



RIS Discussion Paper # 334

WTO Reform for an Inclusive Multilateral Trading System

Harsha Vardhana Singh, Atul Kaushik and
Teesta Lahiri



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WTO Reform for an Inclusive Multilateral Trading System

Harsha Vardhana Singh, Atul Kaushik and Teesta Lahiri*

Abstract: WTO reform proposals submitted by members and the points raised in discussions with the Facilitator show a wide range of views on the WTO's foundational principles that aim to maintain an inclusive, non-discriminating, equitable (fair) and predictable multilateral trading system. These principles are embodied in and implemented through most favoured nation (MFN) treatment, decision-making based on consensus, special consideration for developing economies, in particular least developed countries, including through special and differential treatment (S&DT), improved transparency and notification, and a two-tier dispute settlement system. One set of views continues to emphasise these principles, while another set aims to amend them (consensus, MFN), on the grounds that these changes are required to make it easier to conclude new agreements among those members that wish to negotiate them. The latter set of proposals aims at facilitating plurilateral trade agreements, which in WTO are defined as Annex 4 agreements (i.e., no MFN and no predictability for non-members after they are accepted in the system). This paper examines the whole range of issues starting with identifying the key principles of the WTO system and the reasons why some members wish to change them. In that background the paper explains that if the foundational principles are changed in any significant way, that would adversely affect inclusiveness, fairness, and S&DT in the WTO system, and introduce considerable unpredictability within the system. The extent of unpredictability would be heightened if plurilateral trade agreements are considered only as Annex 4 agreements. This suggests a need to carefully examine the options that help maintain the foundational principles and also consider a need for redefining plurilateral trade agreements so that they do not lead to the kind of unpredictability that would be introduced if they are only Annex 4 agreements. In this context, the paper discusses various options/solutions that help maintain the significant role of WTO's foundational principles while also addressing the members' present concerns on more effective operations of the system and enable them to reach new agreements.

Keywords: WTO Reform, Decision-Making, Deliberative Function, Most-Favoured-Nation Treatment, Plurilateral Arrangements, Special and Differential Treatment

1. Introduction

Recent global developments show a major disregard for inclusive and predictable rules-based systems. The most important changes are

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occurring in the areas of trade and investment, and access to critical minerals and other resources.

In this background, the global comity of nations has a valuable agreed multilateral trading system, the World Trade Organisation (WTO), which incorporates a number of important interlinked fundamental or foundational operational principles (see Table 1). The highlighted part of the text in the second column shows the disciplines that lead to inclusion of members in the operations of the WTO system and its positive impact on efficiently and effectively conducting global trade transactions. Both the literature on WTO reform and discussions within the WTO show diverse views. The views in the literatures are summarised below, followed by a more detailed consideration of the discussions in the WTO are examined in more detail.

Views expressed in the literature: The literature on WTO reform has progressively evolved from early concerns about institutional legitimacy and judicial imbalance into a more complex and fragmented debate encompassing consensus-based decision-making, plurilateral experimentation, industrial policy spillovers, domestic political backlash, and competing visions of multilateral fairness. Early critiques did not merely identify procedural inefficiencies but questioned whether the WTO's architecture had become normatively and institutionally misaligned with the changing political economy of globalisation.¹

Reform scholarship, therefore, emerged not as a technical conversation about procedural amendments but as a broader inquiry into whether the WTO's foundational structure, including its balance between law and politics, its reliance on consensus, and its commitment to non-discrimination, remained fit for purpose in a world marked by geopolitical rivalry and policy heterogeneity.²

A central tension persists between adaptability and systemic integrity.³ One strand argues that flexibility, differentiation, and political recalibration are necessary to preserve relevance. Another strand cautions that weakening foundational principles risks fragmenting the multilateral system and undermining predictability.⁴ This paper intervenes precisely at this fault line. It does not deny institutional frustration or geopolitical strains. Rather, it evaluates reform proposals through their systemic

**Table 1: WTO's Operational Principles and
Their Impact on the Trading System**

WTO Operational Principles	Principles Operate Through, or Have an Impact On:
Non-discrimination	Most Favoured Nation Treatment (MFN), National Treatment, Security and Predictability
Fair	Development and Special and Differential Treatment (S&DT), Inclusion
Inclusive	MFN, National Treatment, Consensus
Consensus-based	Inclusion
Rules-based	Security and Predictability
Open	Creating Trade Opportunities
Transparency	Clarity of the Operational System and Predictability of the Operational Conditions
Predictability	Efficiency and Effectiveness of the System, Enabling Larger Business Opportunities
Dispute Settlement	Rule based security and predictability

Note: The text in bold in the second column shows some important principles that will be impacted by the WTO reform emphasized by some large WTO members.

implications for foundational operational principles, particularly MFN, consensus, inclusiveness, and predictability, to argue that any reform, to be inclusive, meaningful and effective, must preserve the foundational principles of the WTO, while accommodating disciplined adaptation to restore its functionality.

Discussions in the WTO: For some years now, WTO members have been discussing/ negotiating reform of the WTO system to improve its relevance and efficiency in a situation where changes in the conditions of trade may require modifications in the present scope and functioning of the WTO system.

The areas of concern include addressing:⁵

- The challenges WTO members face in initiating, negotiating and concluding trade agreements, both for outstanding issues as well as for new issues.

