



Review Paper

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The Role of the World Trade Organization in the Contemporary World: Evolution, Crisis, and the Imperative for Reform

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ABSTRACT

In 1995, represents the zenith of a half-century effort to construct a rules-based multilateral trading system. As the successor to the General Agreement on Tariffs and Trade (GATT), it was endowed with a permanent institutional structure and a powerful dispute settlement mechanism, designed to foster free and fair trade, stimulate economic growth, and provide a predictable framework for global commerce. This paper argues that while the WTO has been instrumental in reducing trade barriers and mediating disputes, it is now confronting an existential crisis that threatens its relevance and the stability of the global economic order. This crisis is not a singular event but a confluence of systemic failures: the paralysis of its negotiating function, exemplified by the protracted stalemate of the Doha Development Round; the incapacitation of its judicial function through the politically motivated neutralization of its Appellate Body; and its struggle to adapt to the challenges of 21st-century trade, including the digital economy, sustainability, and the rise of state-led economic models. The analysis traces the WTO's evolution from the provisional GATT, critically assesses its dual role as both a facilitator of trade and a source of asymmetrical outcomes for developing nations, and examines the rise of unilateralism, particularly by the United States, as a direct challenge to its multilateral foundations. The paper concludes that the WTO's survival hinges on a profound and comprehensive reform agenda aimed at restoring its core functions, modernizing its rulebook, and addressing the deep-seated tensions between trade liberalization and equitable development.

Introduction

The WTO as a Cornerstone of Global Economic Governance

The World Trade Organization (WTO) stands as a pivotal institution in the architecture of modern global economic governance. Since its inception on January 1, 1995, it has functioned as the principal international body dedicated to supervising and liberalizing international trade. With a membership of 166 nations as of 2024, the organization presides over rules that govern more than 98% of global trade and investment flows, making it a nearly universal framework for commercial relations. The WTO's foundational purpose is to ensure that trade flows as smoothly, predictably, and freely as possible. This is achieved through a tripartite mission: serving as a forum

for negotiating the reduction of trade barriers, administering a comprehensive set of trade agreements, and providing a mechanism for resolving trade disputes among its members. In this capacity, the WTO is far more than a simple trade facilitator; it is a linchpin of the post-World War II commitment to multilateral cooperation, designed to foster economic interdependence and prevent a return to the destructive protectionism of the 1930s. Its rules-based system is intended to create a level playing field, offering transparency and predictability that enable businesses to plan, invest, and trade with confidence, while also providing a legal shield for smaller nations against the unilateral actions of larger economic powers. The organization's influence extends beyond commerce,

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shaping the foreign policy strategies of its members and fostering a complex dynamic of economic cooperation and competitive diplomacy.

The Contemporary Crisis: A System at a Crossroads

Despite its monumental achievements and central role, the WTO is currently mired in a profound and multifaceted crisis that threatens its very existence. The institution that was once hailed as the "crown jewel" of the multilateral system is now frequently described as a "dysfunctional and paralyzed colossus". Its two primary functions—negotiation and dispute settlement—are effectively crippled. The negotiating arm has been largely stagnant since the collapse of the Doha Development Round, unable to produce significant multilateral agreements to update its 1995-era rulebook for the complexities of the 21st-century economy. Simultaneously, its dispute settlement system, once its most celebrated achievement, has been rendered impotent by the paralysis of its Appellate Body, leaving the enforcement of trade rules in jeopardy. This institutional decay is compounded by external pressures, including a resurgence of protectionism, the rise of unilateral trade actions by major powers like the United States, and the system's inability to forge consensus on critical emerging issues such as digital trade, industrial subsidies, and the trade-related aspects of climate change. The WTO is at a critical juncture, struggling to maintain its relevance in a world of fragmenting supply chains, geopolitical rivalries, and waning commitment to the multilateral ideal it embodies. This paper, therefore, seeks to answer a central research question: How did the WTO, an organization born from such high ambition, evolve to its current state of systemic crisis, and what fundamental reforms are necessary to ensure its survival and efficacy in a profoundly changed global landscape?

Historical Genesis: From the Post-War Order to the WTO

The story of the WTO is one of evolution, born from the ashes of war and the failure of a grander vision. Its roots lie in the post-war planning that sought to create a stable and prosperous international economic order.

A. The Bretton Woods Vision and the Failure of the ITO

In 1944, as World War II drew to a close, Allied leaders convened at the Bretton Woods Conference in New Hampshire. This historic meeting established two of the three pillars of the post-war economic system: the International Monetary Fund (IMF) and the World Bank. A third pillar was envisioned to govern international commerce: the International Trade Organization (ITO). The ITO was conceived as a comprehensive specialized agency of the United Nations, with a broad mandate covering not only trade rules but also employment, commodity agreements, and restrictive business practices. However, this ambitious vision was never realized. The ITO charter, negotiated in Havana in 1948, faced fierce opposition in the U.S. Congress, where it was viewed as an infringement on national sovereignty. In

1950, the Truman administration announced it would not seek ratification, and the ITO was effectively stillborn.

