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FAIRNESS AND DEVELOPMENT FOR ALL THROUGH GLOBAL TRADE

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The multilateral trading system is currently facing a moment of uncertainty. Nearly three decades after its establishment, the World Trade Organization (WTO) stands at a crossroad, according to many observers. Around 72% of global trade is still conducted under the most-favoured-nation (MFN) terms, which underlines the WTO continuous relevance. Nevertheless, the institution is now confronted with multiple structural, political and normative challenges. At the centre of this crisis lies the paralysis of the WTO's dispute settlement system, particularly the suspension of the WTO Appellate Body, which has weakened enforcement and, consequently, undermined the credibility of WTO rules. Yet institutional paralysis is only one dimension of the broader challenge.

Since the WTO's creation in 1995, the trading environment and global economic realities have changed dramatically. The WTO membership has expanded to include major developing economies, which have reshaped global value chains, competitive dynamics and the balance of interests within the system. At the same time, longstanding debates over development, special and differential treatment and policy space have become more contested as economic asymmetries within the "developing country" category have widened.

Moreover, the substantive agenda of trade policy has evolved. Beyond new challenges like climate change and the rise of digital trade, issues including industrial subsidies, state-owned enterprises and "level playing field" concerns have moved to the forefront of trade tensions. These developments are unfolding against a backdrop of heightened geopolitical rivalry and systemic fragmentation.

In this context, the question of how to define fairness within the WTO acquires renewed urgency. For a long time, fairness was largely interpreted as non-discrimination, embodied in particular by the MFN principle and national treatment, and aimed at ensuring equality of treatment among WTO members.

The increasing role of developing countries in global trade has, however, raised questions about the distribution of the rights and obligations within the WTO system, framed in terms of equality of opportunity and distributive justice. The expansion of fairness to encompass economic equity arguments is driven, on the one hand, by the perceived moral obligation to enable developing and least developed countries (LDCs) to reap the benefits of trade to foster their economic growth. On the other hand, given their differing economic conditions and fiscal constraints, developing countries also seek to ensure that they can compete fairly and on an equal footing with developed members, while preserving a certain degree of "policy space" to sustain their development. "Policy space" refers to the "freedom and ability of a government to identify and pursue the most appropriate mix of economic and social policies to achieve equitable and sustainable development that is best suited to its particular national context".¹

¹ United Nations Conference on Trade and Development (UNCTAD), *Trade and Development Report, 2014* (New York and Geneva, 2014), 45.

More recently, fairness in trade has also become associated with sustainable development, integrating environmental and social sustainability considerations into the WTO discussion and advancing the Sustainable Development Goals (SDGs) through trade policy as a pathway to fairer globalization.

Today, the fairness debate is increasingly framed around the notion of a “level playing field” not primarily in terms of fair competition vis-à-vis advanced economies, but rather on ensuring a better balance of rights and obligations within the WTO and strengthening reciprocity in market openness among its members. In this context, several members, notably the European Union² and the United States of America³, have raised questions about growing imbalances and distortions stemming from discrepancies between certain members' share in global trade and their degree of openness, the continued self-designation as “developing country”, as well as the extensive use of state intervention and practices perceived as market distortive. At the same time, calls for “competitive neutrality”, whereby state-owned and private enterprises operate under comparable market conditions, have further shaped the debate.

Against this backdrop, discussions are also emerging on how to ensure that core WTO principles, including the MFN, transparency and national treatment, remain effective and relevant. Crafting a framework that ensures fairness, both in the distribution of rights and obligations and in the economic opportunities created by trade, is now essential to restoring trust in the system.

Current challenges at WTO level

Development and the special and differential treatment

The controversy concerning the classification of developing countries is not new. The WTO does not provide formal definitions of “developed” and “developing” countries. Instead, members may self-designate their development status. The developing country designation grants access to developing WTO members to a special and differential treatment (SDT), intended to enable them to make full use of the development opportunities offered by the WTO membership. The SDT encompasses a range of special rights, flexibilities and exceptions, including longer implementation time periods for agreements and commitments, technical assistance and provisions requiring all WTO members to safeguard the trade interests of developing countries.