- The need to strengthen the work of WTO's regular Bodies and Committees and strengthen notification and transparency disciplines under existing agreements.
- The question of whether and to what extent the WTO's more advanced emerging economies should take on greater obligations under the WTO agreements.
- Whether existing Special & Differential Treatment provisions for developing and least developed countries are sufficient or effective.
- Improvements in the functioning of the WTO's dispute settlement system and overcoming the impasse on the appointment of new Appellate Body members.

The Facilitator for WTO Reform in his report⁶ shows that WTO members have introduced some other topics as well in their focus on improving the WTO system. It is noteworthy that the Facilitator on WTO Reform is not focusing on dispute settlement.

It is obvious that the members would differ in terms of their views and assessment of what is relevant and how the system needs to be reformed to make it more relevant. This is illustrated for instance by the large range of views of WTO members on various issues (including several impacting WTO's foundational principles) specified by the Facilitator for WTO Reform in his report of 5th November 2025.⁷

Section 2 of the paper discusses the WTO reform related issues raised by WTO members. This discussion provides the background information that would help with an analysis of the areas emphasised for reform, and likely changes required to achieve the objectives of WTO reform. Section 3 examines the implication of these changes for the WTO system. Section 4 examines the policy options and the implications of changes in certain areas that are a focus of the reform initiative.

2. Background: Areas Emphasised for WTO Reform

To properly evaluate the views of members on WTO Reform, a good starting point is to:

- (a) examine the systemic implications of any change in the major principles, i.e., change in the operational conditions specified in Table 1 above, and

- (b) a close look at the reasons why certain reforms are being proposed, and the implications of any change that is being sought by some major WTO Members or a majority of members.

It would be useful to consider the areas of WTO reform under the five categories given below. There is an overlap of the issues under these categories, but such categorisation will facilitate an analysis of WTO reform.

- (1) The areas where amendments to the WTO rules will fundamentally change the efficiency and effectiveness of the present multilateral trading system, including their impact on the operational principles of the WTO. These areas require the maximum effort to understand the issues involved and to make best efforts to maintain the positive features of the WTO system. These issues would be the most difficult for getting an agreement.
- (2) Issues for which there is greater likelihood of getting a basis for agreement.
- (3) Some specific issues covered in the submissions by WTO members. Three examples could be considered here, namely the submissions by the Africa Group, US and EU.
- (4) Issues discussed in report of the Facilitator for WTO reform.
- (5) Issues which are not in the report of the Facilitator for WTO reform but are important for WTO members.

2.1. Areas where the “reform” sought would change major principles and impact the operational conditions of WTO

Table 2 provides a list of issues for which changes would have a major impact on the structure and operations of the WTO agreements. Any analysis of these issues requires an understanding also of the reasons why a change is sought for the issues covered here. Two features in Table 2 are noteworthy.

One is that the reasons for members wanting a change shows an overlap between the basis of change sought for consensus, MFN and plurilateral agreements (see the second column of Table 2). This overlap

is relevant because it allows examination of different options when solutions to the concerns are considered in some detail. An example of the possible options with regard to changes in consensus and MFN is shown in Table 3.

Second, there is an area mentioned in Table 2 that is not shown in Table 1, i.e., “essential security”, which has been raised by the US in its communications on WTO Reform.⁸

With reference to plurilateral trade agreements, there are two overlapping issues. One is the definition of plurilateral trade agreements in the WTO, and the other is the conditions under which they could be considered to be a part of the WTO system.

Table 2. Areas for Which Changes Would Fundamentally Impact WTO System and Operations

Issue/ Principle	Reasons for Certain WTO Members Wanting a Change
Consensus	(1) Even a single Member <i>could exercise veto and limit reform initiatives</i> required by a large majority of members. (2) Under the WTO Agreement, consensus is required to legally amend MFN. Certain members <i>want freedom to change MFN</i> through voting.
MFN	(1) <i>Several Members feel</i> that given the large number of WTO members, <i>new Agreements are likely only between a sub-set of the membership, i.e., through plurilaterals.</i> (2) Large economies, not members of plurilaterals, would get benefits through MFN without any obligation taken by them (<i>free riders</i>)⁹. (3) Some members feel that for <i>certain non-market economies, their policies that are (unfairly) giving rise to greater market access</i> are not covered under the present rules, and changing those rules is either not feasible or will take a very long time. (4) <i>US wants to change the system</i> so that its non-MFN treatment becomes part of the rules-based system.

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Plurilateral Agreements	(1) A number of <i>members</i> want changes in the disciplines for plurilateral agreements because they <i>feel consensus is not feasible</i>. (2) <i>One proposal</i> (the US) is that plurilateral agreements should be allowed amongst those who want it, without any disciplines imposed on those who do not want to participate. Please note that the above proposal can work only if non-members are not “free riders”, i.e., they do not benefit from MFN.
Development and S&DT ¹⁰	The views of a number of members that want to change S&DT include: (1) Classification as a developing country needs to be determined based on some objective criteria and not self-selection. (2) S&DT should be primarily for only LDCs. (3) Members with S&DT should transition to using regular WTO rules. (4) Several developing countries and LDCs want greater policy space and support to effectively achieve their development objectives. Forexample, see Annex Table 1.
Essential Security	<i>“... each country has the sovereign right to take action necessary to protect its essential security interests. ... The WTO Agreement reflects the understanding among trading partners that judgments on matters of essential security are to be left to governments and not adjudicators. ... Members need to adopt a shared understanding of the essential security exception that prevents second-guessing of a Member’s critical essential security decisions.”</i>¹¹

Note: The issue of dispute settlement is discussed in detail in RIS Discussion Paper #333.

