under the Trump administration, the US has been pursuing reform of the WTO system with China in its sights. The US's main claim is that China continues to practice non-market industrial policies, and unfair competitive practices that favour domestic Chinese companies while discriminating against foreign companies. Trump has also heavily criticised China for its trade imbalances and accusations of forced technology transfers, issues which it cannot address through the current architecture.

There is a loophole in WTO law which allows nations to impose tariffs to defend 'essential security interests'. This has traditionally had a narrow meaning, however the US has exploited this provision in applying a 25 percent tariff on steel and a 10 percent tariff on aluminium from the EU, Mexico and Canada, as well as 10 percent tariffs on \$200 billion worth of goods from the China, based on a tenuous link to national security interests.

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<sup>4</sup> [How to rescue the WTO](#), July 2018 (The Economist website)



The EU, UK, China, Japan, Switzerland and Canada have all criticised the US on these actions, and a formal challenge to the tariffs may be a disastrous showdown for the future of the WTO.

The EU and other states will challenge Trump's tariffs on steel and aluminium in the WTO, and the outcome is a lose-lose situation for the global trade order. If the EU and counterparts win, the US under Trump is likely to reject the court's decision and the system will be proven redundant. If the US wins, it proves that the national security loophole is an appropriate tool for trade disputes.<sup>5</sup>

### ***A dispute mechanism near paralysis***

Another means by which the US has registered its displeasure with the outcomes from the WTO is through the appointment of judges to the Appellate body.

The Appellate Body should have seven judges; due largely to actions by the US, there are currently only three, the minimum to hear a dispute. While President Trump has targeted the functioning of the WTO, in fact the issue started under the Obama presidency.<sup>6</sup>

With only three seated judges, if one is unable to hear a dispute or resigns, the arbitration mechanism will be defunct, and states will have no recourse against others infringing the rules. This could lead to a domino effect of trade retaliation, as nations pursue their self-interest outside the system.

## **PART II: Alternative paths for the global trading system**

One of the most important aspects that the WTO has brought to international trade is the law-based commercial predictability of the system, a facsimile of a modern state apparatus. This has been beneficial for countries as large as China, or as small as the Caribbean states.<sup>7</sup> The success of the WTO was creating a system in which David could defeat Goliath, as when Antigua and Barbados successfully won against the US on a cross border online gambling issue.<sup>8</sup>

President Trump may be correct in a zero-sum assertion that the US will be the least affected by the collapse of the WTO. The real losers would be small, developing countries as the world reverts to a Hobbesian environment which is less predictable, rational, and fair than the system of the WTO. However, this is a somewhat short-sighted strategy — as mentioned the system was designed by the US, effectively in its image. If the current WTO collapses, the US will have a lost one of the cornerstones of its global structural economic power.

In the absence of progress at the multilateral level there are alternatives. The constructive options broadly fall in to two categories: to create a 'club' within the WTO or create a 'club' outside the

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<sup>5</sup> [Trump, China, and Steel Tariffs: The Day the WTO Died](#), Edward Alden, March 2018

<sup>6</sup> [The Obama Administration's Attack on Appellate Body Independence Shows the Need for Reforms](#), Steve Charnowitz, September 2016 (International Economic Law and Policy Blog)

<sup>7</sup> [Trump, China, and Steel Tariffs: The Day the WTO Died](#), Edward Alden, March 2018 (CFR website)

<sup>8</sup> [Antigua wins modest sanctions in U.S. gambling case](#), Jonathan Lynn, December 2007 (Reuters website)



WTO. In both cases there is a clear role for the WTO, possibly an alternative future for the institution.

The Uruguay Round was perhaps a “one-time trick”<sup>9</sup> to get reluctant or apprehensive countries to join a global consensus in order to be a founding member, evidenced by the swift loss of momentum for global consensus in the Doha Development Round. But there has always been an alternative path for agreement within the WTO between groups of nations, especially on topics where consensus would be unlikely. These plurilateral agreements point towards a potential future of the WTO as being the central point for a system of ‘variable geometry’, or a ‘club of clubs’.

Agreements include the Information Technology Agreement (ITA — concluded in 1996, now with 82 members), the Agreement on Government Procurement (GPA — initially concluded in 1991, now with 46 members), and the Environmental Goods Agreement and the Trade in Services Agreement which are still under negotiation.

