

World Trade
Organization

WTO



WTO MINISTERIAL CONFERENCE
CONFÉRENCE MINISTÉRIELLE DE L'OMC
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18 & 20 MAY • MAI • MAIO 1998 • GENÈVE



MUNUC 38

Model United Nations of the University of Chicago

CHAIR LETTERS

Dear Delegates,

Welcome to the World Trade Organization at MUNUC 38! I am so ecstatic to be able to share this experience with you all and see where your passion for equitable trade takes you. My name is D’Jhanir Harris Smith, a fourth year student in the College double majoring in Public Policy Studies and Economics. I started my Model UN experience at the University of Chicago in my first year participating on the travel team and assistant chairing for the Organization of African Unity at MUNUC 35 and for the Bega Cheese committee at ChoMUN 26. While I dedicate a lot of my time to Model UN, I also tutor middle and high schoolers in Chicago, participate in the Business Organization for Latino Development and my school’s Super Smash Bros. tournaments. If any of that interests you, I would love to talk more about it, so don’t be afraid to come up and ask me about anything.

Throughout the weekend delegates will be traversing a relatively fast-growing pair of topics of Digital Trade and Cross Border Service Transactions. From the bursting of the .com bubble to the new AI advent frontlined by ChatGPT, the digital network space has seen major fluxes in status quo. The WTO will focus on how the fluxes in status quo have shifted from these major tech developments and figure out, similar to how Amazon goes from A to Z, how to go from the past to the future.

We must remember that with the prosperity of digital trade, a bridge between digital trade and the consumer requires cross border services transactions. With a cornucopia of regions having little nuclei of trade between countries with specialized trade, the WTO will oversee how these nuclei of trade lead to both sustained long term and short term economic growth. With the

major monetary focus, we highly implore you to stay on your toes when it comes to your geography, algebra, and political recollection as we will try to maintain as accurate a committee as possible. We highly encourage you to be rambunctious with your creativity and make sure to have fun! Your dais will always be available to answer any questions you may have, so don't be shy! We look forward to seeing you soon!

Best,

D'Jhanir Harris Smith

dahs@uchicago.edu

Chair, WTO, MUNUC 38

HISTORY OF THE COMMITTEE

The World Trade Organization (WTO) began as the General Agreement on Tariffs and Trade (GATT) in 1947, which established new global trading regulations and standards in the aftermath of World War II. In 1995, the WTO officially formed — a result of the successful “Uruguay Round” of negotiations. This round expanded the scope on trade topics beyond just the exchange of physical goods, including nontariff measures, intellectual property rights, and dispute settlement mechanisms.

The most recent round of multilateral negotiations, the “Doha Round”, began in 2001. Yet in 2015, countries remained divided, unable to achieve an agreement for reducing trade obstacles further. Today, questions remain about the role of the WTO in responding to challenges ranging from equity between states to human rights to the rise of tariffs. The WTO’s capacity in this ever-changing world is an open — and increasingly pressing — question.

The Ministerial Conference (MC) is the highest decision-making body of the WTO. The body meets every two years with all WTO members. The most recent session took place in Abu Dhabi, UAE in 2024 and the following is slated for Cameroon in March 2026. The MC has the authority to make decisions on all matters regarding the multilateral trade agreements.

The routine operations of the WTO are maintained by three bodies: the General Council, the Dispute Settlement Body, and the Trade Policy Review Body. The General Council implements and monitors WTO policies and manages many specific sub-councils and committees. Both the Dispute Settlement Body and the Trade Policy Review Body are attached to the General Council and, as their names suggest, ensure member states are aligned in trade matters on an inter-state and an inter-organizational level.

As of July 2025, the WTO has 166 member states. There are also several observer states which do not have to follow WTO rules until they become full members. The WTO serves the same functions today as it has since its charter in 1995. Namely, it provides a forum for trade negotiations between states, helps document and legitimize interstate agreements, settling trade disputes, monitors trade practices by, and promotes equal trade practices.

In terms of the WTO's impact on reducing barriers to trade around the world, its record is mixed. Today, about 98% of all international trade is between WTO member states and the body has settled over 600 trade disputes. Additionally, about 60 global and 300 regional trade agreements operate under the WTO. However, the organization's impact is limited by a less-than-eager enforcement system due to geopolitical crises and changes in the world order. Particularly in recent years, global events such as the Russia-Ukraine War and the COVID-19 pandemic, have caused severe disruptions in global trade. The position of the WTO remains ever-changing as member states have broken or ignored the global trade rules and deviated from international trade principles. While multilateral initiatives have struggled to take hold, 'plurilateral' compacts (agreements between some of the 166 member states) have been motivated. These include the Government Procurement Agreement (GPA), the Information Technology Agreement (ITA), and the Joint Initiative on Services Domestic Regulation.

Additional Reading:

- WTO About Page: https://www.wto.org/english/thewto_e/history_e/history_e.htm
- CFI: <https://corporatefinanceinstitute.com/resources/economics/world-trade-organization/>
- Commons Library: <https://commonslibrary.parliament.uk/research-briefings/cbp-9942/>
- LOC Academic Resource: <https://www.congress.gov/crs-product/IF10002>

TOPIC A: DIGITAL TRADE

Statement of the Problem



World Trade Organization Logo.¹

Legal and Regulatory Uncertainty

When confronted with the advent of allowing the seamless integration of data transfer in member states' frameworks, many universal and individual issues deter the free flow of data. The concept that encapsulates these issues is **regulatory fragmentation**.² Regulatory fragmentation occurs when a single topic or issue is overseen by multiple agencies or in this case—member states. While in theory when dealing with the World Trade Organization, the more inclusive and blanketed policy reforms and frameworks are the better it is for trade as it enhances cooperation, in practice it is difficult to get a large number of agencies or member states to sign on to a suggested framework. The lack of collaboration and coordination between member states makes the expected cohesion necessary for seamless data transfer very difficult for companies and producers, and in turn consumers.

¹ World Trade Organization Logo.
https://commons.wikimedia.org/wiki/File:World_Trade_Organization_%28logo_and_wordmark%29.svg. Accessed July 10, 2025.

² Regulatory Fragmentation.
<https://www.oecd.org/en/topics/sub-issues/regulatory-environment-for-digital-trade.html>.

The challenges that arise from regulatory fragmentation is a range of regulatory divergence caused by varying rules on privacy, data flows, and cybersecurity to an increase in compliance costs and reduced interoperability. Again, it is important to emphasize that regulatory fragmentation is not just a minor administrative hurdle, but instead, a structural trade barrier. This major structural trade barrier works against firms as it creates uncertainty for the firms in three main ways: a divergence in legal definitions and standards, a decrease in compliance, an increase in complexity and costs, a severe reduction in interoperability. While the WTO has held tenure for a very long time, this extensive time in their position of power has led their regulations to not survive the tests of time. A lot of these rules mainly provide limited guidance on important digital trade issues such as e-commerce taxation and cross-border data flows. This is a plague for digital trade as an absence of consistency and universality can lead to disagreements, inequalities, and frictions between members and their perspective of the rules. A quick example of definitions causing disagreement and friction is the definition of “electronic transmission” including e-books and software. This lack of transparency and uniformity can unfortunately worsen a country's economic output as a misassignment can cause a change in taxation, value, and investment the product does or does not receive, leading to firms feeling discouraged from participating.