Definition: Article II.3 of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter “Marrakesh Agreement”) states that: “*The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as “Plurilateral Trade Agreements”) are*

also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.” (Emphasis added)

Thus, the term “Plurilateral Trade Agreement” (hereinafter “plurilaterals”) is by definition an Agreement which is part of Annex 4 and does not provide MFN to the rest of the WTO membership. The membership of plurilaterals is by definition less than the membership of WTO, i.e., they are WTO agreements with “not full membership” (NFM). While in the Marrakesh Agreement the term plurilateral refers to the Annex 4 agreements, there are agreements which are less than full membership but not in Annex 4. The Information Technology Agreement (ITA) is an example. It provides MFN, was agreed by consensus and is part of the WTO’s Annex 1 Agreements. In Table 3, ITA would be covered under the last column.

The second is the presence of two draft plurilateral agreements resulting from Joint Statement initiatives (JSIs) for which the negotiations are over and those who negotiated the agreements are seeking acceptance of those JSIs from WTO members as part of the WTO, and that too as part of Annex 4 of the WTO. Under Article X of the Marrakesh Agreement, it is important to note that acceptance into Annex 4 requires a consensus among the WTO members.¹²

To the extent that there are examples of agreements with less than full membership (i.e., ITA) which are not under Annex 4, the alternative of

Table 3. Different Types of Agreements under the WTO

Requirement of:	All WTO Members are signatories	All WTO Members are not signatories	
		Annex 4 Agreements	Others
MFN	Yes	No	Yes
Consensus	Yes	Consensus required to get into Annex 4	Yes

such agreements which provide MFN and are based on consensus should be a preferred route for plurilateral rather than Annex 4 agreement. A proliferation of Annex 4 agreements would lead to a significant dilution of inclusiveness, fairness and predictability of the WTO system. Keeping this in mind, the term “plurilateral agreement” or “plurilaterals” will be used in this paper for agreement like ITA that are not part of Annex 4.

2.2. Issues Which Have Greater Likelihood of Getting Agreement

Table 4 shows two areas where considerable effort would be required, but there would be a greater likelihood of getting an agreement on these issues.

There are however points of concern, such as the proposal for “administrative measures” in the context of transparency and notification.¹³ Discussions would have to focus on some “landing zones” for moving towards a practical and acceptable set of conditions.

2.3. Issues Mentioned in the Submissions of the WTO Members: Three Major Examples

Three examples which are considered here are the submissions by the African Group, the US and the EU. They cover a large number of issues and together with the issues given in the next two sub-sections would provide a wide coverage of the concerns relating to WTO reform.

Two of the issues mentioned by the US are shown in Table 4. The other issues raised by the US are shown in Tables 6 and 7. A comparison of the proposals in Tables 5 to 7 shows some areas where the views are very divergent.

African Group: The African Group has submitted two proposals. The recent proposal (5th March 2026) covering organising the proposals under the three broad categories specified by the Facilitator.¹⁴ The previous proposal, dated 31st October 2025, specified over ten points of focus for WTO reform with a very prominent focus on development.¹⁵

Key points in the March 2026 proposal of the African Group with reference to the Facilitator’s categories are as follows:

- a. **Decision-making:** Protect the value of consensus, build trust, improve the practice of convergence. Members must find practical ways to build convergence and prevent avoidable paralysis.¹⁶
- b. **Development:** Strengthen S&DT and secure policy space for structural transformation. Development should be framed as capability expansion. On the application of S&DT, categories of eligibility such as OECD membership or World Bank income measures do not reflect the trade-related development challenges faced by developing countries. Indicators should aim at informing rule design and flexibility, rather than establishing new thresholds or eligibility tests for S&DT. The African Group supports evidence-based discussion on industrial policy and trade effects.¹⁷
- c. **Level playing field:** Fairness must be symmetrical, including in agriculture and in the use of exceptions. “Level playing field” cannot mean tightening disciplines primarily on those who already have limited fiscal and technological capabilities, while leaving intact the instruments and exceptions through which other members act with limited constraint. The reform should result in a permanent solution for public stockholding for food security purposes (PSH) and an effective special safeguard mechanism (SSM) to protect African markets from abrupt increases in subsidised imports. Further, the increasing use of national security provisions to justify protectionist measures must be strictly regulated by the multilateral system to prevent arbitrary decisions.¹⁸

Table 4. Areas for Which Common View Could Emerge

Transparency and Notification: “... targeted delivery of notification-related technical assistance and capacity building. ... includes administrative measures to hold accountable those Members that chronically do not adhere to their notification obligations and have no need of technical assistance.”

Role of the Secretariat: “... the WTO Secretariat [role is] fundamentally administrative, not substantive.”

Note: The quoted text is from paragraphs 2.7 and 3.4 of US communication on WTO Reform, WTO Document WT/GC/W/984, 15 December 2025

The October 2025 submission of the African Group raised several issues relating to development aspirations, including industrialisation, food security, agriculture reform, poverty alleviation, S&DT, industrial development, inclusive and transparent WTO Bodies, preservation of consensus based decision-making, and dispute settlement reform.¹⁹ More detail is provided in Annex Table 1. The African Group proposal raises several issues including some which are part of the November 2025 report by the Facilitator on WTO Reform. However, in certain cases, the orientation of reform initiative sought are not the same. For instance, the focus on industrial development and flexible “policy space” mentioned in the African proposal seeks supportive conditions. The discussion on industrial policy in the Facilitator’s report focuses inter alia on enhanced disciplines.