B. The GATT Era (1947-1994): A Provisional Agreement and Successive Trade Rounds

In the institutional vacuum left by the ITO's demise, a more modest and provisional instrument took its place: the General Agreement on Tariffs and Trade (GATT). The GATT was negotiated in 1947 by 23 founding nations as an interim measure while the ITO charter was being finalized. When the ITO failed, the GATT became the de facto framework for regulating world trade for nearly half a century. It was fundamentally an agreement, not an organization, lacking a formal institutional structure and applied on a "provisional" basis. Despite these limitations, the GATT was remarkably successful. Its primary mechanism for trade liberalization was a series of multilateral "trade rounds," where member countries, known as "contracting parties," negotiated reciprocal reductions in trade barriers.

Over eight rounds, the GATT system progressively dismantled the high tariff walls that had choked global commerce. The first five rounds focused almost exclusively on reducing tariffs on industrial goods.⁶ Subsequent rounds expanded the agenda. The Kennedy Round (1964–1967) was the first to tackle non-tariff barriers, resulting in an Anti-Dumping Agreement. The Tokyo Round (1973–1979) continued this work, achieving further tariff reductions and creating a series of "codes" on non-tariff measures, although these were plurilateral and only binding on their signatories. By the end of the GATT era, these negotiations had achieved dramatic results, with average tariff levels for major participants falling from a trade-weighted average of around 22% in 1947 to approximately 5% by the conclusion of the Uruguay Round in 1994.

C. The Uruguay Round (1986-1994): The Birth of the WTO

By the 1980s, the GATT system was showing its age. Its rules did not cover burgeoning areas of global commerce like services and intellectual property, and its dispute settlement process was weak, allowing losing parties to block adverse rulings. To address these structural deficiencies, the eighth and most ambitious trade round was launched in Punta del Este, Uruguay, in 1986. The Uruguay Round was a marathon negotiation, lasting over seven years and involving 123 countries. Its mandate was unprecedentedly broad: to reform trade in sensitive sectors like agriculture and textiles, to extend trade rules to the new areas of services and intellectual property, and to create a new, permanent institutional framework for world trade.

The negotiations culminated in the signing of the Marrakesh Agreement on April 15, 1994, which established the World Trade Organization. The WTO came into being on January 1, 1995, replacing the provisional

GATT system with a formal, member-driven international organization. The Uruguay Round's outcome was a "single undertaking," meaning all members had to subscribe to all its agreements as a package. This package included the updated GATT 1994 for trade in goods, the new General Agreement on Trade in Services (GATS), and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Perhaps most significantly, it created a unified and powerful Dispute Settlement Understanding (DSU), which established a quasi-judicial system with compulsory jurisdiction and the ability to issue legally binding rulings, a revolutionary step in international economic law.

The establishment of the WTO was a landmark achievement, institutionalizing the rules-based trading system and expanding its reach. However, the very nature of its birth contains the seeds of its current struggles. The WTO was born from the failure of the more holistic ITO, inheriting the GATT's narrower, mercantilist negotiating culture. The GATT rounds were largely driven by a "principal supplier" logic, where major developed economies negotiated tariff concessions on products of primary interest to themselves. Developing countries were often passive participants, benefiting from the Most-Favored-Nation (MFN) principle but having little say in setting the agenda. This framework, predicated on a transactional exchange of market access concessions, was ill-equipped to handle the complex, equity-based demands that would later emerge under the WTO's expanded mandate. When the Doha Round attempted to place "development" at the heart of the agenda, it collided with this deeply embedded bargaining paradigm. Developing nations, led by emerging powers, viewed concessions from the North on issues like agriculture as a matter of redressing historical imbalances, not as a down payment for which reciprocal market access in industrial goods and services was owed. Developed countries, operating under the old GATT logic, saw this as a refusal to reciprocate. This fundamental clash of perspectives, rooted in the WTO's evolutionary path from a provisional, great-power-driven agreement to a universal, member-driven organization, helps explain the intractable stalemate that has come to define its modern era.

Review of Literature

A vast and diverse body of scholarly work has examined the WTO's role, impact, and challenges. This literature can be broadly categorized into several key streams of discourse that provide the analytical foundation for this paper.

Scholarly Discourse on Multilateralism and Trade Liberalization

A significant portion of the literature positions the WTO and its predecessor, the GATT, as fundamental pillars of the post-war liberal international order and engines of global prosperity. Scholars in this tradition emphasize the

organization's success in creating a stable, transparent, and rules-based trading system. This system is argued to function as a global public good, reducing uncertainty and transaction costs for all participants, including non-members who benefit from the predictability it fosters. Empirical studies have sought to quantify this impact. While early work by Rose (2004a) controversially found no statistically significant evidence that GATT/WTO membership increased aggregate trade, it spurred a wave of subsequent research with more sophisticated methodologies. Many of these later studies have found a strong positive correlation. For instance, recent research using gravity models that account for domestic trade flows suggests that GATT/WTO membership has, on average, increased international trade between member countries by a spectacular 171% and between members and non-members by 88%. This literature credits the WTO not just with tariff reduction, but with providing a framework of binding commitments and transparency that underpins global economic integration.