While this lack of regulatory uncertainty’s impact can be applied broadly, it is important to highlight the disproportionate impact on smaller firms. Micro, small, and medium-sized Enterprises (MSMEs) struggle with fragmentation more severely than their larger counterparts,³ as it is more difficult for them to maximize their capacity for results as the effects of regulatory inconsistencies can vary in intensity severely for MSMEs as digital regulations limit the MSMEs

³ Micro, Small, and Medium-sized Enterprises (MSMEs). *Adapting to the digital trade era: challenges and opportunities*, 21.

capability to scale for regulations internationally, as high compliance burdens and uncertainty block them from success. Many MSMEs struggle financially from regulations as they lack the legal resources and technical infrastructure that multinational corporations can afford to tailor operations to multiple regulatory environments. This inadvertently locks out firms from certain markets if the cost for compliance exceeds potential returns, shrinking the innovative diversity of that market.

It is possible to accurately take note of the negative effects of regulatory uncertainty that leads to a lack of competitiveness as smaller economies and MSMEs can be excluded from high-growth digital sectors such as the advent of AI. This can be directly witnessed as larger multinational corporations can adapt to change easily to consolidate dominance in a sector. An example of an adaptable change can be noted when remembering that the rules controlling global trade were designed for cross border container trade, not instant service, data, and idea trades. This gives delegates a mental contrast between physical and digital trade systems, underscoring why old agreements can't fully address today's realities. The challenge is not only that regulations are fragmented, but that the foundational WTO rulebook was written in and for an era before digital trade existed. While these agreements provide important baselines for cooperation, applying them to the data-driven, service-oriented digital economy exposes gaps and ambiguities that the original drafters could never have anticipated.

Existing WTO agreements were designed for physical goods and trade, so when stacking them up to digital goods and trade, the old agreements, while good baselines, are realistically antiquated. When reviewing older WTO legal frameworks such as the 1947 General Agreement on Tariffs and Trade (GATT),⁴ which focused on tariffs, quotas, and physical shipment standards,

⁴ General Agreement on Tariffs and Trade. https://www.wto.org/english/docs_e/legal_e/gatt47_e.htm.

or the 1995 General Agreement on Trade in Services (GATS),⁵ which extended coverage to services but could not anticipate cloud computing, streaming, or cross-border data hosting, it becomes clear their applicability is constrained. While these frameworks provide a legal foundation for the more robust and complex trading environment of today, the WTO itself notes that “many GATS commitments relevant for digital trade are nearly 30 years old and do not necessarily reflect the actual services market conditions,” and that existing rules “provide only limited guidance on key digital trade issues such as cross-border data flows and e-commerce taxation.” Negotiated when digital trade was still in its infancy, these agreements left unanswered questions about how to classify digitized products, whether as goods under GATT or services under GATS, and how to regulate emerging areas like data localization, source code disclosure, or cybersecurity standards.

It is important to harp on just how important good infrastructure for digital trade is for global trade. Just like physical trade needs roads, ports, and warehouses, digital trade needs data centers, fiber-optic cables, undersea internet lines, cloud servers, and consistent rules. Without these resources, information (arguably the most important aspect of digital trade) cannot flow quickly, securely, and reliably across borders. To ensure the digital trade ecosystem thrives, a predictable and interoperable environment is a necessity.

This larger ecosystem consists of individual member states. Between member states, **data localization** can cause a schism of information within one’s member state and between different member states.⁶ Data localization typically contains laws that require data about a country’s citizens or activities to be stored and processed within that country’s borders. Often, governments and businesses disagree on its importance and necessity as its use can lead to

⁵ General Agreement on Trade in Services. https://www.wto.org/english/docs_e/legal_e/gats_e.htm.

⁶ Data Localization. <https://www.hinrichfoundation.com/research/tradevistas/digital/data-localization>.

conflicting resolutions. Governments support data localization laws as they argue that they protect privacy, national security, and local control. Businesses see localization laws as a burden as it increases costs, slows service delivery, and limits innovation. It is difficult to balance security and privacy concerns with economic efficiency as mandatory localization creates uncertainty for firms that rely on cross-border data transfers, while a lack of mandatory data localization creates uncertainty in the nation's maintenance of its constituents' security and privacy.

This again impacts not just the member state itself but also data and digital transfers between member states. Data localization requirements can stunt **cross-border data flows** as the movement of digital information between countries requires more access and less privacy for member states and firms involved in trade.⁷ Cross-border data flow is essential for key players in the digital economy such as cloud computing, e-commerce, streaming services, AI, and financial transactions. Restrictions on cross-border data flow such as member states solely prioritizing data localization can block these flows of trade enhancing the global fragmentation of networks, which can lead to **digital islands** disconnected from the world.⁸ According to the *Organization for Economic Co-operation and Development* (OECD), over 100 measures of restrictions found in 43 countries limit data flow, which raises costs in some sectors by 15-55%.⁹

⁷ Cross-Border Data Flows.

<https://www.whitecase.com/insight-our-thinking/rise-artificial-intelligence-big-data-next-generation-international-rules>.

⁸ Digital Islands.

<https://www.interregeurope.eu/digital-islands/news-and-events/news/island-perspectives-on-digitalisation>.

⁹ *The Nature, Evolution and Potential Implications of Data Localisation Measures*, 3.

History of the Problem

When reviewing the WTO's foundational building blocks that aid in setting rules and precedents for global and transnational trade, it is essential to give weight to the WTO's predecessor. The General Agreement on Tariffs and Trades (GATT) was the groundwork for post-war global trade mobilization and liberalization, and as the new global multilateral system,¹⁰ the GATT needed to be bullet proof and all encompassing. To ensure its fortitude, twenty-three countries from varying regions of the world signed and ratified the GATT on January 1, 1948, paving the way for trade liberalization. This liberating trade agreement individualized itself from preceding trade agreements, outside of the variety of nations signed onto it, through staking itself on the “most favoured nation” (MFN) principle.¹¹

While not necessarily a novel principle or ideal in trade at this time, staking the newly developed global multilateral system on this principle was contentious. The MFN centers itself on trade advantages, privileges, and equality.¹² Countries with the MFN status are guaranteed trade privileges, such as lower tariffs or high import quotas, equal to the granting country's “most favoured nation”. MFN would be the guiding principle for the GATT as the United States, a newer country at the time, championed free-trade internationalism. This perspective on free-trade was driven by the belief that US exporters should not be excluded from beneficial agreements that had been developed by nations prior to World War II. Nations such as France and Great Britain had upheld the MFN since the conclusion of the Franco-British Commercial Treaty of 1860, yet it seemed as their ideals deteriorated over time as the MFN privileges seemed to only apply to those two countries.

¹⁰ Global Multilateral System. https://www.wto.org/english/thewto_e/history_e/history_e.htm.

¹¹ “Most Favoured Nation,” *Wikipedia*, August 14, 2025, https://en.wikipedia.org/wiki/Most_favoured_nation.

¹² “Understanding the WTO - Principles of the Trading System,” *WTO*, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm.

The GATT was the United States's final attempt to reemphasize the MFN principle that had been upheld by treaties long before the GATT. Unfortunately for the United States, while they had less to lose from upholding the MFN principle in the GATT, they had more to lose if the GATT did not come to pass at all. Great Britain was stuck in their beliefs of maintaining their preferential trade status for the new multilateral trading system. In the end, the MFN status was included, yet immediately contradicted as the following clauses would enshrine Great Britain's trade preferences. The tables were not completely in Great Britain's favour as there were still provisions set to bound the margins of preferential trade, but it was not farfetched to label the GATT a landslide victory for Great Britain's trade.