The views expressed on WTO’s fundamental principles by the March 2026 African Group submission are reiterated also by the ACP group and the LDC group submissions.²⁰ The key thrust of these propositions can be summarised by the LDC group’s statement in the section on decision-making: “The worth of including additional multilateral or plurilateral agreements should uphold the same fundamental rules and practice anchored in the Marrakesh Agreement dispute settlement mechanism for Members. Reform of the mechanism must be consensus based as well.”²¹

In this background, the Facilitator’s report states that: *“Others noted that the conversation on fair competition reflected diverse perspectives. Fairness meant different things to different Members. ... Therefore, focusing narrowly on one or two issues could exacerbate existing inequities. A broader, more inclusive dialogue was needed to address the full spectrum of fairness concerns.”*²²

US: The US has submitted two proposals. The first communication on WTO Reform provides two broad segments. One specifies proposals for WTO reform (Table 5), and the other shows the US views that for certain issues, solutions cannot be achieved at the WTO (Table 6).

It is noteworthy that the US proposals in Table 5 overlap with the issues in Table 2, i.e., issues for which changes would fundamentally impact WTO system and operations. To the extent any WTO member

emphasizes retaining the present main features of the WTO system, these proposals would require deep assessment to consider options that reach satisfactory conclusions.

The US communication on WTO reform has a section which differs from usual proposals, in that it specifies areas where solutions are not possible to be achieved under the WTO system (Table 6). It is noteworthy that an area in Table 6 (overcapacity and overconcentration of production) is mentioned in the report of the Facilitator for WTO reform as an area to be addressed in the context of WTO reform.

The second US communication, submitted two days before the commencement of MC14, further elaborates the US views on a number of issues and suggests way forward for them, i.e., notifications, plurilateral agreements, MFN principle, role of the Secretariat, and essential security. The way forward suggested on two of these issues merit special mention in this paper, namely, plurilateral agreements and MFN principle. In this context, it is relevant to recall the US statement in its first communication that “All Members seem to agree on this principle: no obligation should be imposed on any Member without that Member’s consent. However, a few Members seem to disagree with another reasonable principle: Members that are willing to consent to a new obligation should be able to forge a new agreement among themselves” (Emphasis added]. The issue of decision-making is not addressed separately in the second US communication.

On plurilaterals, the second US communication suggests as a way forward “interim plurilaterals” – voluntary and temporary agreements among a subset of Members to move forward on specific issues without needing full consensus. Parties to the interim plurilateral agreements would not pursue incorporation into the broader WTO framework for a specified number of years, e.g., five years. During that period, the parties would implement the agreement and monitor compliance. The interim period would afford the parties and non-parties an opportunity to observe the agreement and its impact and the benefits it creates. At the end of the interim period, the Membership could deliberate and decide

**Table 5. US Communication on WTO Reform,
15 December 2025**

Plurilaterals: “Members that are willing to consent to a new obligation should be able to forge a new agreement among themselves. The path to plurilateral agreements is blocked, and ... Reaching consensus among 166 Members on new, substantive agreements of any significance is very unlikely ... Finding a path forward at the WTO for plurilateral agreements whose benefits and responsibilities are limited to the consenting parties must be a priority. ... [i.e.,] plurilateral agreements would allow those Members that are ready to take on new commitments to do so in a reciprocal manner, while allowing other Members to join and gain the benefits of those commitments in the future, when they are ready.”
Special and Differential Treatment: “The position of the United States has not been that SDT should be eliminated altogether. For example, it may be appropriate for least-developed countries (LDCs) to benefit from certain flexibilities. However, SDT should be viewed as a tool to enable Members to achieve the capability to follow the same rules that all other Members must follow and in a timely manner. ... Reform in the area of “development” must focus on transitioning all Members to follow the same rules, regardless of their economic differences.”
Most Favoured Nation (MFN) Principle: “The MFN principle ... was designed for an era of deepening convergence among trading partners. ... that era has passed. It has been replaced by an era of deepening divergence, rooted in some countries’ unwillingness to pursue and uphold fair, market-oriented competition, some countries’ insistence on maintaining economic systems that that are fundamentally incompatible with WTO principles, and many countries’ pursuit of chronic trade surpluses that have adverse economic and political consequences in deficit countries. To face these challenges, trading nations must be able to treat different trading partners differently. ... MFN impedes welfare-enhancing liberalization. It pushes Members to ... to develop a one-size-fits-all approach ... it prevents partners otherwise willing to enter into mutually beneficial agreements from doing so.”
Essential Security: Please see last row of Table 3.2 above.

Note: The quotations are from paragraphs 2.1, 2.2, 2.4, 2.5 and 3.1 of the US Communication on WTO Reform, 15 November 2025.