The "Pro-Trade" vs. "Pro-Development" Debate

Juxtaposed with the celebratory literature is a critical and ongoing debate about the developmental consequences of the WTO system. This discourse questions whether the WTO's rules, while ostensibly "pro-trade," are genuinely "pro-development." One perspective holds that by establishing mechanisms for reducing trade barriers, the WTO is inherently pro-development, as trade liberalization is seen as a catalyst for growth. However, a substantial body of critical scholarship challenges this assumption. These studies often find asymmetrical benefits, arguing that the rules are structured in a way that disproportionately favors developed countries. For example, analyses of the Agreement on Agriculture (AoA) and the TRIPS Agreement contend that these frameworks institutionalize the advantages of rich nations while imposing significant adjustment costs and policy constraints on poorer ones. This leads to the argument that certain WTO rules are "anti-development" and that developing countries should be exempted from them. The legal and political manifestation of this debate within the WTO is the principle of Special and Differential Treatment (SDT), which grants developing countries special rights and flexibilities. The literature on SDT is itself divided, with some viewing it as a crucial tool for equitable integration and others seeing it as a flawed and often ineffective mechanism that has become a major source of contention in WTO negotiations.

Critical Perspectives on WTO's Legitimacy and Effectiveness

A third stream of literature focuses on the WTO's institutional legitimacy and declining effectiveness. Prominent economists such as Dani Rodrik and Ha-Joon Chang have argued that the organization's agenda has been captured by the interests of multinational

corporations, often at the expense of national development strategies, labor rights, and environmental protection. This critique extends to the WTO's governance structure. The practice of consensus-based decision-making, while designed to be inclusive, is frequently cited as a primary cause of institutional paralysis, as it allows any single member or small bloc of countries to veto progress. The persistent stalemate of the Doha Round is presented as the prime exhibit of this negotiating dysfunction. In response to this multilateral gridlock, countries have increasingly turned to bilateral and regional trade agreements (RTAs or PTAs). The proliferation of these agreements is seen by many scholars as a symptom of declining faith in the WTO and a force that contributes to the fragmentation of the global trading system, undermining the core WTO principle of non-discrimination.

The Legal and Political Analyses of the Dispute Settlement Crisis

The most recent and urgent body of literature concerns the crisis in the WTO's dispute settlement function. The system, once lauded as the organization's "crown jewel," has been effectively paralyzed since the United States began blocking appointments to its Appellate Body (AB) in 2017. Legal and political scholars have extensively documented the specific procedural and substantive concerns raised by the U.S., which include allegations of judicial activism, the creation of binding precedent, disregard for the mandated 90-day timeframe for rulings, and other procedural irregularities. The literature meticulously analyzes the consequences of the AB's collapse. The primary impact is the emergence of "appeals into the void," whereby a member that loses a case at the panel stage can file an appeal that can never be heard, thus blocking the adoption of the ruling and leaving the dispute in legal limbo. This practice is seen as a catastrophic blow to the rule of law in international trade, effectively allowing powerful countries to shield themselves from accountability and signalling a potential return to a power-based system of resolving trade conflicts. This body of work underscores that the DSM crisis is not merely a technical or legal issue but a profound political challenge to the very foundation of the rules-based multilateral order.

Research Objectives

This research paper is guided by a set of specific objectives designed to provide a comprehensive and nuanced analysis of the World Trade Organization's role in the contemporary global landscape. The study aims to achieve the following:

1. To trace the institutional evolution of the multilateral trading system, detailing the transition from the provisional framework of the General Agreement on Tariffs and Trade (GATT) to the permanent, rules-

based structure of the World Trade Organization (WTO).

2. To conduct an in-depth analysis of the systemic causes underpinning the WTO's contemporary crisis, with a particular focus on the paralysis of its core negotiating function, as exemplified by the Doha Development Round, and its judicial function, as seen in the incapacitation of the Appellate Body.
3. To examine the challenge posed by rising unilateralism, particularly U.S. national trade statutes, to the WTO's principle of multilateralism, and to propose coherent reforms that enhance its functionality, inclusivity, and relevance in 21st-century trade.

Research Methodology

This study employs a qualitative, descriptive-analytical research methodology. The research is not based on the generation of new primary data through empirical methods such as surveys or experiments. Instead, it relies on the comprehensive review, synthesis, and critical analysis of a curated body of existing secondary source materials. These sources encompass a wide range of documents, including peer-reviewed scholarly articles from the fields of international law, economics, and political science; official reports and legal texts published by the World Trade Organization and other international bodies like the United Nations and the World Bank; detailed legal analyses of trade disputes and agreements; and expert commentary from think tanks and policy institutes.

The methodological approach is multifaceted. It is normative-judicial when analyzing the legal architecture of the WTO, the text of its agreements, and the jurisprudence of its dispute settlement bodies, as this involves interpreting legal rules and principles.⁴⁰ It is historical and socio-political when examining the evolution of the trading system, the power dynamics that shape negotiations, and the conflicting interests of member states. By systematically collating and triangulating information from these diverse and authoritative sources, the paper aims to construct a coherent, evidence-based narrative. This method allows for a deep and nuanced exploration of the complex interplay of legal, economic, and political factors that define the WTO's role, its current crisis, and the prospects for its reform. The objective is to move beyond a mere description of events to an analytical synthesis that illuminates causal relationships and provides a multi-dimensional understanding of the subject matter.

