

Intelligence MEMOS



From: Lawrence Herman
To: Canadian Businesses
Date: February 27, 2024
Re: **BUSINESS NEEDS TO HELP PUSH GLOBAL TRADE REFEREE BACK INTO THE GAME**

The World Trade Organization is not top of mind for the business community. But it should be. The WTO's current diminished state affects international commerce generally. Without universally respected rules, uncertainty prevails, and uncertainty raises costs. Without the multilateral disciplines the WTO provides, a quilt of different agreements will impose a bewildering set of differing commercial requirements in different nations.

The collapse of the Doha Round negotiations in 2011 was a dire setback for the WTO. Since then, it has been unable to play a meaningful role in meeting today's [challenging trade issues](#), including carbon-free goods, the pandemic and digital commerce, among others. And the unsettled world – Ukraine, Gaza, the South China Sea – damages the political relationships in the organization, which in turn hampers its decision-making.

The WTO needs to do two critical things: negotiate updated trade rules and get its dysfunctional [dispute settlement system](#) operating again. How can it achieve them?

WTO trade ministers are meeting this week in Abu Dhabi at their 13th ministerial conference ([MC13](#)). The first such meeting was in Singapore in 1996. Unlike the UN's "conference of the parties" on climate change, the WTO ministers only meet when there is a reasonable prospect of doing something useful. Unfortunately, predictions are that the WTO's top decision-making body will only manage incremental results on files, like fisheries, that are important but not fundamental.

One overriding problem in getting the WTO back on track is that it has 164 members, all with formally equal voting rights, which makes it a huge ship hard to manoeuvre. Its predecessor body, the General Agreement on Tariffs and Trade (GATT), began in 1947 with just 23 members. Equal voting rights mean the WTO operates by consensus, so one country can halt everything. This simply doesn't work when critical decisions are required for dealing with an expanding, complicated trading world. Yet changing the baked-in unanimity rule would be virtually impossible.

A second limitation is some governments' entrenched belief that the benefits of any new agreement – say on digital trade – have to be available to all members on a [most-favoured-nation](#) (MFN) basis, even if the agreement has been concluded only among a limited set of like-minded countries. The MFN rule thus allows free-riding: Every member gets access to free-trade benefits, like reduced tariffs, without have to do any market-opening of its own.

An alternative would be to allow "plurilateral" agreements that apply free-trade benefits only to countries that actually sign on. This would permit like-minded countries to conclude rules for digital trade, environmental goods, pharmaceuticals, border adjustments for carbon, and a host of other things. Nothing prevents countries from concluding such deals outside the WTO but allowing them under its auspices would be a way of restoring the WTO as a serious negotiating forum. Former WTO Deputy Director General Alan Wolff has proposed this approach. For now, however, major players like South Africa and India oppose the very idea of plurilaterals, arguing they offend the non-discriminatory foundation of the multilateral system. Nothing at MC13 seems likely to break the impasse.

A third major problem is that the US continues to hold the WTO dispute settlement system hostage to its demand for broader institutional reform. The Trump administration blocked new appointments to the Appellate Body (the WTO appeal court) four years ago, totally paralyzing dispute settlement, and the Biden White House has followed suit. Outstanding disputes can't proceed to final adjudication and thus remain in limbo. There is no sign that MC13 will change this, either, or that whoever is elected US president in November will back down.

If this summary seems to suggest the WTO is in desperate straits, you have read it correctly. The stakes are too high, however, to conclude things are hopeless. The WTO and its multilateral reach provide the only comprehensive, global framework for order and stability in international trade, which are themselves all the more critical in today's volatile world. That means that, as tough as things currently are in Geneva, it is in the business community's interest not to lose faith in the WTO and the multilateral trading order, whose rules need to be respected and reinforced.

That means pressuring governments to do more to resolve the WTO's entrenched problems, even though late in the day, to make reasonable efforts to get MC13 to at least move in the right direction.

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