While the GATT was not the quintessential agreement and a bastion of the MFN principle like the United States had hoped for, with the eventual refusal to ratify the Havana Charter in 1950 by the United States Congress, the GATT resulted in being the last bastion of multilateral trade rules. The supposed WTO's predecessor, the International Trade Organization,¹³ did not come into fruition as the Havana Charter was not ratified. As the remaining bastion of trade, the GATT over time did change towards the ideals that the United States urged for when it was first negotiated. With the tariff negotiations of Annecy 1949, Torquay 1951, and Geneva 1955-56,¹⁴ the GATT progressed towards a more MFN centered philosophy as the Commonwealth economies recovered and increased security, transparency, and predictability for traders that the GATT had upheld. This enshrined GATT to pave the way for the eventual ratification of the World Trade Organization.

¹³ "Guides: International Trade Law Research Guide: From GATT TO THE WTO: An Overview," *From GATT to the WTO: An Overview - International Trade Law Research Guide - Guides at Georgetown Law Library*, <https://guides.ll.georgetown.edu/c.php?g=363556&p=4108235>.

¹⁴ GATT Negotiations. *FIFTIETH ANNIVERSARY OF THE MULTILATERAL TRADING SYSTEM*, https://www.wto.org/english/thewto_e/minist_e/min96_e/chrono.htm.

As with time, the world continued to change and the world's economy evolved, which ended up highlighting many shortcomings of the GATT as it was not as all-encompassing as the world had hoped. With new technological advances, it became increasingly clear that the GATT's narrow focus on goods and its limited institutional capacity from its post-World War II time left it ill-prepared to rise up to the occasion of confronting the evergrowing landslide of services, intellectual property, and the digital economy. Unprecedented growth within these sectors slowly made the GATT feel incomplete and unsustainable for the world economy's future, requiring other bastions of multilateral trade systems to rise up and fill in the gaps the GATT could not.

While the GATT had not originally been equipped to confront the monumental growth and challenges of a shift in the global market, what good is a trade agreement if it can not be updated with negotiations? The GATT's reduction of trade tariffs over the years resulted in high rates of growth during the 1950s and 1960s. This momentum of trade liberalization saw growth of around 8% a year on average, ensuring "that trade growth consistently out-paced production growth throughout the GATT era." Unfortunately with all of the fortune the GATT brought with it came an equal amount of misfortune that would lead to the GATT's credibility and effectiveness to be undermined. This deteriorating trade policy environment stemmed from recessions during the 1970s and 1980s as well as a reduction in tariffs caused by the GATT. This combination of events led governments to seek out bilateral market-sharing arrangements that aided their journey on a subsidies race to maintain their control on agricultural trade. The agricultural trade sector was arguably the GATT's multilateral system's biggest struggle at the time as this sector did not abide by the GATT as there were multiple loopholes that did not liberalize agricultural trade that allowed heavy exploitation by varying nations.

Proceeding the GATT yet preceding the WTO's establishment, from the constant significant change in the world market and consistent loophole exploitation that undermined the multilateral system, a round of negotiations to end all rounds of trade negotiations was proposed: the Uruguay Round. This round had its seeds sown at a ministerial meeting of GATT members in Geneva, in November 1982. The biggest thorn in the GATT's side was again agriculture. Agriculture was too monumental a discussion to have at the ministerial conference in Geneva, so in September 1986, in Punta del Este, Uruguay, the largest negotiating mandate on trade commenced.

This round would review all the original GATT articles as well as extending the trading system into several new areas such as services and intellectual property and reforming trade in the agricultural and textile sectors. Giving themselves originally four years, GATT members would quickly realize how naive it was to sort out the exploitation of the sensitive sectors in such little time.¹⁵ At the halfway point in December 1988, to assess the progress of the round the ministers met in Montreal, Canada. While their objective was to clarify their agenda for the remaining two years, a deadlock caused their agenda agreement to be pushed back until April 1989 in Geneva. The GATT ministers did agree upon assisting “developing countries” have more control of the tropical products sector and establishing the dispute settlement system, one of the central pillars of the multilateral trading system. The Uruguay round negotiations would continue with its ups and downs until every issue was resolved on December 15th 1993 and eventually signed by every participating government in Marrakesh, Morocco on April 15th 1994.¹⁶ While these negotiations did last twice as long as intended, some aspects of trade benefited from this

¹⁵ “Understanding the WTO - the GATT Years: From Havana to Marrakesh,” *WTO*, accessed October 26, 2025, https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm.

¹⁶ Marrakesh Agreement. “WTO Legal Texts,” *WTO*, n.d., https://www.wto.org/english/docs_e/legal_e/legal_e.htm#TRIPs.

extended time. The negotiations had better flushed out aspects of services and intellectual property and commenced the discussion of the creation of the WTO.

The WTO's negotiations in the 1980s and 1990s resulted in the very direct building blocks that would establish the outline for digital trade.



Signing of the Marrakesh Agreement in 1994, which led to the creation of the WTO.¹⁷

¹⁷ World Trade Organization from Switzerland, *File:Marrakesh Agreement April 1994 (9305978663).Jpg*, March 24, 2009, Marrakesh Agreement April 1994, https://commons.wikimedia.org/wiki/File:Marrakesh_Agreement_April_1994_%289305978663%29.jpg.

The General Agreement on Trade in Services (GATS)

The General Agreement on Trade in Services (GATS) was ratified following the 1980s GATT negotiations.¹⁸ Realizing that it was an increasingly growing sector of the global economy, the services sector was one of the Uruguay Round negotiations' top priorities. While many countries were skeptical of having services governed by multilateral rules as the prominence of sensitive sectors such as finance, telecommunications, and transportation continued to rise, GATS represented a major step toward integrating services into the multilateral trading system.

GATS applied core WTO principles, such as the “most-favoured-nation” (MFN) principle, transparency, and predictable market access, to service sectors, while still allowing members the privilege of flexibility through specific commitments and exemptions. For the first time, countries agreed to rules on how foreign service providers could operate domestically, creating a baseline for trade in everything from professional consulting to cross-border financial services. However, the agreement was negotiated in a largely pre-digital era. While it established legal frameworks for services, it did not foresee the technological shift toward digital service delivery that are popular today such as online platforms, streaming, cloud computing, and fintech, that would dominate the global economy in the decades ahead. As a result, while GATS laid a foundation, it would later prove incomplete for the realities of digital trade.

Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Another pivotal outcome of the Uruguay Round was the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS),¹⁹ which came into force with the WTO's

¹⁸ “Understanding the WTO - Services: Rules for Growth and Investment,” *WTO*, https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm.

¹⁹ Trade-Related Aspects of Intellectual Property Rights (TRIPS). “WTO Legal Texts,” *WTO*, https://www.wto.org/english/docs_e/legal_e/legal_e.htm#TRIPS.

creation in 1995. TRIPS set out the most comprehensive multilateral standards for protecting and enforcing intellectual property rights, including copyrights, trademarks, patents, geographical indications, and trade secrets. The agreement responded to increasing concerns from developed economies. They insisted that weaker Intellectual Property Rights (IPR) protections abroad were undermining innovation-driven industries. For the emerging digital economy, TRIPS provided the legal protections necessary for trading software, digital media, and technology-intensive goods internationally.

While TRIPS laid the necessary legal protections groundwork similarly to GATS, in the same vein as GATS, TRIPS was negotiated before the explosion of internet-based commerce. While it safeguarded traditional intellectual property in a cross-border setting, it did not address challenges such as online piracy, digital rights management, or enforcement of IPR in a global network where content can be reproduced and shared instantly.

