



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) administering existing agreements; (2) serving as a negotiating forum for new trade liberalization and rules; and (3) providing 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 faces 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 by its failure to negotiate a successful round of major trade liberalization since 1994. This and other concerns have led several members to propose reforms to the institution in attempts to safeguard and improve it. In 2020, members also face selecting a new Director-General (DG) to usher the trading system through these challenges, following DG Roberto Azevêdo’s early resignation in August.

Congress has recognized the WTO as the “foundation of the global trading system” within U.S. trade statutes and plays a legislative and oversight role over WTO agreements. Some Members have expressed support for WTO reform efforts and U.S. leadership; while others have introduced joint resolutions to withdraw congressional approval of WTO agreements. As debates over the WTO’s future intensify, several issues may be of interest to Congress, including WTO agreements’ effects on the U.S. economy, the outcomes of ongoing reform and negotiation efforts, and the value of U.S. membership and leadership.

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. Developing countries sought the reduction of agriculture tariffs and subsidies by developed countries, nonreciprocal market access for manufacturing sectors, and protection for 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 protection for their own agricultural sectors.

Agriculture, where multilateral solutions arguably remain ideal, remains among the thorniest issues on the agenda leftover from Doha. In 2015, members agreed to limited deals, including on phasing out export subsidies, minimizing impacts of food aid on local markets, and several measures for least developed countries.

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 most recent WTO Ministerial Conference in 2017, no major deliverables were announced, leaving the stakes high for the next meeting. In 2020, members were forced to postpone the 12th Ministerial (MC12) to 2021 due to the Coronavirus Disease 2019 (COVID-19) pandemic. MC12 was widely anticipated as an action-forcing event for the WTO. Members have committed to make significant progress on ongoing talks, including on fisheries subsidies, and advancing e-commerce and other areas.

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.

Plurilateral Initiatives

While multilateral efforts have progressed slowly, several plurilateral talks are underway within and around the WTO. Past agreements with U.S. membership cover key sectors and are viewed 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.

An ongoing plurilateral initiative of U.S. interest is the e-commerce negotiations, launched in March 2019 by 75 members. The United States seeks a high ambition for these talks, including disciplines 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 (DS) functions. In the near term, some members have also called on the WTO to address the trade policy challenges that emerged from COVID-19.

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

COVID-19. WTO members face challenges in responding to the global trade and economic slowdown from COVID-19. The pandemic has tested cooperation and coordination in global trade policies, disrupted global supply chains, and

resulted in widespread trade protectionism. The WTO has committed to work to minimize disruptions to trade, and encouraged WTO members to notify new trade measures. At the same time, many countries have reaffirmed the trading system, lifted restrictions, and view the WTO as playing an important role in tackling trade policy challenges that have emerged from the pandemic. Some members have advocated for a plurilateral agreement on medical goods.

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 DS rulings for members’ “sovereign policy choices”; (3) compelling members to adhere to WTO notification obligations; and (4) reassessing the treatment of “developing country status” that grants some members flexibilities in WTO commitments. Some U.S. frustrations are not new and are shared by other members, but approaches to solutions differ. Several WTO members have submitted proposals on these issues now under debate.

Dispute Settlement. To supporters, the DS system is considered a WTO success. The United States has been an active user of the system (**Table 2**). However, some are concerned about the DS system’s continued legitimacy absent reforms and if no new WTO agreements are reached, thus preventing new trade issues from being adjudicated.

Table 2. WTO Dispute Settlement

Total cases filed—all parties	596
U.S. as Complainant	124
U.S. as Respondent	155
U.S. as Third Party	161

Source: WTO, as of September 2020.

The Trump Administration voiced major concerns with DS, including 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. As a result, the AB ceased to function in December 2019. 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 AB’s absence on the effective enforcement of WTO rules moving forward.

Unilateral Enforcement Actions. Many observers are also concerned that U.S. tariffs and counter-tariffs by other countries, as well as escalating trade disputes are further straining the WTO. Several related WTO disputes are pending DS decisions. Observers express concern that unilateral tariffs, some pursued in the name of national or economic security, may undermine the credibility of the WTO and its key rules and principles, and lead to ongoing new trade restrictions. While WTO agreements offer ample flexibility for temporary measures justified by national security or health crises, the spread of export restrictions following COVID-19 have further amplified such concerns.

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