



# **Saving the WTO**

# **A Roadmap to the Future**

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If we knew where we are and whither we are tending, we could better judge what to do and how to do it.

Abraham Lincoln  
1858

# The roadmap

- Understanding what we have
- Identifying the primary challenges
- Charting a path to the desired future

I have a decidedly positive view of the WTO's future.

The challenge is getting there.

# The Value of the WTO

- It governs some 75 to 80% of world trade
- All RTAs are based on the WTO rulebook.
- All 164 of its Members state that having a multilateral trading system serves their interests.
- It is a place where sovereign nations seek to find ways to cooperate with each other for mutual economic benefit.

# The Value of the WTO

- A forum in which they can:
  - set the rules for international trade
  - raise specific trade concerns with other countries
  - settle their trade disputes
  - achieve their development goals.
- For the most fragile and conflict-affected countries, membership is about achieving and maintaining peace through improving the lives of their peoples.

# The Value of the WTO

Billions of people have had and are having better lives as a result of the creation of this liberal international economic order.

# **Eight current Major Challenges**

- 1. Dealing with the trade aspects of fighting the pandemic.**
- 2. Using trade to boost the economic recovery, with special attention to developing countries.**
- 3. Making the recovery greener.**
- 4. Assuring that carbon border adjustment measures are based on cooperation and do not become a source of conflict.**

# Current Major Challenges

5. **Forestalling fragmentation of the digital economy**
6. **Putting into place binding dispute settlement that is accepted as legitimate by all litigants.**
7. **Making the trading system visibly more positive for workers.**
8. **Reforming the WTO as an institution.**

*The country needs and unless I mistake its temper the country demands bold persistent experimentation. It is common sense to take a method and try it. If it fails admit it frankly and try another. But above all try something.*

*Franklin Roosevelt*

*The credit belongs to the man who is actually in the arena, . . .who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.*

*Theodore Roosevelt*

# Saving the WTO

- The WTO can only be saved through action.
- Timidity is a recipe for a steady decline.

# Priority #1 -- Curbing *sauve qui peu* vaccine nationalism.

- The greatest challenge by far to international trade at present is assuring the flow across borders of vaccines, medicines, medical supplies and medical equipment to deal with the pandemic.
- Pious words are insufficient.
- Agreement must be reached on how the trade aspects of this and future pandemics are to be dealt with.

# Fighting the pandemic

- Transparency
  - Export restrictions
  - Vaccine availability
  - Prospects for increasing supply,
  - Terms of licenses
- Unfettered monitoring

# Fighting the pandemic

- Suspend tariffs on essential goods via –
  - Pharmaceutical Agreement
  - The Information Technology Agreement
  - Create an Essential Health Products Agreement (EHPA) for zero tariffs, elimination of other trade barriers, trade facilitation measures, and make supply commitments.

# Export Restrictions on Essential Goods

- Take into account the effects on others
- Define the obligation to provide an "equitable share"
- Good offices to mediate differences
- Make trade facilitation measures for essential goods and services fully effective

# Fighting the pandemic

- Ad hoc Working Party on Covid 19
- Coordinated subsidization of GVCs for essential goods (Bown)
- Accelerated dispute settlement
- Non-traditional responses – “the Ngozi factor” (coordinated investment push)
- Work with WHO, World Bank, IMF, OECD.

# Collateral benefit: WTO reform

## *Salvation through good works*

- Restoring rule-making and liberalization
- Re-creating dispute settlement
- Building a proactive executive
  - Informing
  - Enforcing
  - Bridging divides

## 2. Supporting the economic recovery

- Recognize that trade is an essential supplement to fiscal and monetary policy
- Hold the line on unnecessary protection (e.g. on food)
- Use the bully pulpit for maintaining GVCs
- Restore trade finance (avoid a K-shaped recovery)

# 3. Making the recovery greener

- Structured discussion on trade and the environment
  - Technical assistance
  - Aiming for deliverables
- Informal dialogue on plastics