Over time, complaints have intensified regarding the potential abuse of both self-designation and SDT flexibilities. At the same time, criticism has emerged concerning the overall lack of effectiveness of the SDT because of its one-fits-all approach and lack of objective criteria governing eligibility and access.

In the 2001 Doha Ministerial Declaration,⁴ ministers agreed that all SDT provisions should be reviewed to make them more precise, effective and operational. More recently, some developing countries have voluntarily committed not to seek SDT benefits anymore in future negotiations. Nevertheless, no substantive reform of SDT rules or eligibility criteria has been undertaken in recent years and grievances voiced by several developed countries persist.

Balance of rights and obligations under MFN

The overall balance of rights and commitments is increasingly perceived by some members as neither fair nor well-adapted to current economic realities. The rules were negotiated in a markedly different global trading environment and many argue that they no longer reflect contemporary patterns of trade and production. A widespread concern is that certain WTO members, despite their significant and growing share in global trade, have not reciprocated market-opening commitments to a comparable extent, particularly in the areas of tariffs and services, and that some domestic practices are inconsistent with market-oriented competition.

² European Union, [EU Submission on WTO Reform](#) (Geneva, 22 Jan. 2026).

³ World Trade Organization (WTO), [“On WTO reform: Communication from the United States”](#) (WT/GC/M/984, 15 Dec. 2025).

⁴ WTO, [“Ministerial Declaration”](#) (Doha, Qatar, adopted on 14 Nov. 2001).

In this context, the MFN application and rules are viewed by some as rigid and cumbersome with respect to present circumstances. Members such as the USA and the EU have argued that further reflection is now needed on the link between MFN, reciprocity and members' respective levels of openness, as well as on the possibility of more agile adjustments of tariff levels.

Level playing field and industrial policy

Against the backdrop of concerns over competitiveness, development objectives and geoeconomic considerations, governments worldwide have been massively expanding the use of industrial policy. As a result, issues related to industrial policy, such as state interventions, industrial subsidies, overcapacity and non-commercial behaviour of state-owned enterprises (SOEs), have taken centre stage in the debate at the WTO level. These measures are viewed by some members as generating distortions and negative spillovers that affect global markets and undermine competitive neutrality.

At the same time, pressure from developing economies to retain “policy space” for industrialization and development creates an additional layer of complexity to the industrial policy and level playing field discussion.

Additionally, many members have expressed frustration over persistent lack of transparency with notification obligations and of appropriate incentives especially to notify subsidies and “buy local” measures. Notably, only around half of the WTO membership submitted subsidy notifications in 2021 and 2023.⁵

In response to these challenges, the EU, the USA and Japan launched a Trilateral partnership⁶ in 2017 to address the global challenges posed by non-market policies and practices, in particular tackling rules for industrial subsidies and SOEs, forced technology transfer and broader WTO reform. While the initiative advanced discussions on potential rule-making solutions, it did not produce concrete negotiated outcomes. More recently, deliberations on industrial policy have begun within the WTO framework itself, although these discussions remain an informal and exploratory exercise at this stage.

Policy recommendations for the WTO

I. Safeguarding the MFN principle

The MFN principle constitutes a cornerstone of the multilateral trading system and plays a central role in ensuring non-discrimination, predictability and fairness in international trade. Its consistent application is essential to maintaining trust among WTO members, preventing trade fragmentation, and safeguarding the integrity and effectiveness of the rules-based global trading system.

As a result of the USA non-MFN compliant reciprocal tariffs and bilateral agreements, we are already witnessing what a world without MFN would look like. Investors' confidence weakens, production costs rise, supply chains are disrupted and consumer prices increase, ultimately resulting in lower economic growth across the board. The MFN principle also has the virtue of administrative simplicity. Without it, an importer in any of the 166 WTO nations would potentially face 165 different tariff rates for every import. Many countries, especially developing countries and LDCs, would lack the customs capacity and enforcement infrastructure required to manage such complexity. Fragmentation of the global trading system would also accelerate because of the proliferation of different bilateral arrangements in the absence of MFN.⁷

Many of the grievances associated with MFN can be tackled through targeted reform of other elements of the WTO rulebook, rather than by undermining one of its foundational principles. MFN commitments are already the outcome of negotiated reciprocity and apply once a mutually agreed balance of concessions has been established. Continued reciprocity is further guaranteed by the availability of trade remedies, countermeasures and unilateral increase of tariffs in case reciprocity is not respected. The WTO framework already provides a certain degree of flexibility and

⁵ WTO, “[WTO reform: Written report by Facilitator to the General Council](#)” (JOB/GC/483, 12 Dec. 2025).