There have also been significant constructive developments in trade liberalisation outside the negotiating framework of the WTO. While one of the central tenets of the WTO is the most favoured nation principle, whereby lower duties cannot be extended to one nation and not the others:

“a country may enter into a free trade agreement or customs union granting more favourable treatment to the participating states than to the other WTO members if it observes certain conditions stipulated in the relevant provisions of the WTO agreements, to ensure the complementarity of the FTA with the WTO system (notably Article XXIV of the GATT, for trade in goods, and Article V of the GATS, for trade in services).”<sup>10</sup>

There are 420 regional trade agreements in force around the world, in fact all WTO members are party to at least one. The largest and most successful regional agreement is the European Union which now speaks at the WTO on behalf of its member states on most issues. There are examples of agreements between developed and middle-income countries such as the US-Mexico-Canada Agreement (USMCA), the recently re-negotiated NAFTA treaty; and the Comprehensive and Progressive Treaty for Trans-Pacific Partnership (CPTPP), which has come into force for seven of the eleven signatories so far.

There are other alternatives for the global trading system. Most obviously, an increase in protectionism, the beginnings of which is already being seen. A proliferation of regional agreements, and the shift in geopolitical power also creates fertile ground for a new cold war, as countries align or seek to balance the interests of the US and China.

A ‘new cold war’ may be a theoretical endpoint, but various shades of a bipolar world may manifest before any kind of solution is reached. The current global trading architecture was underpinned by a desire by the west, led by the US, to promote an economic worldview. This strategy was successful, but it is the failure to accommodate the models and economic cultures of the post-cold war entrants that has led to the unsustainable situation that the WTO is in.

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<sup>9</sup> [The Future of the Global Trading System](#), Philip I Levy, July 2015 (Valdai Club website)

<sup>10</sup> [FTAs and the WTO](#), (EFTA website)



The threat of a downward spiral into protectionism or polarisation has been enough for most major actors to carefully consider the utility of the WTO. For all its criticisms, the WTO-centric global trading architecture is a significant public good. There has not been as much positivity or attention to the WTO as in the last six months since it came into existence.

## **PART III: The reform agenda**

### **Building an agenda for WTO reform**

In line with the heightened interest and increased positivity surrounding the WTO, major economies and or national groupings have proposed their priorities for WTO reform. There is significant overlap between the proposals — the US, China, the EU, Japan, and the BRICS countries have all stated their preference for a free and fair rules-based multilateral trading order. The divergence comes over what is deemed ‘fair’, what exactly new rules governing trade and enforcement should entail, and the prioritisation of reform.

Despite President Trump’s apparent lack of interest in keeping the WTO alive, the US has been vocal and active in promoting its aims for WTO reform. First and foremost, the US wants to see the inadequacy of the system to fairly and effectively deal with the actions of China addressed. This mainly focuses on market distorting behaviour, as well as definitions around China’s ‘developing country’ status. Other reform priorities include reforming the Appellate Body’s power and procedures, reforming the negotiating arm of the WTO in terms of its ability to deal with contemporary issues such as forced technology transfer and digital trade, and reform in the area of monitoring and compliance mechanisms.

The EU is generally in alignment with the US in terms of priorities. The EU sets out a list of actions for the reform of the Appellate Body, including the ability for members to influence substantive outcomes. The EU also wants the rule-making ability of the WTO to function in issues such as forced technology transfer, sustainability, and services. Rules on special and differentiated treatment for developing members should also be updated. Finally, the EU also prioritises monitoring and compliance in order that transparency and market access issues can be resolved.

In seeking to reform the WTO regarding China’s non-market actions and developing country status, the US and the EU, as well as Japan, are seeking reform of the rules surrounding industrial subsidies and State-Owned-Enterprises (SOEs). Their concern is that the practice of non-market orientated activities creates an uneven playing field and a danger to the fairness and stability of the world economy. More effective rules include sanctions for failure to notify and well as strengthening transparency.

Crucial to success in any area is agreement beyond the US, the EU and Japan. China agrees with the EU reform priorities surrounding the Appellate Body. It released a joint communication on the matter to the WTO with the EU and several other major nations including India, Norway, New Zealand, Canada, Switzerland, Australia, Korea, Singapore and Mexico.

China has also stated that it aims to increase the authority and effectiveness of the WTO, however, its priorities in this lie in upholding the core values of non-discrimination, protecting the



development interests of developing members and addressing their difficulties in integrating into economic globalisation, as well as following the mechanism of decision-making by consensus.

These last two priorities are where tensions arise. China prioritises protecting its developing country status and the rules governing the category, however other nations led by the US prioritise reform in this area to reflect the changing nature of the Chinese economy and its place in the global economic order. The US and other western nations are also prioritising the creation of new rules or new methods of negotiation surrounding contemporary issues such as technology transfer. The prioritisation of non-discrimination and consensus-based decision-making may be read as an early warning that China will not tolerate being ganged up on in the WTO.