The Joint Statement Initiative (JSI) on E-Commerce

Jumping to the late 2010s, the persistent issue that undermined previous trade agreements continued as it was clear that the WTO's existing agreements, GATS and TRIPS included, were not sufficient to govern the rapidly evolving world of digital trade. In response to this crisis, in 2019, 80 WTO members launched the Joint Statement Initiative (JSI) on E-Commerce to fill this gap.²⁰ The JSI's negotiations cover critical issues, including:

- Cross-border data flows and restrictions on data localization.
- E-signatures and electronic authentication.
- Consumer protection in digital transactions.

²⁰ Joint Statement Initiative on E-Commerce. "Joint Statement Initiative on E-Commerce." *WTO*, https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm.

- Cybersecurity standards and cooperation.

While the JSI represents the most focused attempt to address modern digital trade, it faces significant hurdles. Different from previous bastions of trade agreements, the JSI is **plurilateral**, meaning participation is voluntary and the rules would not automatically bind all WTO members. Moreover, stark differences remain between countries advocating for open digital markets and those prioritizing digital sovereignty, privacy, or national security concerns. These divisions have slowed progress, leaving the global regulatory environment for digital trade fragmented and uncertain.

Past Actions

1998 Moratorium on Electronic Transmissions

As the twentieth century neared its close and the internet transitioned from a niche network to the arteries of a global information system, the WTO faced a question that its GATT-era framers could not have foreseen: how should nations treat goods and services transmitted not by ship, rail, or truck, but by streams of electronic data? At the Second Ministerial Conference in 1998, WTO members confronted this new frontier and, rather than risk a premature splintering of digital trade policy, agreed to a temporary moratorium on customs duties for electronic transmissions. This commitment, modest in its immediate reach yet profound in its implications, was coupled with the creation of the Work Programme on Electronic Commerce — a framework intended to study the myriad ways digital trade might intersect with existing WTO agreements.²¹

In the years that followed, this moratorium became something of a fixture as it was renewed biennially without fail, an unspoken pact to preserve the duty-free nature of cross-border digital flows while the world adjusted to the realities of e-commerce. For developed economies and technology exporters, the moratorium represented a strategic safeguard: an assurance that rapidly expanding markets for software, digital media, and online services would not be throttled by inconsistent or protectionist tariff regimes. Yet this same safeguard was increasingly cast in a different light by a coalition of developing countries. To them, the moratorium foreclosed a potential source of tariff revenue just as their economies began to shift

²¹ Work Programme on Electronic Commerce. “Work Programme on E-Commerce,” *WTO*, https://www.wto.org/english/tratop_e/ecom_e/ecom_work_programme_e.htm.

from physical to digital imports, and it constrained their ability to shape the rules of their own emerging digital sectors.

The debate surrounding the moratorium became emblematic of a broader tension within the WTO; whether global trade rules should lock in a liberalized status quo or leave room for policy space in uncharted sectors. Studies offered fuel to both camps: UN Trade and Development (UNCTAD) estimated tariff revenue losses in the billions for developing nations,²² while WTO Secretariat analyses suggested the fiscal impact was negligible. Economic modelling hinted at a paradox, that ending the moratorium might yield tariff revenues but at the cost of GDP losses several times greater. Despite the contention, the moratorium endured, extended once again at the WTO's 13th Ministerial Conference in 2024,²³ with a sunset date tied to the 14th Ministerial or March 31, 2026. Thus, a measure born as a temporary pause has persisted for over a quarter-century, shaping the terrain of digital trade without ever being codified as permanent law.

Information Technology Agreement (ITA)

Before the ink had even dried on the WTO's founding documents, ministers gathered in Singapore in 1996 to confront another pillar of the modern economy: the rapidly accelerating trade in information technology products. The result was the **Information Technology Agreement (ITA)**,²⁴ a plurilateral pact whose ambition was striking in its simplicity: eliminate all customs duties on a wide range of IT products, from semiconductors to telecommunication

²² UNCTAD. "Digital Trade for Development," *WTO*, https://www.wto.org/english/res_e/publications_e/dtd2023_e.htm.

²³ WTO's 13th Ministerial Conference in 2024. "Digital Trade for Development," *WTO*, https://www.wto.org/english/res_e/publications_e/dtd2023_e.htm.

²⁴ Information Technology Agreement (ITA). "Information Technology Agreement," *WTO*, https://www.wto.org/english/tratop_e/inftec_e/inftec_e.htm.

equipment. Entering into force in 1997, the ITA was hailed as a bold recognition that the tools of the information age were not luxuries to be traded sparingly but essential goods whose circulation would fuel global growth and connectivity.

Participation in the ITA swelled quickly. Within two decades, 82 WTO members, accounting for roughly 97% of global trade in covered products, had signed on. The agreement's reach deepened further in 2015 with the so-called ITA Expansion, negotiated in Nairobi, which extended duty-free treatment to 201 additional high-tech products worth over USD \$1.3 trillion annually. Oversight of these commitments fell to the WTO's ITA Committee, which became the quiet custodian of one of the most sweeping tariff eliminations in the organization's history, ensuring that the agreement kept pace, at least in scope, with advances in technology.



A press conference from the 10th WTO Ministerial Conference in Nairobi, Kenya, in 2015, where the ITA Expansion was negotiated.²⁵

²⁵ World Trade Organization from Switzerland, *Day 2 of the 10th WTO Ministerial Conference, Nairobi, 16 December 2015. Photos May Be Reproduced Provided Attribution Is given to the WTO and the WTO Is Informed.*

The economic consequences of the ITA were nothing short of transformative. The trade in IT products surged from USD \$549 billion in 1996 to over USD \$1.7 trillion by 2015, growing at an annual rate that consistently outpaced global GDP. For developing economies, the ITA offered more than just cheaper imports; it opened pathways into high-value global supply chains, with their share of ITA-covered exports rising from 26% to 63% over two decades. Yet, for all its success in dismantling tariff barriers, the ITA was still anchored in the realm of physical goods. It lowered the cost of the hardware that enabled digital trade but did little to address the rules governing the digital transactions themselves, a gap that would later fuel calls for broader frameworks like the Joint Statement Initiative (JSI) on E-Commerce.²⁶

Photos: © WTO. Courtesy of Admedia Communication., December 16, 2015, Tenth WTO Ministerial Conference - Day 2 - Information Technology Agreement press conference,
https://commons.wikimedia.org/wiki/File:Tenth_WTO_Ministerial_Conference_-_Day_2_-_Information_Technology_Agreement_press_conference_%2823438580249%29.jpg.

²⁶ Joint Statement Initiative on E-Commerce. "Joint Statement Initiative on E-Commerce." *WTO*,
https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm.

Possible Solutions

Reform & Expand the WTO Legal Framework

If the WTO is to remain the central forum for global trade governance in the digital era, it must adapt its legal architecture beyond the goods-and-services paradigm of the GATT and GATS. The existing framework, while commendably robust in its time, was crafted before data became the lifeblood of commerce. A reformed WTO could integrate binding provisions on digital trade into its core agreements, rather than relying on plurilateral side negotiations like the Joint Statement Initiative. This would mean amending or expanding the scope of GATS and TRIPS to directly address data flows, cybersecurity, digital authentication, and platform regulation, making them enforceable through the WTO's dispute settlement mechanism. Such reform would not only update outdated definitions but also signal that the WTO can legislate effectively on 21st-century trade realities. Yet the path is fraught: any amendment to core agreements requires consensus, and reaching it will demand bridging the entrenched divide between open-data advocates and states wary of ceding digital sovereignty.