Table 6. US: Areas for Which WTO Solutions are not Possible

Trade Imbalances: “chronic surplus countries would need to agree to rules that would deprive them of the advantages they currently enjoy”
Overcapacity and Overconcentration of Production: “any WTO negotiation would surely result in watered-down obligations and grey zones that could easily be exploited”
Economic Security: “The WTO is a forum to negotiate trade agreements and to administer and monitor compliance with those agreements. It has no competence on security matters, including economic security.” ²³
Supply Chain Resilience: “There are several reasons why the WTO will not be a productive forum for working on supply chain resilience.” ²⁴

Note: The quotations are from paragraphs 4.2, 4.7, 4.8 and 4.9 of the US Communication on WTO Reform, op. cit.

whether to incorporate the interim agreement into Annex 4. The process could include revisions to the agreement or additional Members joining as parties. If the parties want to incorporate the interim agreement into Annex 4, but any non-party still objects, the parties may have a strong interest in ensuring that the agreement survives and be willing to make it a non-WTO plurilateral agreement [Emphasis added]. Thus, the WTO can play an incubator role in ‘improving the trading system’. The communication also refers to the ‘critical mass’ test as an additional option, i.e., if after the five-year period the parties account for at least ‘x’ per cent of trade in the products covered by the agreement, the agreement would be incorporated into the WTO agreement.

On the MFN principle, the second US communication makes two important observations. First, it states that fundamentally, the principle fails to promote reciprocity and balance within today’s trading system. Second, it states that unqualified adherence to the unconditional MFN principle precludes Members from differentiating among trading partners that should be treated differently. It then proposes as a way forward a frank discussion on the link between MFN and reciprocity, considering

how MFN status may be adjusted or made conditional based on various factors such as market openness, a commitment to fair, market-oriented competition and transparency. Resulting from this frank discussion, Members could explore whether the WTO Agreement could be amended or interpreted to achieve these results. In sum, the US proposes a reconsideration of the fundamental principle of MFN in the WTO acquis.

Both submissions of the US raise similar concerns with respect to adverse impact on foundational principles of the multilateral trading system, i.e., adverse effects on inclusiveness, equity, and predictability of the system. More discussions on these aspects are in section III below.

EU: The EU's submission on WTO Reform was circulated as document WT/GC/W/986, dated 21st January 2025. The basic framework of the submission is captured in the view that:

“The key features of a reformed WTO need to address the root causes of the Organisation's crisis and the shortcomings of the system to make it fit for the realities of today.

1. **Predictability:** the reformed system should remain rules-based and underpinned by a fully functioning and effective dispute settlement to enforce the agreed rules. It also needs to address today's pressing trade policy challenges (e.g., industrial policy, digital trade, climate, biodiversity, resilience etc.).
2. **Fairness:** the reformed system needs to reflect the changed economic realities and address imbalances in the rights and commitments of Members and ensure level playing field.
3. **Flexibility:** a reformed system needs to offer a more flexible framework of rules, including variable geometry approaches underpinned by a revisited governance”

Many aspects of this submission overlap with the US proposal. It is noteworthy that unlike the EU, the US does not emphasize dispute settlement as a WTO reform issue. Further, on addressing industrial policy initiatives (e.g., of China), the US and EU have opposite views. The US states that the issues cannot be adequately addressed in the WTO, and the EU aims to address it within the WTO.

A novel feature of the EU submission is a Draft Ministerial Decision which specifies work programmes on “Fairness” and “Flexibility”, covering the issues of balance of rights and obligations, level playing field in industrial sectors, developments and S&DT, consensus and decision-making, institutional reforms, variable geometry and plurilateral agreements. More detailed information is in Annex Tables 2 and 3.

A recent submission by the UK²⁵ provides views that are broadly similar to those of the EU on some key issues such as MFN and S&DT. This communication covers a host of other issues including digital trade, services, climate change, environmental degradation, “exploring other tools to help reach consensus-based decisions, including opt-outs, silence procedures and more regularly escalating issues to Ministers”²⁶, and “need for an empowered and agile Secretariat that is efficient and more flexible, guided by an agenda agreed by Members”.²⁷

Other WTO members have also made submissions on WTO reform covering the various issues discussed above, though with a number of perspectives different from those emphasised by the EU and the US. Examples include the submission by Jamaica (Document number JOB/AG/270 dated 5 December 2025), Indonesia (undated document titled “Promoting Food Security and Resilience in the Multilateral Trading System”), and Paraguay (Document number WT/GC/W/987 dated 3 February 2026).²⁸ The submissions by developing economy members in general emphasise the centrality of development including S&DT, agriculture, food security, and systemic integrity of the WTO system (inclusiveness, fairness and security).

2.4. Issues Discussed in the Report of the Facilitator for WTO Reform

The report of the Facilitator for WTO reform has discussed various issues under three categories: Decision-Making, Development and Special and Differential Treatment (S&DT), and Fair Competition / Balanced Trade.

The discussion on decision-making focuses on the issues of consensus and presents a wide range of views. Any consideration of “consensus” needs to keep in mind that consensus is one of the foundational principles of the WTO, deviation from consensus is allowed through voting in many contexts. However, in certain instances, no amendment or decision is allowed without consensus.²⁹

The crux of the Facilitator’s views regarding consensus is captured as follows:

“While consensus itself was not challenged, others observed that it is increasingly used as a veto, impeding progress and disadvantaging others. They called for a more agile and responsive process aligned with current realities. They described this as an existential issue, warning that an organization unable to make decisions risks losing relevance. The WTO’s slow pace of delivery underscored the urgency of addressing this topic—not to reach conclusions by MC14 – but to prepare Ministers for a structured, forward-looking conversation. Without such engagement, the problem would persist. ...While recognizing the complexity and sensitivity of the issue, there was broad recognition that the discussion is unavoidable. It was also acknowledged that this issue could not be resolved by MC14. Nonetheless, Members having a structured, inclusive dialogue was essential to chart a realistic and sustainable path forward.”³⁰ (Emphasis added)

On Development and S&DT as well, the report provides a whole range of views. The discussion in the previous section based on proposals by the African Group, the EU and the US have already covered several of the diverse positions.

