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The World Trade Organization

Overview

The World Trade Organization (WTO) was established on January 1, 1995, following the ratification of the Uruguay Round Agreements, and today includes 164 members. It succeeded the 1947 General Agreement on Tariffs and Trade (GATT), created as part of the post-WWII effort to build a stable, open international trading system. The WTO has three basic functions: (1) administers existing agreements; (2) serves as a negotiating forum for new trade liberalization and rules; and (3) provides a mechanism to settle disputes. The multiple WTO agreements cover trade in goods, services, and agriculture; remove tariff and nontariff barriers; and establish rules on government practices that directly relate to trade—for example, trade remedies, technical barriers to trade (TBT), intellectual property rights (IPR), and government procurement (**Table 1**). The agreements are based on the principles of nondiscrimination among countries—most-favored nation (MFN) treatment, national treatment, fair competition, and transparency of trade rules and regulations. Some exceptions, however, such as preferential treatment for developing countries and regional and bilateral trade agreements outside the WTO, are allowed.

The GATT/WTO system over time has led to a significant reduction of trade barriers, supported trade expansion and economic growth, and helped manage trade frictions. At the same time, the WTO has faced serious challenges, some longstanding and some emerging more recently. One fundamental concern is that the WTO could lose relevance due to its inability to adapt to the modern global economy and the lack of a successful round of major trade liberalization since 1994. These and other concerns have led several members to propose reforms to the institution in attempts to safeguard and improve it.

Congress has recognized the WTO as the “foundation of the global trading system” within U.S. trade statutes and plays a direct legislative and oversight role over WTO agreements. As debates over the WTO’s future intensify, a number of issues may be of interest to Congress, including how WTO agreements affect the U.S. economy, the outcomes of ongoing reform and negotiation efforts, and the value of U.S. membership and leadership in the WTO.

The Doha Round

The Doha Development Agenda, the latest “round” of multilateral trade negotiations, was launched in 2001 but ended in stalemate, with no clear path forward. The WTO’s large and diverse membership and the “single undertaking” approach made consensus on the broad Doha mandate difficult. The negotiations were characterized by persistent differences among the United States, European Union (EU), and developing countries on major issues, such as agriculture, industrial tariffs and nontariff barriers, services, and trade remedies. For example, developing countries

(including emerging economic powerhouses, China, Brazil, and India) sought the reduction of agriculture tariffs and subsidies among developed countries, nonreciprocal market access for manufacturing sectors, and protection for their services industries. In contrast, developed countries sought reciprocal trade liberalization, especially commercially meaningful access to advanced developing countries’ industrial and services sectors, while retaining some measure of protection for their own agricultural sectors.

The lasting legacy of Doha may be the successful negotiation of the Trade Facilitation Agreement (TFA), which entered into force in early 2017 and aims to remove customs obstacles and inefficiencies at the border.

At the latest Ministerial Conference in December 2017, WTO members were unable to announce major deliverables or negotiated outcomes. However, separate groups of members announced initiatives, work programs or plurilateral talks in areas including e-commerce and investment facilitation. The United States signed on in support of e-commerce talks. While many members were disappointed by the limited progress, in the view of the U.S. Trade Representative (USTR), the Ministerial “will be remembered as the moment when the impasse at the WTO was broken...like-minded WTO Members...are not held back by the few Members that are not ready to act.”

Table 1. GATT/WTO Rounds

Year	Name	Subjects covered	Countries
1947-1961	Geneva, Annecy, Torquay, Geneva II, Dillon	5 rounds of tariff reductions	23 (1947); 26 (1961)
1964-1967	Kennedy	Tariffs and antidumping measures	62
1973-1979	Tokyo	Tariffs, antidumping, subsidies, TBT, government procurement	102
1986-1994	Uruguay	Tariffs, nontariff measures, rules, services, IPR, dispute settlement, textiles, agriculture, WTO institution	123
2001-2015*	Doha	Tariffs, nontariff measures, agriculture, services, trade facilitation, trade remedies, and development	142 (2001); 164 (current)

Source: WTO.

Notes: *At the 2015 Ministerial, WTO members acknowledged divisions over reaffirming Doha’s mandates. As a result, many observers considered the round to be effectively over.

Agriculture and Development

Agriculture is one of the thorniest issues on the WTO’s agenda. While no breakthroughs were reached at the 2017 Ministerial, members committed to continue negotiations on fisheries subsidies, now with a goal of completion by the

next Ministerial in June 2020. In 2015, members agreed to a number of agriculture initiatives, including new disciplines on export financing and export state trading enterprises; to phase out export subsidies; and to minimize or eliminate the impacts of food aid on local markets. None of the commitments, however, are legally binding or subject to dispute settlement. Members also reached agreement on several measures for least developed countries (LDCs), encompassing various special and differential treatment.