And of course, China is not without allies on these issues. The BRICS group of countries also promote reform while safeguarding the WTO's core principles, especially those concerning special treatment for developing countries.

### **Immediate priorities — rescuing dispute settlement**

The task that most major trade actors, as well as lawyers, academics and politicians, are encountering is what to do in the face of the challenges. As outlined above, the criticisms and challenges for the WTO are deep and diverse and there is no single consensus about the way ahead.

The most immediate issue, and one on which there is almost consensus, is rescuing the dispute settlement body. This is supported by calls from the EU, China, Canada, India, Norway, New Zealand, Switzerland, Australia, the Republic of Korea, Iceland, Singapore and Mexico. Calls for reform focus on addressing the technical procedural issues faced by the body, to ensure the current impasse with the nomination of Appellate Body members is avoided in the future. The EU has also made suggestions for reform over other substantive issues, some of which have the support of other members.

Suggestions regarding the appointment of judges include making transitional rules for outgoing Appellate Body members (such as ensuring they can finish their ongoing workload and are allowed to sit for a transitional period if no replacement is found); increasing the number of Appellate Body members from 7 to 9; and ensuring the selection process is launched within a certain time frame after the end of their term.

Suggestions for reform on decisions include amending the 90-day timeframe to allow for longer consultation; ensuring the Appellate Body provides clearer explanations of its findings, specifically on the meaning of municipal measures; ensuring that the body not make findings that are not strictly necessary for the dispute; and to not treat previous decisions as binding precedent but instead allow for members to consult over the direction of certain laws and policies.

Whilst the US may support these procedural reforms in the long run, it has rejected the EU's proposal for reform as it does not address the main US issues with the Appellate Body: that it has overstepped its mandate. The US claims the Appellate Body has been acting above its original powers in ruling over members rights and obligations.

The US aims for reform of the Appellate Body are closely linked to its other priorities for WTO reform, namely that the WTO does not have the capacity to deal with the challenge posed by China.



It aims for fundamental reform of the dispute settlement body so that it will be able to deal with this issue under new rules governing market distorting and technology transfer activities, which would require more fundamental reform of WTO rules before the Appellate Body issue can be resolved. The EU proposal did attempt to address this by suggesting that members would have the possibility to consult over substantive issues, but this has not gone far enough for the US.

At the time of writing the US and China were deep in bilateral talks and the appointment of an appellate judge was still a bargaining chip in the US's broader trade negotiations with China, and the rest of the global trading system. At least under the current regime, bilateral negotiation with China may indeed be the only way to make progress, the success of which may depend on China's changing view of itself in relation to the rest of the global economy.

### **The US-China issue**

Speaking at the "1+6" forum in November 2018,<sup>11</sup> WTO Director-General Roberto Azevêdo acknowledged the seismic change and opening up that China has been through since the reforms in 1978. "China's transformation over the last 40 years has been truly remarkable. I am pleased that the WTO has been part of this historic journey, by facilitating the process of opening-up, reform and liberalisation."

Indeed, China continues to be a vocal supporter of the multilateral system and its engagement with the WTO is widely encouraged. The most recent WTO Trade Policy Review in July 2018<sup>12</sup> was also generally positive.

However, there remains the persistent view, summarized here by Edward Alden, Senior Fellow of the Council on Foreign Relations that "China never accepted the norms of the WTO". There is certainly an issue with the pace of change even if the path to liberalization is already clear: the Bloomberg Editorial Board wrote that "following through on the ambitious market reforms Xi himself laid out in his inaugural economic plan in 2013 would address many Western complaints."<sup>13</sup>

Given the current impasse there are calls for the US and China to work together, and for the WTO to play a mediating role. Bringing the current phase of disruption to an end will require pragmatism from all sides, and mutual trust, without which the WTO cannot operate.

A successful conclusion of the current set of issues may require China to acknowledge that since its accession to the WTO, its role in the global economy, the speed of its growth and its cumulative size has caused significant negative externalities in other domestic economies. This is at the root of a lot of the political baggage.