Data Analysis

The WTO's Multifaceted Role and Systemic Challenges

This section undertakes a detailed analysis of the World Trade Organization's complex character, examining its

achievements, its shortcomings, and the profound challenges that have precipitated its current state of crisis. The analysis is structured to first appreciate the positive contributions of the multilateral system, then to critically assess its adverse impacts on developing nations, and finally to dissect the causes and consequences of its functional decline.

A. The Positive Contributions of the Multilateral Trading System

Despite its current difficulties, the GATT/WTO system has made indispensable contributions to the global economy and international relations for over seven decades. Its successes are foundational to the interconnected world of the 21st century.

a. Fostering Stability, Predictability, and Peace

One of the most profound, though often overlooked, benefits of the WTO system is its role in promoting peace and stability. By creating a forum where trade disputes can be handled constructively and based on rules, the system channels economic friction away from political conflict. Before the GATT, trade disputes could and did escalate. The WTO framework obligates members to bring their grievances to the organization rather than resorting to unilateral retaliation, a commitment that has significantly reduced international trade tensions. This rules-based order fosters a climate of confidence and predictability, which is invaluable for global commerce. Businesses can invest, hire, and build international supply chains with the assurance that market access rules are stable and not subject to arbitrary political whims. This transparency and predictability, anchored in a set of mutually agreed-upon rules, is a public good that benefits the entire global economy.

b. The Economic Gains: Tariff Reduction and Trade Expansion

The most quantifiable achievement of the GATT/WTO system is the dramatic liberalization of world trade. Through eight successive rounds of negotiations, the system has systematically lowered trade barriers. Average tariffs on industrial goods among major participants plummeted from levels as high as 22-35% in 1947 to an average of just 3.8% for advanced countries after the Uruguay Round. This reduction in trade costs has been a powerful engine for economic growth, raising incomes, expanding consumer choice, and stimulating innovation. The impact on the volume of trade has been staggering. Between 1950 and 2000, the volume of trade among GATT/WTO members increased twenty-five-fold. Modern economic studies, controlling for other factors, have found that joining the GATT/WTO has led to an average increase in international trade of 171% between member countries, a testament to the system's powerful liberalizing effect.

c. A Forum for Negotiation and Constructive Dispute Resolution

The WTO provides an institutional home for trade diplomacy. For developing countries, in particular, it serves as a "one-stop shop" for negotiations, allowing them to engage with multiple trading partners simultaneously without the immense cost and resource drain of countless bilateral talks. This centralized forum also provides opportunities for smaller countries to form coalitions, amplify their voices, and even take on leadership roles, as Kenya did in shaping the 2015 Nairobi Ministerial package. For most of its history, the WTO's Dispute Settlement Mechanism (DSM) was its most celebrated feature. It replaced the weak GATT system with a quasi-judicial process that was binding and largely de-politicized. This moves towards a rules-based, rather than power-based, resolution of conflicts strengthened the rule of law in international trade and gave all members, rich and poor, an equal right to challenge violations of WTO agreements. In its first decade alone, the system handled well over 100 disputes, demonstrating the faith that countries placed in its ability to resolve differences peacefully and constructively.

B. The Asymmetrical Impact on Lesser Developed Nations (LDCs)

While the aggregate benefits of the WTO system are clear, the distribution of those benefits has been far from even. For many of the world's poorest nations, the WTO has been a source of frustration and has perpetuated, rather than alleviated, structural inequities in the global economy.

a. The Controversy of Agricultural Subsidies and the Agreement on Agriculture (AoA)

The Uruguay Round's Agreement on Agriculture (AoA) was intended to bring the highly distorted sector of farm trade under multilateral discipline. However, for developing countries, it has largely been a "broken promise". Developed countries skilfully crafted the rules to their advantage. They chose the years 1986-1988—a period of exceptionally high subsidization—as the baseline from which to calculate their reduction commitments, meaning that the mandated cuts had little real-world impact. Furthermore, they exploited loopholes that allowed them to reclassify massive trade-distorting domestic subsidies as permissible "Green Box" or "Blue Box" support payments, which are deemed to be non-trade-distorting. The result has been the continuation of enormous subsidy programs in the U.S. and the EU, which lead to chronic overproduction. This surplus is then "dumped" on world markets at prices below the cost of production, an institutionalized practice that is uniquely permitted for agriculture under WTO rules. This depresses global commodity prices and devastates the livelihoods of farmers in developing countries who cannot compete. For example, subsidized U.S. maize exports have been linked to the ruin of smallholder farmers in Mexico, while EU export subsidies have had similar effects on rice farmers in Haiti and across sub-Saharan Africa. Compounding this, rich

countries maintain prohibitively high tariffs, known as "tariff peaks," on agricultural products of key export interest to developing nations, such as meat, dairy, and sugar, with rates sometimes exceeding 100%. The United Nations has estimated that these protectionist policies cost developing countries around \$100 billion per year in lost export revenue.

b. The TRIPS Agreement: Intellectual Property, Public Health, and Technology Transfer

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was a landmark achievement of the Uruguay Round, creating global minimum standards for the protection of IP, including a 20-year patent term for all inventions. However, it has been one of the most contentious agreements for developing countries. Critics argue that TRIPS has prioritized the commercial interests of pharmaceutical corporations in developed nations over the fundamental public health needs of the poor. By mandating patent protection for medicines, the agreement significantly increased the price of essential drugs, putting them out of reach for millions. The most prominent example was the struggle for access to affordable generic antiretroviral drugs to treat HIV/AIDS in the late 1990s and early 2000s, where countries like South Africa and Brazil faced intense pressure and legal challenges from pharmaceutical companies and developed-country governments for seeking to produce or import cheaper generic versions.