Plurilateral Initiatives

While multilateral efforts have progressed slowly, several other initiatives, including plurilateral negotiations, are underway within and around the WTO. Past plurilateral agreements with U.S. membership cover key sectors and are viewed by some as successful models for other efforts.

- **Government Procurement Agreement (GPA).** The GPA provides market access for various nondefense government projects to its signatories. In force since April 2014, the revised GPA expanded market access and covered entities, and currently has 48 members.
- **Information Technology Agreement (ITA).** A subset of members agreed in 2015 to expand product coverage for tariff-free treatment in the 1996 ITA. The updated ITA is to eliminate tariffs over seven years on 201 additional goods. Tariff reductions or elimination are applied on a MFN basis to all WTO members.

New plurilateral initiatives underway include:

- **E-commerce.** As noted, over 75 WTO members, including the U.S., EU, and China agreed to new e-commerce negotiations, which launched in March 2019. The United States seeks a high ambition for these talks, including commitments on cross-border data flows and bans on data localization and forced technology transfer.

Other plurilateral talks are currently stalled, related to services and environmental goods. Some raise concerns that plurilateral approaches, while useful, could potentially marginalize other non-participating countries or allow for free riders who benefit from others' commitments.

Ongoing Challenges

Since the Doha Round, intractable issues and active debate confront the WTO. Many members and observers concur that the WTO must adopt reforms to remain an effective institution, in terms of its negotiating, monitoring, and dispute settlement functions.

Negotiating Agenda. Some issues on the Doha agenda, ideally negotiated multilaterally, remain contentious and may founder for want of a negotiating venue: for example, attempts to discipline agricultural subsidies or resolve concerns on public stockholding programs. In addition, since 1995, new trade barriers, technology advances, and other issues have emerged. Developed countries have sought to incorporate issues on the agenda, such as digital trade and state-owned enterprises that pose challenges to the trading system. Some, including the United States, point to plurilaterals as the way forward to address new issues.

More broadly, the United States contends that WTO rules were not designed to effectively handle the challenges of emerging markets like China that many experts view as not

fully-fledged market economies. To this end, the U.S., EU, and Japan are engaged in discussions to establish strengthened rules on subsidies and other issues raised by non-market economies where the state plays a major role.

WTO reform. USTR has indicated interest in institutional reform of the WTO in major areas: (1) addressing “unanticipated challenges of non-market economies”; (2) ensuring respect in dispute settlement rulings for members’ “sovereign policy choices”; (3) compelling members to adhere to WTO notification obligations, such as for subsidies; and (4) reassessing the treatment of “developing country status” that grants some members flexibilities in WTO commitments. Some U.S. frustrations with the WTO are not new and are shared by other members, but approaches to solutions differ. Several members, including the U.S., EU, and Canada, have submitted various proposals on these issues, now under debate at the WTO.

Dispute Settlement. A major area of ongoing reform efforts involves the WTO dispute settlement (DS) system. To supporters, the DS system is considered one of the successes of the WTO. The United States has been an active user of the system (**Table 2**). However, some are concerned about the continued legitimacy of the DS system if no further WTO agreements are reached, thus preventing new trade issues from being adjudicated.

Table 2. WTO Dispute Settlement: December 2019

Total cases filed—all parties	592
U.S. as Complainant	124
U.S. as Respondent	155
U.S. as Third Party	156

Source: WTO.

The Trump Administration has further highlighted several issues with WTO DS. One of its major concerns involves what it considers “judicial overreach” in panel decisions, which, in effect, may create new obligations not specifically negotiated, especially in the area of trade remedies. To spur reform, the United States has blocked appointment of new jurists to the seven-member Appellate Body (AB), which reviews appeals of dispute cases. On December 10, 2019, the terms of two of the three remaining members are set to expire, leaving the AB unable to function. While the EU and others have proposed reforms to address U.S. concerns, thus far, they have been rejected by the United States. A key question is the impact of the absence of an AB on the effective enforcement of WTO rules moving forward.

Unilateral Enforcement Actions. Many observers are also concerned that recent U.S. tariffs and counter-tariffs by other countries, as well as escalating trade disputes are further straining the WTO. In response, some members have brought dispute cases against the U.S., as has the U.S., in turn. Observers express concern that unilateral tariffs may undermine the credibility of the WTO system and its key rules and principles, and lead to ongoing new trade restrictions, without due consideration of the multilateral trading rules which aim to deter such action.

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