# 4. Dealing with climate change

- Second tier only because of Covid-19
- WTO is permissive re: environmental regulation
- CBAM
  - Conflict or cooperation.
- Policy support for low carbon technologies
- Addressing industrial subsidies fostering sustainability outcomes

# Dealing with climate change - cont'd

- Reducing fossil fuel subsidies.
- EGSA
- Eco-labeling (ACCTS)
- Dealing with food scarcity
- WFP exemption from export restrictions

## 5. Forestalling fragmentation of the global digital economy

- Either the WTO creates a rule-book or individual Members will do so.
- Expiration of waiver on electronic transmissions.
- Early harvest or bundle with hardest issues –
  - freedom of cross-border data flows
  - Forced location of servers

## 6. Making trade agreements enforceable again

- Enforceability is the distinguishing feature of the WTO
- Goal: binding dispute settlement that is accepted as legitimate by all litigants.
- The price of liberalization is trade remedies

# 6. Making trade agreements enforceable again

- *Gouvernement des juges*
  - *Baked in flaw – no accountability to DSB*
  - *No checks and balances w/o a legislative function*
- **The US problem**
  - Traditional trade remedies
  - AB on "public body"

# 6. Making trade agreements enforceable again

- **Solution will be structural, a new Appellate Body**
  - Settling disputes not making law
  - Directions from Members to give deference to national interpretations
  - Expanded membership.
  - Time limits
  - No gap filling
  - No dicta
  - Oversight by DSB

# 7. A system designed to benefit people

- **Enabling commercial success of workers, farmers, small business and women.**
- **A political imperative**
  - Permit necessary trade remedies
  - Open foreign markets
  - Address child labor, slave labor, forced labor
  - Accept suppression of wages as a subsidy
- **Collaboration with ILO, and IFIs**

## 7.5. Other risks – “The Great Fracture”

U.S. Secretary General Gutierres’ warning of coming dystopia:

- Existential climate crisis
- Risky technology
- Deep mistrust
- Surging geopolitical tensions

# Deep Mistrust

- Unilateralism – US <> China
- RTAs for competitive mercantilism
- Vaccine nationalism
- Foreign policy affecting commercial relations
  - China/Australia, Rare earths, semiconductors, Japan/Korea, 5G
- Partial answers
  - Better rules, better dispute settlement, better transparency

# 8. Institutional reform . . . now!

- **Must have**
  - Deliberation and negotiation
  - Enforcement through dispute settlement
  - A strong executive
- **Can only be achieved by addressing the immediate challenges through action**
- **A near-term separate compact/alternative venue?**
  - A Washington consensus?

# New rules

- **No veto over the activity of others**
  - An end to hostage taking by non-participants
- **No appeals into the void allowed.**
  - Panel reports would be binding unless alternative arrangements are made.
- **Consensus only required for rules of universal applicability**
  - An end to the convoy system
- **Future agreements will be multi-speed.**
  - Those who can achieve progress may do so
  - MFN is optional if WTO plus.
- **All are expected to contribute to the WTO moving forward.**

# In sum:

## The Path Forward – 2021-23 Agenda

- Vaccine pact
- Economic recovery
- Making it green
- CBAM pact
- E-commerce pact
- Dispute settlement – enforceability restored
- WTO for people – rebalancing, trade finance
- Institutional reform cont'd
  - Rule-making and trade liberalization
  - Creating the WTO Executive Branch
- Fisheries subsidies agreement and WFP Agreement

# The Path Forward – 2021-23 Agenda

- Beginning the great consolidation
  - Harvesting and digesting the RTAs

# The future of the WTO

It cannot be allowed to become  
*“a relic of a vanished civilization”*

# The largest must invest more in the WTO

- U.S.: return to committing to make multilateralism work.
  - EU: move with greater speed with proposals that are more ambitious
  - China: contribute in line with its global status
- - - - -
- All three supported by Japan and mid-sized friends of the system

**These next two to three years are critical**

**To get to the future, the WTO has to get through the present challenges**

**THANK YOU**