The issues covered by the third category, Fair Competition and Balanced Trade, cover different aspects, some not yet covered in the previous discussion. Table 7 shows several diverse issues which are specified under this category. It should be noted that some of them are considered by the US as initiatives for which satisfactory solutions cannot be reached in the WTO (compare Tables 6 and 7).

Table 7. Fair Competition and Balanced Trade: Issues Mentioned by the Facilitator on WTO Reform

Issues
Subsidy disciplines under the Agreement on Subsidies and Countervailing Measures
Agricultural trade and related policy space
Industrial policy, trade-related development needs, and market distortions
Transparency obligations and compliance mechanisms
Policy Space ³¹
Trade-distorting state interventions, including subsidies ³²
Development-oriented approach to fair competition ³³

Note: The first four issues are explicitly stated by the Facilitator. The other three have been specified taking account of the summary of discussions in the Facilitator’s report.

The issues in Table 7 cover a wide range of topics, including reform of the subsidies disciplines, industrial policy and concerns related to development. In this regard, the following statement in the Facilitator’s report is worth keeping in mind to note certain development-related concerns that would impact negotiating positions.

“While updating the ASCM was seen as important, some argued that fairness cannot be achieved solely through technical changes to the subsidy rules. True fairness was also realized when the WTO contributes to development and economic growth. In this regard, proposals for a development-oriented approach to fair competition were highlighted, particularly for LDCs. Suggestions included: A “Development Review Mechanism” to assess the impact of WTO rules on Members’ development goals; Strengthening Aid for Trade to focus on industrial competitiveness and infrastructure; Reviewing all WTO agreements to recast rules where necessary, providing more policy space for Members to achieve development objectives.” (Paragraph 4.13 of the Facilitator’s November 2025 Report)

2.5. Issues Which are not in the Report of the Facilitator for WTO Reform But are Important for WTO Members

In his statement during the December 2025 meeting of the WTO General Council, the Facilitator has acknowledged that his three categories “do not encompass the full scope of matters members consider essential for WTO reform”³⁴ Thus, it is necessary to examine which issues have been left out by the Facilitator. One obvious candidate is the issue of public stockholding that has been emphasised by India and other developing countries for long. The process of discussions leading to common concerns and coalitions would be a process to identify additional such issues.

Table 8. Areas Which Are Not Discussed by the Facilitator on WTO reform

Issue	Reasons for Members Wanting a Change
Public Stockholding	Food security
Environment	Sustainable Development

3. Analysis of the Issues Emphasised in WTO Reform

The issues discussed in Section II could be considered under three categories:

- (a) Issues for which agreement may be relatively easier. This would require some adjustments in the proposals that make agreement difficult.
- (b) Issues for which agreement is unlikely to be feasible.
- (c) Other issues, which include:
 - i) Issues for which changes would result in major systemic impact on the WTO regime.
 - ii) Others for which a change may have a relatively small systemic change in the WTO regime.

Examples of the first two categories are shown in Tables 5 and 8. Of particular importance are the issues for which a change would have a

major impact. Significantly, at the December 2025 meeting of the WTO General Council, the Facilitator stated that:

- On decision making, *while no member questions the existing practice of decisions by consensus, “shared frustrations remain” regarding the challenges in reaching decisions, including the handling of plurilateral initiatives* (Emphasis added);
- [Regarding S&DT], while no member challenges the principle, views diverged regarding its effectiveness and who should have access to it;³⁵
- *The goal in the lead-up to MC14 is not to resolve every issue, but to lay the foundation for ministers to be in a position to provide guidance at MC14 that will allow officials to begin examining approaches after MC14* (Emphasis added).

Since specific issue-oriented discussions would take place after MC14, it is necessary at present to get clarity on the most important issues that will have a systemic impact, i.e., the issue mentioned in Tables 1 and 2.

The most important underlying principles for WTO are those which enable inclusiveness, fairness and predictability of the system. Three fundamental principles of WTO that lead to inclusiveness are MFN, consensus and S&DT.

Both the EU and US proposals aim to amend these principles.

The EU provides a basis for its proposal by stating that it is not correct for “consensus” to be equated with “unanimity”, and that this is also indicated by the flexibilities provided by Article IX of the Marrakesh Agreement.

Hence, two substantive points are relevant in the above context. One a consideration of whether “consensus is not unanimity” and second an assessment of the conditions under which MFN can be amended under the WTO provisions.

3.1. The Definition of Consensus

The term “consensus” is defined in two important Agreements of the WTO. One is the Marrakesh Agreement and the other is the Understanding on

Rules and Procedures Governing the Settlement of Disputes (henceforth: Dispute Settlement Understanding or DSU).

Article IX.1 of the Marrakesh Agreement states that: “*The WTO shall continue the practice of decision-making by consensus followed under GATT 1947*”. Footnote 1 to the Article clarifies this as follows: “*The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.*” (Emphasis added)

Further, Article 2.4 of the DSB states that: “Where the rules and procedures of this Understanding provide for the DSB to take a decision, it shall do so by consensus”. Footnote 1 of the DSU clarifies that: “The DSB shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting of the DSB when the decision is taken, formally objects to the proposed decision”.³⁶

This shows that the term “consensus” is “unanimity” among the WTO members present at the meeting, in that consensus requires a situation when no member present at the meeting when the decision is taken, objects to the issue. Thus, based on the WTO text, it must be equated with this level of unanimity for members present at the meeting.