While the TRIPS agreement includes flexibilities like compulsory licensing and a 2001 Doha Declaration on TRIPS and Public Health affirmed the right of members to protect public health, these have often been difficult to implement in the face of political pressure. Furthermore, critics point out that the TRIPS agreement's promise to promote technology transfer to developing countries (Article 7) has been largely ignored. Instead of facilitating the spread of knowledge, the agreement has been accused of restricting access to new technologies, slowing the pace of innovation in the Global South, and locking in the technological dominance of the North. While some scholars suggest that TRIPS has had surprising strategic benefits for developing countries, such as providing them with greater leverage in other trade disputes, the predominant view is that it has imposed a development model that is ill-suited to their needs and was not followed by any of today's industrialized nations during their own development phases.

c. Special and Differential Treatment (SDT): A Promise Unfulfilled?

The principle of Special and Differential Treatment (SDT) is embedded throughout the WTO agreements. It is designed to give developing countries, and especially Least Developed Countries (LDCs), the specific rights and "policy space" they need to overcome development challenges. These provisions include longer transition periods to

implement agreements, technical assistance, and exemptions from certain obligations, such as the requirement to offer reciprocal market access in negotiations.

In practice, however, the effectiveness of SDT has been highly contested. Many SDT provisions are framed as "best endeavour" clauses, making them politically aspirational rather than legally enforceable commitments. Developed countries have been accused of using their economic and political power to sidestep these provisions when they conflict with their commercial interests. A more fundamental problem has emerged with the shifting geopolitics of trade. The WTO has no formal definition of a "developing country," allowing members to self-designate. The continued self-designation by major emerging economies like China, India, and Brazil has become a major point of contention. Developed countries argue that granting broad SDT benefits to these economic powerhouses is no longer justifiable and dilutes the benefits meant for the poorest nations. This has led to a stalemate, where proposals to strengthen SDT are blocked, leaving the principle in a state of suspended animation. This raises a crucial question at the heart of the reform debate: should the focus be on creating more exceptions and opt-outs (the current SDT model), or should the fundamental WTO rules themselves be rewritten to be inherently more supportive of development?

d. Structural Barriers to LDC Participation

Beyond the content of the rules, LDCs face profound structural barriers that prevent their effective participation in the WTO system. Engaging in the Dispute Settlement Mechanism, for example, is a resource-intensive endeavor. The legal fees for an average WTO case can run into hundreds of thousands of dollars, and preparing a case requires a level of legal and technical expertise that is simply beyond the capacity of most LDC governments. This creates a de facto two-tiered system of justice. Furthermore, a significant "political barrier" exists, where LDC governments are reluctant to initiate disputes against powerful developed countries for fear of diplomatic or economic retaliation, such as the withdrawal of aid or trade preferences. On the market access front, even when tariffs are low, LDCs struggle to export due to significant supply-side constraints (e.g., poor infrastructure) and a complex web of non-tariff barriers, such as stringent and costly sanitary and phytosanitary (SPS) standards and technical regulations in developed markets.

The very architecture of the WTO, built on principles like Most-Favored-Nation (MFN) and National Treatment, creates a developmental paradox. These principles, designed to ensure fairness and non-discrimination, prevent developed countries from offering targeted, preferential assistance to the neediest LDCs, as any such benefit would have to be extended to all WTO members,

including major economic competitors. At the same time, these principles require LDCs to open their own fragile markets and treat foreign firms no less favourably than domestic ones, exposing nascent industries to hyper-competitive global giants. The SDT framework was created as a patch to address this fundamental structural tension. However, this "one-size-fits-all" approach to development has proven dysfunctional. The rise of powerful emerging economies that still claim developing country status has made broad, non-reciprocal preferences politically untenable for the developed world. This has paralyzed the system, leaving the most vulnerable LDCs, who genuinely require policy space and targeted support, caught in the crossfire. The result is a system that is neither perfectly equal nor effectively differentiated, failing to deliver on its development promise.

C. The Decline of the WTO: A Crisis of Function

The contemporary crisis of the WTO is best understood as a crisis of its core functions. Both its legislative arm (negotiation) and its judicial arm (dispute settlement) are in a state of paralysis, a condition stemming from deep-seated political divisions and a failure to adapt to a changing world.

a. The Negotiating Function: Stalemate of the Doha Development Round

The launch of the Doha Development Agenda in 2001 was a moment of high ambition. It was intended to be a "development round," correcting the imbalances of previous negotiations and focusing on the needs of developing countries, particularly by tackling the thorny issue of agricultural trade reform.² However, after two decades of talks, the round is effectively dead, its failure symbolizing the breakdown of the WTO's negotiating function.