Codify Rules on Cross-Border Data Flows

Data is now to the global economy what oil was to the industrial era — an essential input that powers virtually every transaction. Yet, unlike goods, there is no universally binding WTO rule ensuring its free and secure flow across borders. Codifying such rules would provide predictability for businesses, reduce compliance costs, and mitigate the risk of a fragmented “splinternet” where incompatible national laws impede global commerce. This could include prohibitions on unnecessary data localization requirements, obligations to protect personal data, and guarantees of interoperability between national privacy regimes. The challenge lies in

balancing these open-data norms with legitimate public policy exceptions: protecting cybersecurity, cultural values, or public morals. Failure to strike that balance risks either creating loopholes large enough to nullify the rules or alienating members unwilling to accept them.

Global Digital Infrastructure Fund

No set of digital trade rules will succeed if vast swaths of the world lack the infrastructure to participate in the digital economy. A Global Digital Infrastructure Fund, administered either by the WTO in partnership with institutions like the World Bank or as a new stand-alone facility, could direct resources toward expanding broadband access, upgrading network capacity, and improving cybersecurity in developing and least-developed countries. Funded through a mix of voluntary member contributions, development bank financing, and possibly a small levy on high-value cross-border digital transactions, such an initiative could address the digital divide that undermines inclusive trade. Beyond infrastructure, it could support training programs to develop digital skills, ensuring that market access commitments are not hollow promises for countries without the means to utilize them. However, questions of governance, who decides allocation, what conditions are attached, would determine whether this becomes a true engine of global inclusion or just another donor-led initiative.

Model Digital Trade Guidelines (Soft Law)

Not all progress in the WTO need be hard law. Model digital trade guidelines, non-binding yet widely endorsed, could provide a political and technical reference point for members hesitant to commit to formal treaty obligations. Such “soft law” instruments could address emerging areas where consensus is possible: transparency in algorithmic

decision-making, minimum cybersecurity practices for cross-border services, or principles for ethical AI use in trade. These guidelines could evolve iteratively, allowing members to experiment domestically while converging toward common standards over time. Soft law has the virtue of flexibility and can serve as a stepping stone toward eventual binding commitments. Yet its very flexibility is its weakness, without legal force, adherence would be voluntary, and its impact would depend heavily on peer pressure and reputational incentives.

Institutional Innovation

The WTO's institutional design, consensus-based decision-making, slow negotiating rounds, and a dispute settlement system under strain, has proven ill-suited to the speed of digital transformation. Institutional innovation could mean creating a standing Digital Trade Committee within the WTO, with a mandate to monitor technological developments, assess compliance with digital commitments, and issue interpretive guidance on ambiguous provisions. Alternatively, the WTO could experiment with “club governance,” where a subset of members commits to deeper digital integration under WTO auspices, with clear pathways for others to join. Another option is embedding more technical expertise into the negotiation process through regular consultation with private-sector actors, technical bodies, and civil society, breaking from the WTO's historically state-centric model. Such reforms may ruffle traditionalists, but without them, the organization risks ceding digital rulemaking to regional trade agreements and private standard-setters.

Bloc Positions

Within the context of the WTO, bloc positions reflect the shared priorities and perspectives of groups of member states that align on certain trade principles or policy goals. These alignments are shaped by factors such as economic development, market orientation, regulatory philosophy, and technological capacity. While some blocs emphasize open markets and digital integration, others prioritize national sovereignty, regulatory flexibility, or equitable access to digital infrastructure. Because these interests frequently overlap rather than divide neatly, consensus-building in the WTO becomes a complex process of negotiation among states with differing, but often interconnected objectives.

Bloc Supporting Open Digital Markets

This bloc advocates for open access to digital trade and the free flow of information across borders. Members of this group emphasize that restrictive data localization laws and fragmented regulatory frameworks create barriers that limit innovation and competitiveness. They call for updated trade agreements that better reflect the digital age, including clearer guidance on data governance, e-commerce taxation, and cybersecurity standards. Supporters of this approach often view digital trade liberalization as essential to ensuring a predictable, interoperable environment that benefits both producers and consumers.

Bloc Prioritizing Digital Sovereignty

Members of this bloc emphasize the importance of national control over data and digital infrastructure. They argue that each state should have the right to regulate data storage, privacy, and security according to domestic priorities and cultural norms. For these states, digital

sovereignty safeguards national interests, prevents overreliance on foreign technology, and preserves policy flexibility in rapidly changing markets. They are cautious of binding international commitments that may limit domestic policymaking, preferring flexible frameworks that respect national autonomy in the digital sphere.

Bloc Advocating for Digital Inclusion and Development

This bloc focuses on ensuring that all states, regardless of their level of development, have equal opportunities to participate in the digital economy. Members highlight the persistent global digital divide and stress that equitable access to infrastructure, such as broadband, data centers, and cybersecurity systems, is vital for meaningful participation. They often support capacity-building initiatives and funding mechanisms, such as a global digital infrastructure fund, to improve connectivity and develop digital skills. For this bloc, inclusivity and accessibility must accompany any effort toward digital trade integration.

Bloc Supporting Gradual Integration and Balanced Governance

Members of this bloc seek a middle ground between full market liberalization and strong national regulation. They favor gradual convergence through voluntary cooperation, soft-law guidelines, and regional frameworks that promote consistency without imposing rigid obligations. This approach emphasizes balance by allowing for digital innovation and cross-border commerce while maintaining flexibility to protect privacy, security, and cultural values. Such states often support plurilateral initiatives under the WTO that permit experimentation and incremental progress toward shared digital standards.

Bloc Emphasizing State-Centric Digital Governance

This bloc supports a more state-driven approach to global digital trade, emphasizing control over information flows and national networks. Members of this group view the protection of domestic data systems, cybersecurity, and technological independence as matters of national security. They favor governance models that preserve sovereignty and resist the establishment of universal data-flow obligations. Instead of binding global rules, they promote smaller coalitions in a form of “club governance” arrangements where states with shared values can cooperate more closely while maintaining control over their digital ecosystems.

Glossary

Club Governance: A cooperative model in which a group of willing states form smaller agreements under the WTO framework to advance shared goals while allowing others to join later.

Cross-Border Data Flows: The movement of digital information across national borders that enables activities such as e-commerce, cloud computing, and financial services.

Digital Inclusion: The effort to ensure that all states and populations have equitable access to digital technologies and the benefits of digital trade.

Data Localization: Laws requiring data about a country's citizens or activities to be stored and processed within national borders rather than transferred internationally.

Digital Sovereignty: The principle that a state has authority over the data and digital infrastructure within its borders.

Digital Trade: The exchange of goods and services that occurs through digital means, including e-commerce, online services, and the transfer of digital products.

E-Commerce Taxation: The process of determining how digital goods and services should be taxed, particularly in cross-border transactions where classification may be unclear.

General Agreement on Tariffs and Trade (GATT): A 1947 trade framework that laid the groundwork for the WTO, primarily focused on reducing tariffs and barriers for physical goods.

General Agreement on Trade in Services (GATS): A 1995 WTO agreement that extended trade rules to the services sector but was negotiated before the rise of digital services.

Global Digital Infrastructure: The physical and technological systems, such as servers, fiber-optic cables, and broadband networks, that enable global digital connectivity.

Global Digital Infrastructure Fund: A proposed funding mechanism to support developing countries in building digital infrastructure and enhancing cybersecurity capacity.

Information Technology Agreement (ITA): A WTO agreement that eliminated tariffs on information technology products to encourage global access to technology.

Interoperability: The ability of systems, networks, or regulations to operate together efficiently, which supports seamless cross-border digital exchange.

Joint Statement Initiative (JSI) on E-Commerce: A plurilateral negotiation under the WTO aimed at establishing global rules on issues such as data flows, e-signatures, and cybersecurity.