3.2. MFN

With respect to amending MFN, Article IX.2 Marrakesh Agreement states that: “*Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all Members: Article IX of this Agreement; Articles I and II of GATT 1994; Article II:1 of GATS; Article 4 of the Agreement on TRIPS.*” (Emphasis added)

The provisions mentioned in Article IX.2 of the Marrakesh Agreement relate to MFN. *Thus, changing the MFN provision in WTO requires unanimity (i.e., agreement by all members).*

3.3. MFN and Consensus: These Principles Enable Inclusiveness, Fairness and Predictability

WTO is envisaged as a multilateral trading system because it incorporates the principles of inclusiveness and fairness for members, and predictability of the system in terms of its operations and impact.

Changing MFN and consensus would reduce the inclusiveness and predictability of the WTO system. These are very important principles. Both consensus and MFN provide for inclusion, which is a foundational principle. The participation of each member in the system is shown not only by MFN and consensus, but also in the principle of “one member one vote” embedded in the WTO. Article IX.1 of the Marrakesh Agreement clearly states that: *“At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote.”*

To the extent that members value these principles and attributes, the principles of MFN and consensus should also be of value. These principles are emphasized by many, as is shown for instance by proposal of the African group which emphasizes both consensus and inclusiveness.

Further, the EU proposal emphasizes predictability, which depend on stabilising principles of MFN and consensus. Moving away from these principles that ensure inclusiveness will adversely affect predictability of the WTO system (see also the discussion in section below on “Stability and Predictability of the Multilateral Trading System”).

However, there is an Important Concern. The Facilitator on WTO reform has noted that decisions based on consensus lead to situations where “shared frustrations remain regarding the challenges in reaching decisions”.³⁷ This issue is raised particularly in the context of the initiatives for new plurilateral agreements.

3.4. New Plurilateral Agreements

Both US and EU have expressed the view that plurilateral agreements (“plurilaterals”) are the only way to revitalise the WTO system. Further, the current plurilateral initiatives have significantly large number of WTO members participating in it, showing the interest of many members in these initiatives. Since consensus in terms of unanimity is the primary

criterion for decisions at the WTO, those who seek new plurilaterals are focusing on diluting the criterion of consensus to enable plurilaterals to more easily become part of the WTO.

Furthermore, there is a demand also for dilution of the MFN criterion to address a “free rider” concern, i.e., if a member with significant trade share is not a signatory to a plurilateral agreement, that member gets the benefits without any disciplines imposed under the agreement.

Since both MFN and consensus result in desirable attributes of the WTO system (inclusiveness and security and predictability), they should ideally not be amended in any. However, since the achievement of another key objective requires considering some change, any step that is taken should keep the WTO system as close as possible to the present one.

(d.i) Possible options for addressing MFN concerns: The issue of “free rider” would involve a consideration of three different yet overlapping options.

One is to consider whether the free rider problem is likely to arise in practice. This would depend on the issue covered by the plurilateral agreement. Non-MFN as a solution to the free rider concern may be more valid, for example, when the plurilateral covers MFN tariffs such as in the case of the Information Technology Agreement (ITA) which did not have a non-MFN result. It may be less relevant for plurilaterals that cover regulatory policies.

The second is to consider the concept of “de minimis” under which a specified market share threshold could be considered relevant to determine whether or not non-membership of a member creates a “free rider” concern. Examples of de-minimis are in Articles 5.8 of the Agreement on Anti-Dumping and Article 27.10(b) of the Agreement on Subsidies and Countervailing Measures. Yet another example is the concern expressed at the product level in Articles 27.5 and 27.6 of the WTO Agreement on Subsidies and Countervailing Measures.

The third category would be a variant of the concept underlying the Reference Paper on Telecommunications (henceforth “Reference Paper”).³⁸ The Reference Paper specified certain regulatory principles, and WTO members were allowed to voluntarily choose any, all or none

of these regulatory principles as their obligations. In certain cases, this could be a basis for finding solutions to the free rider concern as well.

In the light of the “free rider” problem discussed in the second US communication mentioned in Section 2 (3) above, these considerations, rather than reinterpreting or amending the foundational principle of MFN may be the way forward.

(d.ii) Annex 4 plurilateral agreements are an important example of non-MFN agreements. Consensus is required for agreements to be accepted as part of Annex 4.

With regard to Annex 4 Agreements, i.e., those which have been accepted by the membership for Annex 4, one important issue still remains relevant. Once the Agreement is part of Annex 4, any subsequent change in the provisions of that Agreement should also be subject to the same criteria that applies for acceptance of the initial Agreement into Annex 4.