The stalemate was caused by a fundamental and irreconcilable clash of interests between the major trading blocs. Developed countries, primarily the United States and the European Union, were willing to offer some reductions in their trade-distorting agricultural subsidies, but only in exchange for significant new market access for their industrial goods and services in large emerging markets. On the other side, the G20 group of developing countries, led by India and Brazil, adopted a firm stance. They argued that concessions on agriculture from the North were not a bargaining chip but a long-overdue correction of historical injustices embedded in the trading system. They insisted that the "development" promise of the round meant that they should not be required to make equivalent concessions in other areas. This core disagreement, summarized in Table 1, created a political chasm that could not be bridged. Compounded by low political will in key capitals, where leaders were unwilling to take on powerful domestic lobbies like their farm sectors, the negotiations repeatedly collapsed, leaving the WTO unable to update its multilateral rulebook.

Table 1: Conflicting Positions of Key Actors in the Doha Development Round

Actor	Primary Offensive Interest (What they wanted)	Primary Defensive Interest (What they wanted to protect)	Key Sticking Point
United States	Significant new market access for industrial goods and services in major developing countries.	Its high levels of domestic farm support (subsidies).	Demanded deep tariff cuts from emerging economies as a precondition for its own agricultural subsidy reductions.
European Union	Increased market access for services and high-value industrial exports.	Its high agricultural tariffs and the Common Agricultural Policy (CAP).	Similar to the U.S., conditioned agricultural tariff cuts on reciprocal market opening by developing countries.
G20 (led by India & Brazil)	Substantial and real cuts to agricultural subsidies and tariffs in developed countries.	Policy space to protect their own agricultural sectors ("Special Products") and nascent industries.	Refused to offer major concessions on industrial tariffs without significant, upfront movement on agriculture from the developed world.
LDC Group	Duty-free, quota-free market access; preservation and strengthening of Special and Differential Treatment (SDT).	Protection from the negative impacts of preference erosion that would result from broad tariff cuts.	Largely a demandeur, but preference-dependent countries had a vested interest in the round's failure to maintain their existing advantages.

Source - The collapse of the Doha trade round in brief... - LSE CEP, <https://cep.lse.ac.uk/pubs/download/cp210.pdf>

b. The Judicial Function: Paralysis of the Dispute Settlement Mechanism

If the negotiating function is comatose, the judicial function is on life support. The incapacitation of the WTO's Dispute Settlement Mechanism, specifically its Appellate Body, represents the most acute and immediate threat to the rules-based trading system.

The U.S. Blockage and Systemic Concerns with the Appellate Body

Since 2017, the United States has systematically blocked the appointment and reappointment of all judges to the seven-member Appellate Body. As members' terms expired without replacement, the body's roster dwindled until December 2019, when it fell below the minimum quorum of three judges required to hear an appeal. It has been defuncted ever since. The U.S. has justified this unprecedented action by citing a list of long-standing "systemic concerns" about the AB's conduct. These include:

- **Judicial Activism and Overreach:** The central U.S. complaint is that the AB consistently exceeded its mandate by "creating" new law through expansive interpretations of WTO agreements, effectively legislating from the bench in ways that members never agreed to.
- **Stare Decisis:** The U.S. argued that the AB treated its past rulings as binding precedent, creating a de facto system of case law that is not provided for in the WTO agreements.
- **Procedural Violations:** The U.S. pointed to the AB's routine failure to issue its reports within the mandatory 90-day deadline and its practice of allowing judges to continue working on cases after their official terms had expired.
- **Issuing Advisory Opinions:** The AB was accused of ruling on issues not strictly necessary to resolve the dispute at hand.

Despite pleas from a coalition of over 127 WTO members to lift the blockage and begin the selection process, the U.S. has maintained its veto, insisting that its fundamental concerns have not been adequately addressed.

Consequences: "Appealing into the Void" and the Erosion of the Rule of Law

The paralysis of the Appellate Body has had devastating consequences for the entire dispute settlement system. Under WTO rules, a panel report issued at the first instance of a dispute can be appealed by either party. The report only becomes legally binding and enforceable after the appeal process is complete (or if no appeal is filed). With no functioning AB to hear appeals, any member that loses a case can now render the ruling null and void by simply filing a notice of appeal. This appeal goes "into the void," where it sits indefinitely, preventing the panel report from ever being adopted.

This procedural loophole effectively grants any losing party a veto over the legal process, destroying the binding nature of the system. It undermines the security and predictability that the DSM was created to provide and encourages non-compliance. The result is a rapid erosion of the rule of law in international trade and a slide back towards a power-based system where strong economies can violate rules with impunity, knowing there is no final

enforcement mechanism. The chilling effect is already evident: the number of new disputes being brought to the WTO has plummeted to roughly one-third of its pre-crisis level, a clear signal that members have lost confidence in the system's ability to defend their rights.

D. Unilateralism and the Challenge to the WTO Framework

The decay of the WTO's internal functions has been accompanied and exacerbated by an external challenge: the rise of aggressive unilateralism, most notably from the United States. This trend represents a direct assault on the foundational principle of multilateralism that underpins the WTO.

a. U.S. Section 232 and 301 Tariffs: Bypassing the Multilateral System

Beginning in 2018, the Trump administration initiated a series of major tariff actions that deliberately bypassed the WTO's established procedures for resolving disputes. These actions were taken under the authority of U.S. domestic trade law.