Micro, Small, and Medium-sized Enterprises (MSMEs): Smaller firms that often face greater challenges adapting to digital trade rules due to limited legal and technical resources.

Moratorium on Electronic Transmissions: A WTO decision to temporarily suspend customs duties on digital transmissions, promoting free digital trade while under periodic review.

Regulatory Fragmentation: The existence of inconsistent national regulations on digital issues such as privacy, cybersecurity, and data transfer, which complicates international trade.

Regulatory Uncertainty: The lack of clear or consistent rules governing digital trade, which discourages investment and innovation by creating unpredictability for firms.

Soft Law: Non-binding principles or guidelines that encourage cooperation and convergence without creating formal legal obligations.

Trade-Related Aspects of Intellectual Property Rights (TRIPS): A WTO agreement that sets minimum standards for the protection and enforcement of intellectual property rights worldwide.

World Trade Organization (WTO): An international organization that establishes and enforces rules for global trade among member states to ensure fair competition and cooperation.

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TOPIC B: CROSS-BORDER SERVICE TRANSACTIONS

Statement of the Problem



*World Trade Organization Logo.*²⁷

The World Trade Organization was founded to provide a stable foundation for facilitating global trade. Cross border service transactions (**CBST**) are a key component of the WTO’s mandate—the other being trading standards on physical goods—and its rules largely fall under the original CBST mandate of the WTO established in 1995 called the ‘General Agreement on Trade in Services’ (**GATS**). CBST has a broad meaning generally referring to the way international trade of services is regulated and conducted. The list of CBST items under GATS is comprehensive as the Agreement spans 12 categories and 160 sub-categories of services types ranging from finance to education to transportation.²⁸ There are a few notable exceptions that the framers identified such as certain air traffic and aviation services and “services supplied in the exercise of governmental authority.”²⁹

²⁷ World Trade Organization Logo.

https://commons.wikimedia.org/wiki/File:World_Trade_Organization_%28logo_and_wordmark%29.svg. Accessed July 10, 2025.

²⁸ WTO Services. https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s4p1_e.htm. Accessed July 10, 2025.

²⁹ World Trade Organization Article I:3.

Today, the WTO faces a number of challenges in this era of rapid digital transformation, geopolitical fragmentation, sharp divisions between the economics and wealth of member states, and problems inherent in the WTO system. This is compounded by the fact that services make up a growing share of the world's economy—one that is constantly expanding in absolute output and in complexity.

Information and Communications Technology

To begin, the WTO's foundational framework for managing trade in services, GATS, was crafted in the early 1990s — before cloud computing, e-commerce, artificial intelligence, or high-speed internet were realities. Today, services are traded digitally with little attention to geography which was once the foremost barrier for exchange of services. While countries exercise their own laws and regulations on the expansive realm of information and communications technology, the WTO faces a growing inability to define, measure, or regulate digital services under existing trade rules largely from before the 21st century. Unlike physical goods, services are intangible, and therefore, harder to track. Cryptocurrency, for example, is designed to be untraceable. The future of trade technology continues to drift from GATS as generative AI, cloud-based data storage, and AI security are unregulated today, as these technologies are ever-evolving.



*Work Programme on E-Commerce.*³⁰

Impasse Between Member States

There is no consensus among WTO members on how to modernize the organization's approach to services. Agreements that have been reached in the past 30 years have either been limited in scope, nonbinding, or fractured in terms of consensus among members. The framework of the WTO allows for the amendment and introduction of service trade agreements if all member states consent, as was seen in the Bali Package of 2013 which accomplished some minor goals in physical goods trade regulations and was signed by all members. Meanwhile, internally while the framework might exist for reform, the reality of the situation is grave. Since 2019, the WTO's **Dispute Settlement System (DSS)**, the main international system for diplomatically resolving trade-related conflicts between nations under GATS, has been

³⁰'Work Programme on E-Commerce,' https://www.wto.org/english/res_e/photo_gallery_e/photo_gallery_e.htm.

indefinitely adjourned due to the United States refusing to allow the appointment of any new judges. Widely seen as an impressive accomplishment in leveling the playing field for rich and poor countries alike, the DSS was for most of the WTO's existence, a respectable example of the rules-based international trade system functioning well.³¹ Like any member of the WTO, the United States reserves the right to veto appointees for DSS, however, the loss of this crucial function has negatively affected the credibility and strength of the WTO.

Inequalities Between Member States

Wealthier nations have generally different goals than poorer ones in the realm of service trade negotiations. Whereas wealthier nations tend to want to protect their own domestic production while being able to export and import to their liking, poorer nations tend to want to reduce export barriers to promote themselves in global markets. In broader terms, the balance between global economic liberalization and domestic protectionism must be considered in agreements. Historical records of economic exploitation and political upheaval complicate the process of building trust between wealthier and poorer countries, whether due to the legacy of colonialism, war, or imperialism.

Two-Tiered System

As WTO trade negotiations stall or divert towards bilateral agreements, regional agreements, or multi-member “Joint Statement Initiatives” (JSI's), the world is on track to be split between countries who participate in negotiations beyond baseline GATS and countries who stay out of them. As such, the legitimacy of the World Trade Organization as a guarantor of

³¹ Article 25: An Effective Way to Avert the WTO Crisis?
<https://www.csis.org/analysis/article-25-effective-way-avert-wto-crisis>

equally-applied rules across all member nations (virtually the entire world) diminishes. Paths to WTO reform must consider whether or not to accommodate this fractured membership model of trade standards and agreements.



General Council Meeting held on 22-23 July 2025.³²

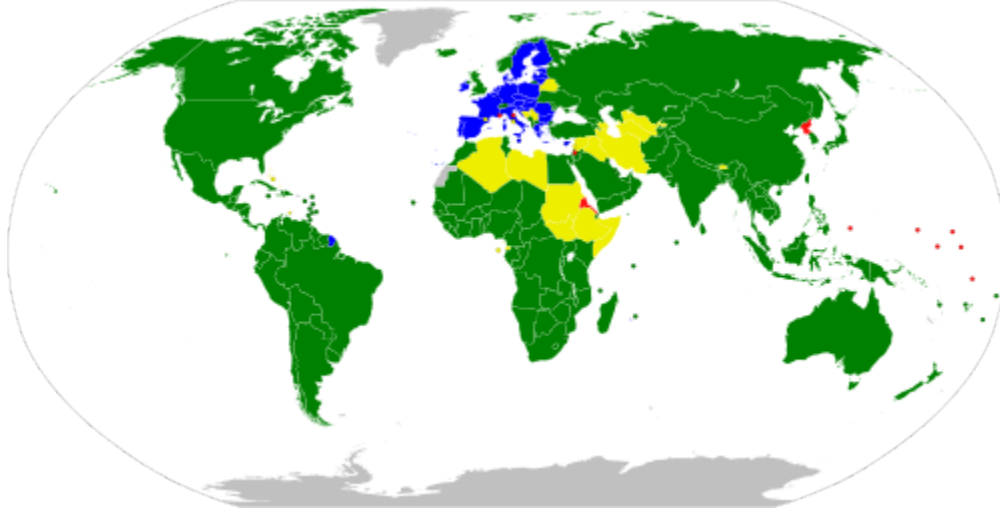
Pathways to Resolution

In order to bring the WTO to the 21st century, member states will have to reach agreements on a host of issues that are missing or outdated in GATS. Member states can also approach the question of how to reshape the WTO's internal structure to effectively facilitate trade in services moving forward. Whether through consensus-driven amendments, JSI's, or bilateral agreements, the path requires an end to the stagnancy that has persisted since GATS.