Furthermore, although China may claim developing country status due to its 'net' economic condition, in reality it does not operate like a developing country in 'gross' terms. China is the second largest economy in the world, and a significant source of global foreign direct investment for other WTO members. Given the levels at which it can mobilise resources and the sophistication of

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<sup>11</sup> China plus the WTO, IMF, World Bank, ILO, OECD and the Financial Stability Board

<sup>12</sup> [Concluding remarks by the Chairperson](#), Trade Policy Review: China, July 2018 (WTO website)

<sup>13</sup> [China Needs a New Commitment to Economic Reform](#), Bloomberg Editorial, December 2018



large parts of its economy — in some cases far beyond developed countries — it is not a developing country in usual terms. Special treatment for China is not the same as special treatment for Chad.

At the same time, the incumbent powers need to acknowledge several things about China and several other middle-income countries that have similarly mixed development. Despite China's size, and the sophistication of some parts of the economy of similar countries, these countries still have significant poverty to address, and may need special treatment for some areas of their economies.

There are several policy recommendations to address this issue objectively.<sup>14</sup> One option is to set an objective international definition of 'developing country', as the UN, IMF and World Bank do. If not for the whole economy, then for certain sectors such as agriculture, where developing country status could be invoked. The status could be accepted for current WTO commitments, but not for selected future negotiations. It is in all members' interests to ensure terminology is correct and members are treated fairly and correctly.

Beside the issue with China, on some of the specific issues highlighted in Part I — IP issues, sovereignty, and the general needs of developing countries — the rules may need to be revisited. For example, international IP rules may have serious negative consequences on issues like access to medicines in some cases. On subsidies, there is significant hypocrisy given the agricultural subsidies that developed countries give which harms developing countries (e.g. the EU's common agricultural policy), and the corporate welfare systems that exist in many developed countries such as the US.

### **Negative externalities**

Given the number of technical areas to be addressed and the political challenges described above, it may be overly ambitious to suggest other areas for improvement. However, the below suggestions aim to future-proof the WTO, increasing its utility, and ensuring that it is safeguarding the wealth and prosperity of generations to come. These are opportunities for the WTO to show that it can deal with the realities of the contemporary global economy and may help it avoid a political cliff-edge in the future.

### **Environmental agreements**

Greenpeace and Friends of the Earth wrote a paper<sup>15</sup> for the WTO on how the organisation can get better at integrating and defending the interests of multilateral environmental agreements. There is scientific consensus that global eco-systems are being severely impacted as a result of human activity. As the impacts are felt in different countries they will cause differences in opinion between global players who seek different outcomes and may cause friction in the negotiation and implementation of trade rules. There has already been discussion and cases which has led to collaboration between the multilateral environmental agreement secretariats.<sup>16</sup> However, as the impacts of climate change become more obvious, there may need to be greater thought into how

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<sup>14</sup> [China's developing country status in the WTO: time for an upgrade?](#), Wendy Cutler and Kevin Doyle, Asia Society Policy Institute, January 2019 (East Asia Forum website)

<sup>15</sup> [Is the WTO the only way?](#), Greenpeace, Friends of the Earth and Adelphi Research (WTO website)

<sup>16</sup> [The Doha mandate on multilateral environmental agreements \(MEAs\)](#), (WTO website)



the WTO and trade rules can support countries' efforts against climate change and other environmental issues.

### **Tax havens**

Organisations such as Tax Justice Network and the Open Society Justice Initiative have proposed that the WTO could be leveraged to address issues around tax havens. The Open Society Justice Initiative has been considering a WTO challenge regarding tax havens on the basis that they exacerbate global inequality. As the WTO has helped drive liberalisation and globalisation, so has the ease of avoiding taxation, which particularly effects developing countries. Looking at tax havens through the lens of the WTO highlights their distorting impact on the international economy. There is some precedent in terms of tax laws being interpreted as preferential treatment or undermining the benefits of engaging in the global trade system.

### **Data and the digital economy**

Finally, we would be remiss not to mention the huge impact that the internet and ICT-enabled technologies and businesses are having on global trade. Beyond the more obvious challenges of businesses such as e-commerce sites are the less tangible challenges of cloud computing, data privacy, and artificial intelligence.

The digital economy is to some extent already governed by the General Agreement on Trade in Services, but there will need to continue to be a mix of clarification of older rules — GATS, TRIPS, TBT — as well as the development of new rules for new challenges. In some cases, the larger regional trade agreements such as the CPTPP may set the agenda; both the CPTPP and the USMCA have commitments to free data flows. Smaller countries are more at risk as they are more reliant on global data than countries such as the US or China.<sup>17</sup> In any case, with the likely impact of technologies such as AI, the implications for global trade should be considered by the WTO and its members.

### ***About the author and Asia House***

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<sup>17</sup> [The impact of artificial intelligence on international trade](#), Joshua P. Meltzer, December 2018 (Brookings website)