- **Section 232 of the Trade Expansion Act of 1962:** This law authorizes the President to impose tariffs on imports if they are found to "threaten to impair the national security." In 2018, this authority was used to impose a 25% tariff on steel and a 10% tariff on aluminium imports from most countries.
- **Section 301 of the Trade Act of 1974:** This statute grants the U.S. Trade Representative (USTR) broad authority to investigate and retaliate against foreign trade practices deemed "unreasonable or discriminatory." It was the legal basis for the imposition of tariffs on hundreds of billions of dollars' worth of imports from China.⁶

These unilateral measures are fundamentally inconsistent with the WTO's core obligation, which requires members to use the multilateral dispute settlement system to address grievances and to only impose retaliatory tariffs after receiving authorization from the WTO.

b. WTO Rulings and U.S. Non-Compliance

Many of the United States' trading partners, including China, the EU, Canada, and others, challenged the legality of these tariffs at the WTO. In a series of landmark cases, WTO dispute panels ruled decisively against the U.S. The panels found that the Section 301 tariffs against China violated fundamental WTO rules because they were applied discriminatorily and exceeded the U.S.'s bound tariff rates. Similarly, panels ruled that the Section 232 steel and aluminium tariffs were not justified under the WTO's narrow "national security exception" (GATT Article XXI), finding that the measures were not taken "in time of war or other emergency in international relations".

The U.S. response to these adverse rulings has been to reject them as flawed and an infringement on its sovereignty. In each case, the U.S. has appealed the panel decisions "into the void" of the paralyzed Appellate Body.

This action effectively blocks a final, binding judgment and prevents the complaining countries from obtaining WTO authorization to impose lawful countermeasures. This pattern of behaviour- violating WTO rules, losing the legal case, and then using the AB paralysis to escape the consequences-represents a direct and profound challenge to the entire legal framework of the WTO. It demonstrates a clear prioritization of domestic law over international commitments and cripples the organization's ability to enforce its rules against its most powerful member.

Table 2: Summary of U.S. Unilateral Tariffs and WTO Rulings

U.S. Action	Legal Basis	Affected Countries	WTO Dispute Case No.	WTO Panel Ruling	U.S. Response
Steel & Aluminum Tariffs	Section 232 of the Trade Expansion Act of 1962	Most countries, including China, Norway, Switzerland, Türkiye, Canada, Mexico, EU	DS544, DS552, DS556, DS564	Ruled in 2022 that tariffs violated GATT Articles I & II and were not justified by the national security exception.	Rejected the rulings as flawed and an overreach into national security matters; appealed the decisions "into the void".
Tariffs on Chinese Goods	Section 301 of the Trade Act of 1974	China	DS543	Ruled in 2020 that tariffs on over \$300 billion of Chinese goods violated GATT Articles I & II. ⁵⁸	Rejected the ruling; appealed the decision "into the void," preventing its adoption.

Source --International Trade Agreements and U.S. Tariff Laws | Congress.gov,

<https://www.congress.gov/crs-product/IF12995>

The crises afflicting the WTO's negotiating and judicial arms are not separate phenomena; they are deeply intertwined and mutually reinforcing. The legislative paralysis, epitomized by the failure of the Doha Round, created a trust deficit and fostered a belief among powerful members, especially the United States, that the organization was incapable of adapting to new global challenges, chief among them the rise of China's state-led economic model. This deep-seated frustration with the WTO's inability to negotiate new rules directly fuelled the subsequent assault on the Appellate Body. The U.S. came to view the AB not as an impartial arbiter, but as an activist court that was effectively creating new legal obligations through its interpretations-legislating from the bench in areas where political negotiations had failed. The decision to paralyze the AB was, therefore, not merely a procedural grievance but a strategic move to neutralize a judicial body that was perceived as filling a legislative vacuum in ways detrimental to U.S. interests. This judicial paralysis, in turn, makes any future negotiations exponentially more difficult. No country will be willing to commit to new,

binding international rules if the mechanism to enforce them is broken. This creates a vicious cycle of decay, where legislative failure begets judicial failure, and both together precipitate a systemic collapse of the multilateral trading order.

Conclusion and Recommendations

A. Recapitulation of Key Findings

This paper has traced the trajectory of the multilateral trading system from its ambitious post-war conception to its current state of profound crisis. The analysis demonstrates that the World Trade Organization, while a monumental achievement in establishing a rules-based framework for global commerce, is at a critical inflection point. Its positive contributions- fostering stability, dramatically reducing tariffs, and providing a forum for dispute resolution- are undeniable. However, these successes have been shadowed by significant failures. The WTO's rules have often had an asymmetrical and adverse impact on developing nations, particularly in the realms of agriculture and intellectual property, while mechanisms designed to promote equity, such as Special and Differential Treatment, have proven inadequate.