³² 'General Council Meeting,' https://www.wto.org/english/res_e/photo_gallery_e/photo_gallery_e.htm.

Finally, the dispute settlement system matter, if addressed, has the capacity to effect substantial change.

History of the Problem



Map of the WTO Member States (green = member state, yellow = observer state, blue = EU member dually-represented, red = nonparticipant state, gray = not applicable).³³

The core mechanism for cross border service transactions at the WTO is the General Agreement on Trade in Services (GATS) which was adopted by all WTO member states in January 1995. Unlike the General Agreement on Tariffs and Trade (GATT), GATS's merchandise goods counterpart that was organized in 1947, regulating cross border service transactions at a multilateral level is a relatively new phenomenon.³⁴ Its establishment took longer due to divided opinions on the need to cover what was seen by some as “outside the scope” of established trade policy concepts. Many services like healthcare and rail transportation were seen as entirely within the domain of governments, and nations argued that imposing frameworks over those services would reduce their flexibility and local efficiency. However, as the need to manage a rapidly-growing international service sector grew over the later half of the 20th century, the

³³ WTO Wikimedia Commons.

https://en.wikipedia.org/wiki/World_Trade_Organization#/media/File:WTO_members_and_observers.svg. Accessed July 10, 2025.

³⁴ WTO Basic Purpose and Concepts. https://www.wto.org/english/tratop_e/serv_e/cbt_course_e/c1s1p1_e.htm. Accessed July 10, 2025.

WTO decided to convene. According to the WTO, the services sector's share of global GDP (gross domestic product) increased between 1970 and 2021 from 53 percent to 67 percent, and that across both developed and developing economies, the share of services increased, as well.³⁵

Since the Formation of GATS

Since the rollout of GATS, the world has changed in remarkable ways regarding how international service transactions take place. The rise of the internet (for example, Amazon, Bitcoin and Zoom) has significantly reshaped commerce, financial services, and communication, while also leveling the playing field for international competitors in the services market. The landscape of cross border service transactions in the second part of the 20th century is very different from that of today.

Chances to Reform

The WTO today contends with a host of challenges since both the international community and the stipulations in GATS have changed so much from the reality of services trade today. The upheavals of digital transformation, growing geopolitical fragmentation, stark disparities in wealth among nations, and structural problems in the WTO itself must be addressed. Recognizing the challenges it faces, the WTO has attempted to address them in sessions but progress at the multilateral level has frequently stalled. Most notably is the Doha Development Round which has been an ongoing series of failed attempts to reform trade services regulation beginning in 2001 and still continuing today. Not all reforms failed: The “Bali Package,” which addresses a small component of Doha’s ambitions, was unanimously approved

³⁵ Trade in Services for Development.

https://www.wto.org/english/res_e/booksp_e/trade_in_serv_devpt_chp1_e.pdf. Accessed July 10, 2025.

in 2013 but its scope covers physical goods trade barriers, not services.³⁶ One exception in the “gray” area between total adoption and stalled measures is the “Joint Statement Initiative on E-Commerce.” The statement passed in 2024, and is a nonbinding commitment between 82 member states aimed at drafting new rules for global trade.³⁷ The articles include intellectual property protection of code and data protection across borders, seeking to adapt CBST to a more modern era of services trade. These measures have been operational since 2017 (albeit with only a portion of member states). They demonstrate that despite the problems that member nations face, there is a capacity and willingness to amend global policies on CBST. A second exception to the difficulties of reform is the “Services Domestic Regulation” which was adopted by 67 member states in 2021 to streamline the service trade and increase transaction transparency.³⁸ These two reforms, while important, are limited in scope and inclusion because not all member states approved and the enforcement mechanism is weak.

The Doha Round

The **Doha Round**, mentioned earlier, is a series of negotiations ongoing since 2001. It had great ambitions of being a consensus-based equalizing treaty for the services trade but disputes arose between the nations initially interested. Generally speaking, one central component to the Doha Round was that developed nations would reduce their internal agricultural subsidies, which would benefit developing countries who would be able to compete better in global agricultural exports. In return, developing countries would open their markets to goods produced in developed countries. In practice, member states were unwilling to

³⁶ Bali Package. https://www.wto.org/english/news_e/trad_fa_agree_e.htm. Accessed July 10, 2025.

³⁷ European Parliament. [https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA\(2024\)762390](https://www.europarl.europa.eu/thinktank/en/document/EPRS_ATA(2024)762390). Accessed July 15, 2025.

³⁸ Services Domestic Regulation. https://www.wto.org/english/tratop_e/serv_e/jsdomreg_e.htm. Accessed July 10, 2025.

compromise, each for different and complicated reasons ranging from politics to egos to lofty ambitions.³⁹ Now, only very limited parts of the Doha Round have been agreed upon and most consider the Round rather impossible to revive.

Dispute Resolution

In 1995, efforts to establish an enforcement wing to ensure states could compete on a more even playing field spawned the Dispute Settlement System (DSS). Guided by a panel of judges, the DSS would hear the complaints of nations seeking to diplomatically remedy a trade dispute. For the first roughly 20 years, hundreds of complaints were heard, with even large, advantaged nations like the U.S. losing in decisions. A shining example of international law practiced and obeyed, this changed in 2018 when the U.S. began blocking the appointment of any new judges to the panel, citing what leaders believed to be competitive disadvantages. Because there are no longer enough judges to even begin a ruling procedure any more, the body has effectively become defunct. In the absence of this system, member states have created the temporary “Multi-Party Interim Appeal Arbitration Arrangement” (MPIA) but it is only enforceable among member states that opt-in, of which there are currently 25.⁴⁰ The MPIA was used successfully three times since its creation in 2020, most recently between the European Union and China over intellectual property rights.⁴¹ In substitute of the DSS, the MPIA continues the work it once performed, albeit at a reduced scale and in uncharted territory.

³⁹ The WTO Doha Development Agenda impasse.
https://www.cuts-geneva.org/wp-content/uploads/2023/09/EXT-Paper-DDA_Impasse_causes_implications_and_solutions.pdf?com.

⁴⁰ Multi-Party Interim Appeal Arbitration Arrangement (MPIA).
https://wtoplurilaterals.info/plural_initiative/the-mpia/.

⁴¹ Ibid.

Joint Statement Initiatives

Seen as a workaround to the problem of getting every member state to reach an agreement, Joint Statement Initiatives (JSI's) have been more feasible in recent years because they do not require every member state to sign on. Like the “Joint Statement Initiative on E-Commerce,” some much needed reform has been achieved via JSI's—though these agreements-within-agreements add to the complexity and uneven nature of the WTO. Spam, e-signatures, and certain online consumer protections were among the items regulated by the agreement. But these policies lack consensus as, notably, India and South Africa have not signed on. Another JSI called the “Services Domestic Regulation” was negotiated in 2021 and today, 72 member states have signed on, including Canada, France, and Mexico.⁴² The JSI's stated ambitions include promoting small businesses, women entrepreneurs, and facilitating more efficient regulations. Supporters of JSI's like scholars Daria Boklan, Olga Starshinova, and Amrita Bahri argue that “JSIs can contribute to building a more responsive and relevant WTO.”⁴³

Bilateral and Regional Agreements

Also, beyond JSI's, there are also bilateral agreements (between two nations) and geographically-linked regional trade agreements (**RTA's**) that operate within the framework of the WTO, further adding complexity to the network of agreements. All WTO member states participate in one or more RTAs and must declare publicly which one(s) with which they associate.⁴⁴ For example, the Pacific Alliance includes Chile, Colombia, Mexico, and Peru.