⁶ [Joint Statement of Trilateral EU-US-Japan Trade Ministers' Meeting](#) (2021).

⁷ International Chamber of Commerce (ICC), [Why the most-favoured-nation principle matters for business](#) (2025).

exceptions, even allowing for renegotiation and adjustments of tariff levels for individual products in specific cases. The WTO dispute settlement mechanism is designed to enforce reciprocity commitments and guarantee a well-functioning MFN.

Accordingly, the real focus of reform efforts should be directed toward restoring a functioning WTO dispute settlement system, streamlining and accelerating procedures for adjusting tariff commitments where justified and, as already foreseen by the WTO rulebook, reviewing disciplines on safeguards and subsidies, and reforming SDT to address underlying fairness concerns. Strengthening these components would help respond to contemporary challenges while preserving the core architecture of the multilateral trading system.

II. Updating rules on distortive state interventions

The current WTO subsidy rules have not been adapted to changing circumstances in global trade and have not been able to constrain distortive state interventions. Fair competition and the limiting cross-border distortions stemming from industrial policies are crucial preconditions for achieving the industrialization objectives of developing countries and the basis of an enduring and credible trading system.

Updating the rules governing distortive state interventions should therefore be a central pillar of WTO modernization. Reform efforts should be based on three complementary pillars: enhanced transparency and notification, strengthened and clarified disciplines, and more effective remedies to address negative spillovers and overcapacity. Ongoing informal deliberations within the WTO play an important role in fostering shared understanding among members and laying the groundwork for future rulemaking.

More specifically, reform should include a review of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) and the Anti-Dumping Agreement (Implementation of Article VI of the GATT) to better tackle trade-distorting subsidization and provide more effective remedies. There is a need for anti-subsidies rules that are stricter, yet sufficiently flexible to capture the diverse and evolving forms of government support and the lack of transparency in implementation. For instance, a stronger incentive to notify subsidies properly should be part of this reform agenda, alongside consideration of additional categories of unconditionally prohibited subsidies.

III. Mainstreaming the development dimension of the WTO

Strengthening and mainstreaming the development dimension of the WTO should form an integral part of the broader modernization process. This requires acknowledging the diversity of developing countries' economic situations and avoiding a one-size-fits-all application of special and differential treatment. This should also include the amendment of the SDT provisions to make them more granular and more evidence- and needs-based, subject to regular review and clear graduation mechanisms. Such an approach would enable SDT to respond more effectively to the specific needs of developing countries and least-developed countries.

Moreover, WTO members' self-designation of their development status alone cannot remain the sole criterion for special and differential treatment. Objective, transparent and regularly reviewed criteria are required, while ensuring adequate flexibility for the poorest and most vulnerable countries.

At the same time, it is essential that pro-development initiatives like the WTO Investment Facilitation for Development Agreement are duly incorporated into the WTO rulebook under Annex 4: Plurilateral Trade Agreements. This agreement will create a fairer, more transparent, more efficient and more predictable environment for facilitating cross-border investment and the participation of developing countries in global investment flows.

Lastly, at a time when the commitment of some members to advancing the development agenda within the WTO appears less certain, initiatives like Aid for Trade should be supported to enable developing countries to build trade capacity, enhance competitiveness and integrate more effectively into the multilateral trading system.

Conclusion

In conclusion, in a context of growing fragmentation and rising geoeconomic tensions, reforming the WTO is no longer optional but imperative. Preserving non-discrimination, reinforcing reciprocity, and updating rules to address distortive practices are essential to restoring trust in the multilateral system.

At the same time, development must be integrated more effectively through fairer, more transparent and better-targeted differentiation that reflects today's economic realities. We need a modernized WTO that safeguards its core principles while adapting to new challenges, preventing further fragmentation. Only then can global trade fully deliver genuine fairness and development for all.