The contemporary crisis is systemic. The paralysis of the negotiating function, frozen since the Doha Round's collapse, has left the WTO with an outdated rulebook. The incapacitation of the Appellate Body has crippled its judicial function, eroded the rule of law and encouraged unilateralism. These are not isolated problems but symptoms of deeper maladies: a governance structure ill-suited to a diverse and expanded membership, a failure to reconcile the competing logics of trade liberalization and equitable development, and an inability to adapt to geopolitical shifts and the emergence of new economic models. The rise of unilateral actions by the United States, which directly bypass and defy the WTO's legal framework, is both a cause and a consequence of this systemic decay.

B. The Imperative for Reform: Making the WTO More Workable

The dissolution of the WTO would be a catastrophic outcome, risking a return to a fragmented, power-based trading world that would disproportionately harm smaller and developing economies. The only viable path forward is a comprehensive and courageous reform agenda aimed at restoring the organization's core functions and modernizing its purpose.

a. Reforming the Dispute Settlement System

Restoring a fully functional, two-tiered dispute settlement system is the most urgent priority. This requires breaking the political impasse over the Appellate Body. A sustainable solution must involve genuine engagement from the United States to address its long-standing systemic concerns. Reform proposals should focus on clarifying the AB's mandate to prevent judicial overreach, strictly enforcing the 90-day time limit for appeals,

and establishing clear rules on the precedential effect of past rulings. Informal reform discussions have also focused on streamlining the entire process, including placing limits on the length of submissions and establishing stricter timetables for panels. While the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), created by the EU and other members, serves as a valuable temporary bridge and demonstrates a commitment to a two-tiered system, it is not a substitute for a permanent, multilateral solution. Ultimately, a grand bargain is needed, one that restores the binding nature of the system while incorporating safeguards against the judicial activism that fuelled the crisis.

b. Modernizing the Rulebook: E-commerce, Sustainability, and 21st-Century Trade

The WTO's rulebook, largely drafted in the early 1990s, must be updated to reflect the realities of the 21st-century economy.

- **Digital Trade:** Given the difficulty of achieving multilateral consensus, the plurilateral Joint Statement Initiative (JSI) on E-commerce is the most promising path forward. This negotiation, involving over 90 members, aims to establish global rules for critical areas like cross-border data flows, online consumer protection, e-signatures, and the protection of source code. A key challenge will be to bridge the philosophical divide between the open-data approach favored by the U.S. and EU and the state-centric, control-oriented model of China, while also updating foundational agreements like GATS to properly cover digital services.
- **Sustainability:** The WTO must play a more constructive role in addressing global environmental challenges. Concluding the two-decade-long negotiations on eliminating harmful fisheries subsidies is a crucial test of the organization's credibility and its ability to deliver on sustainability goals. Further steps should include reviving negotiations on an Environmental Goods Agreement (EGA) to liberalize trade in green technologies and developing disciplines to phase out inefficient fossil fuel subsidies.
- **Flexible Rulemaking:** The paralysis of the Doha Round has shown that consensus among all 166 members on complex new issues is often impossible. Therefore, "plurilateral" agreements among coalitions of the willing should be embraced as a legitimate and pragmatic tool for rulemaking, with frameworks that allow other members to join later.

c. Enhancing Inclusivity and Effectiveness for Developing Nations

For the WTO to regain its legitimacy, it must deliver more tangible benefits for its developing members.

- **Reforming SDT:** The current system of self-designation for "developing country" status is untenable. It must be replaced with a more

differentiated approach based on objective and dynamic criteria, such as GNI per capita or share of world trade. This would allow SDT benefits to be targeted to the LDCs and other small, vulnerable economies that truly need them, rather than being claimed by globally competitive emerging powers.

- **Fundamental Rule Changes:** Reform must go beyond granting exemptions. It requires revisiting the core agreements that create structural disadvantages. This includes fundamentally reforming the Agreement on Agriculture to achieve real and substantial cuts in trade-distorting subsidies in the developed world and creating a permanent solution that allows developing countries to use public stockholding programs for food security purposes. Similarly, the TRIPS agreement needs to be rebalanced to ensure that flexibilities for public health and access to essential medicines are readily accessible and effective.
- **Capacity Building:** "Aid for Trade" initiatives must be significantly scaled up and better targeted. This support is critical to help LDCs overcome supply-side constraints, meet complex international standards, implement agreements like the Trade Facilitation Agreement (TFA), and build the legal and technical capacity to participate meaningfully in WTO negotiations and dispute settlement.

C. Concluding Thoughts on the Future of the Rules-Based Global Order

The World Trade Organization is at a precipice. The forces of nationalism, protectionism, and great-power rivalry that it was designed to contain are resurgent. The path to reform is fraught with political difficulty and will require immense leadership, compromise, and a renewed commitment to multilateralism from all major players. However, the alternative—the slow collapse of the WTO and the unravelling of the rules-based trading system—is far more perilous. A world without the WTO would be a more fragmented, less predictable, and more contentious place. It would be a return to a "law of the jungle," where economic might makes right, and where the smallest and most vulnerable countries would suffer the most. The task of reforming and revitalizing the WTO is therefore not merely a technical exercise in trade policy. It is a strategic imperative for preserving the stability and prosperity of the global order. The common set of rules the WTO provides, however imperfect and in need of modernization, remains an indispensable public good in an interdependent world.

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