⁴² Services Domestic Regulation. https://www.wto.org/english/tratop_e/serv_e/jsdomreg_e.htm. Accessed July 16.

⁴³ Daria Boklan, Olga Starshinova, Amrita Bahri, 'Joint Statement Initiatives: A Legitimate End to 'Until Everything is Agreed'', (2023), 57, *Journal of World Trade*, Issue 2, pp. 339-360, <https://kluwerlawonline.com/journalarticle/Journal+of+World+Trade/57.2/TRAD2023014>.

⁴⁴ Regional Trade Agreements. https://www.wto.org/english/tratop_e/region_e/region_e.htm.

Negotiations to deal with bilateral and regional agreements have stalled alongside the Doha Round and, as such, the rules are only managed by a provisional authority.

E-Commerce

Nowhere is the gap between existing rules and the services trade in practice more evident than in the realm of e-commerce. Ever since GATS, the world of trade in services has transformed—with cross-border data flows, cloud computing, and online markets, the rules once guiding the services trade have become outdated in many ways. The 2024 JSI on E-Commerce is a start but its reach is limited both in scope and membership. Data flows, source code rights, and data localization (government regulations against storing data outside of national borders) rules remain unresolved within the JSI on E-Commerce’s framework. While important, if JSI’s continue to be the preferred route for trade services regulation, this could lead to an effectively two-tiered system at the WTO composed of those participating in joint initiatives and those left outside them. Furthermore, if JSI’s remain the primary method of achieving reform in the WTO, they can harden into exclusionary tiers, hampering innovation, cooperation, and market efficiency.

Past Actions

In the 30 years that the WTO has been in operation, there have been many attempts to reform the institution as the world adapts to changing dynamics of international trade in services.

Doha Round

The WTO has made periodic attempts to tackle emerging issues in the services trade. The clearest large-scale example is the Doha Round, launched in 2001 with sweeping ambitions. Over two decades later, it remains unfinished and in paralysis. An offshoot of these negotiations, the Bali Package, came into effect in 2013 and includes minimal consensus reforms to the WTO but only to the trade of physical goods and not services. This was the only instance of consensus-based structural reform in WTO history.

Joint Statement Initiatives

There have been attempts at reform at the WTO, both wide in scope and small. Some of the most consequential have been in the form of JSI's or Joint Statement Initiatives. In response to the stagnation of the Doha Round, many member states have organized into coalitions passing self-regulating resolutions within the WTO. These plurinational regulations, started in 2017, focus more on new technologies disrupting the services trade like e-commerce and digital intellectual property.

In Practice

The WTO operates on a **schedule** system meaning that member nations are, in theory, supposed to publicly update their positions on trade matters so that their actions can be judged against their stated positions. In practice, nations rarely update their positions and without the DSU, it is harder to hold nations accountable for them.

End of the Dispute Settlement Understanding

In 2019, the United States began blocking new appointees to the Dispute Settlement Understanding (DSU) panel that arbitrates trade-related disputes between member states. Since then, the court has been inoperative because there are not enough judges to reach a quorum for decisions. Once hailed as a successful diplomatic achievement in leveling the playing field in world trade, the DSU now lingers at a standstill.

Possible Solutions

Sub-Blocs

Like-minded member states can continue to form broad and enforceable coalitions within the framework of the WTO. Even though they might not have every country signing on, there remain many unresolved issues that must be addressed in one way or another. Additional JSI's or smaller group resolutions are a potential avenue.

Negotiations

Even though reaching a consensus has been historically difficult and slow, negotiations have yielded some slight successes in the past. Member states, drawing on their own positions and mindful of other parties' interests, can attempt to hammer out agreements on emerging technologies and trends in the services trade. Possible themes for negotiation include artificial intelligence, cloud computing and storage, cybersecurity, transnational digital platforms and the gig economy, cryptocurrency, and more. If cooperation in the bounds of the WTO is not satisfactory, staging a protest might just be the most beneficial resolution. This could be in the form of withdrawal, abstention, a fiery speech, or even as negotiation leverage.

GATS 2.0

Perhaps a complete rewrite of the GATS system is in order to adapt to the modern era. This could also take the form of a modular amendment or amendments focused on the most essential updates to the current order.

Conflict Resolution

Member states, if they consider it worthwhile, should work out a method to reinvigorate the conflict resolution system through the Dispute Settlement Understanding (or through another new method, perhaps).

Bloc Positions

With respect to the bloc positions within the WTO, each member country has its own agenda based on specific factors, making reaching consensus (a requirement for formally passing anything in the WTO) complicated. Generally, several axes exist: the divide between developed and developing countries, between countries that have been historically receptive to free trade reforms and those that have not, and between export-focused and import-focused countries. Countries' alignments across these factors are often scattered, meaning they do not fall nearly along a pro- or anti-WTO axis. These complexities lead to unique positions and many possibilities for negotiations.

Developed vs. Developing

The UN classifies countries into development levels primarily based on gross national income per capita but also by membership in international blocs and by geography.⁴⁵ Developed countries are characterized by a wealthier, more educated, and economically diversified populace. Examples of developed countries are Belgium, Japan, New Zealand, and the United States. The UN uses the term “Developing” to classify countries with metrics that don’t yet meet these rough criteria. Examples of these countries include Bangladesh, Ethiopia, Tanzania, and Yemen.⁴⁶ Development status is notoriously imprecise and despite their categorization, all countries lie on a spectrum, meaning no two countries share the exact mix of economic positions on the services trade.

⁴⁵ UN Country Classification.

https://www.un.org/en/development/desa/policy/wesp/wesp_current/2014wesp_country_classification.pdf.

⁴⁶ UN Least Developed Countries. <https://www.un.org/ohrlls/content/list-ldcs>.

Free Trade Receptiveness

Based on internal politics, specific economic situations, and diplomatic pressure from abroad, member states have different levels of receptiveness to the free trade ideology of the WTO. Countries' receptiveness at the WTO extends beyond their willingness to pass new reforms—they can even put a stop to the everyday functions of the organization. For example, the United States is a key member of the WTO to consider because of the pressing matter of the DSU. As the United States is blocking new judges to the panel, the entire DSU is inoperative until the situation is resolved.

Export vs. Import Focus

Countries involved in international trade are either net services exporters (sending out more value in services than it takes in) or net services importers (taking in more value in services than it sends out). Net exporters have more to gain from trade liberalization across the world because it would be easier to sell services to new freer markets. However, they are typically more reluctant to open their own markets to foreign services due to competition with local enterprises. Examples of net exporters include India, the Philippines, and the United States. On the other hand, net importers benefit from freer trade in services because of the potential for newer, cheaper, and higher quality services to be introduced to their markets. However, net importers are also concerned about being overrun by foreign companies and influence. Overall, many countries are both net exporters and importers at the same time—just in different sectors. This leads to particular positions and compromises among member states and blocs.

Glossary

CBST: Cross Border Service Transactions.

Dispute Settlement: The Dispute Settlement Understanding (DSU) is the framework that governs the Dispute Settlement System (DSS), the resolution mechanism between WTO members currently suspended because of the U.S. veto].

Doha Round: The Doha Round is a series of ongoing trade negotiations with limited progress since they began in 2001.

GATS: The ‘General Agreement on Trade in Services’ is the original WTO services agreement of 1995.

JSI: A Joint Statement Initiative is a more recent multilateral agreement format at the WTO.

RTA: Regional Trade Agreement.

Schedule: The ‘Schedule of Agreements’ meaning the stated positions a country has on trade matters.

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