(d.iii) The issue of consensus: Similar to the options for addressing MFN, the solutions for the issue of consensus could also emerge from WTO textual provisions and practice. Consider for instance the conditions that enabled the first plurilateral agreement of the WTO, i.e., the Information Technology Agreement (ITA) whose membership is less than WTO’s full membership. This plurilateral focused on keeping the conditions as close as possible to those of the general WTO system. ITA maintained MFN and consensus, and the agreement was implemented after critical mass of 90 per cent of world trade share in information technology products was achieved.³⁹

(d.iv) Plurilaterals: The example of the Information Technology Agreement, demonstrates that the results of a plurilateral agreement could be accepted on a consensus basis and those results could be applied on an MFN basis. Further, a minimum threshold of 90 percent of world trade in information technology products was considered as the satisfactory participation level. ITA shows the possibility of maintaining foundational principles even with a 90+ percent threshold level (the discussion on MFN below addresses the free-rider concern).

Annex 4 agreements (i.e., agreements with less than full WTO membership) are defined in Article II.3 of the Marrakesh Agreement as plurilateral trade agreements. Agreements such as the ITA also have membership that is less than full WTO membership. To the extent that future WTO agreements would tend to be less than full membership agreements, there is a need to consider a change in the definition of plurilateral trade agreements under the Marrakesh Agreement.⁴⁰ This is important because a proliferation of Annex 4 agreements would lead to major fragmentation of the WTO system, with a significant dilution of inclusiveness, fairness, and predictability. To avoid such fragmentation, it is important that new plurilateral agreements include MFN and be based on consensus based decision-making.

In this light, the way forward suggested by the US in its second communication, as mentioned in section 2 (3) above, would significantly dilute inclusiveness, fairness and predictability.

(d.v) Preservation of existing WTO rights of non-members when a new plurilateral agreement is implemented: An important principle emphasized in the context of new provisions within the WTO is “without prejudice to rights and obligations under the WTO Agreement.”⁴¹ Further, the documents of ITA were reviewed and approved on a consensus basis,⁴² and the results of the agreement were available on an MFN basis as the results were incorporated in the tariff schedules of the members of the plurilateral.⁴³

These principles should be an important part of a consideration of the impact of new plurilaterals on non-members. It is not certain which subject areas would be covered by plurilaterals, and it is possible that the existing WTO rights of non-members may be impacted by the plurilateral agreement. An example of this concern was raised by China in the initial phase of e-commerce negotiations that indicated a concern to clarify the relationship between its existing WTO rights and what was to be negotiated.⁴⁴

In this regard, together with achieving a critical mass another important necessary condition should be that the concern of any systemic

impact of a new plurilateral agreement on any members should not be left unaddressed if that member submits its concern that its existing rights and obligations have been adversely impacted.

Furthermore, once an agreement is part of Annex 4, members of that agreement can make changes without reference to the rest of the WTO members (outside the Annex 4 agreement). Those changes could adversely affect the WTO rights of the non-members. Thus, the acceptance of any changes in an Annex 4 agreement should be subject to the same consensus criteria that is necessary for an agreement to be part of Annex 4.

These concerns and the critical mass criteria should both be equally important and required for acceptance of a plurilateral agreement.

A structure of disciplines which are focused on as small a movement from the current situation as possible, is very important particularly in the context of plurilaterals. Without discipline for plurilaterals, there would be a major loss of security and predictability.

3.5. Security and Predictability of the Multilateral Trading System

Security and predictability of a system depend on a combination of the rules and disciplines that exist and those which are developed under new agreements. Thus, for instance if closed plurilateral agreements (such as is suggested by the US)⁴⁵ are allowed among consenting members whatever their number or trade share, that would increase the systemic uncertainty and unpredictability due to several new plurilateral agreements coming up with small and large membership. It is well known that any trade agreement has an impact on non-members as well. If several such agreements occur within the WTO, then the spaghetti bowl effect will multiply. Table 9 indicates this with only two plurilateral agreements of the type proposed by the US and EU. The Table considers two options for each of the two plurilateral agreements, one where the members are parties to the Multi-Party Interim Appeal Arbitration Arrangement (MPIA)⁴⁶, and the other where they are not. Even with only two plurilateral agreements, there would be lack of predictability about

the impact and implications of the plurilateral agreements because each would have a different membership. The adverse systemic effect would be much more with a larger number of closed plurilateral agreements. The adverse systemic effect would be much more with a larger number of plurilaterals.

Table 9. Different Tracks Within the WTO With Different Plurilateral Agreements

	Members of the Appeal Process	Those Not Member of the Appeal Process
Members of Plurilateral Agreement “Y”	Track 1	Track 2
Members of Plurilateral Agreement “Z”	Track 3	Track 4
Non-Members ⁴⁷ of Plurilateral “Y”	Track 5	Track 6
Non-Members of Plurilateral “Z”	Track 7	Track 8

Therefore, if predictability is valued, then predictability must be maintained also through the disciplines of new plurilateral agreements in the multilateral trading system. Similar concerns arise with respect to inclusiveness and fairness of the WTO system.

3.6. Development and S&DT

It is agreed that development-related issues include S&DT as well as other concerns. As shown in the proposal of the African Group (Annex Table 1), the issue of development covers several aspects including S&DT that need to be addressed.

With respect to S&DT, submissions of the US and the EU are particularly relevant. The US proposal could be broadly summarised in terms of three main points. One, the US is not against the provision of S&DT. Two, in general it would be more ready for LDCs to get S&DT.

Three, Members would have to consider S&DT in terms of transition periods after which they are subject to the regular WTO disciplines same as developed economies.⁴⁸

Similar to the US, the EU wants S&DT to be time-bound. The EU wants objective and transparent criteria to differentiate between developing countries. It also proposes that lessons on S&DT be drawn from the Trade Facilitation Agreement, linking implementation with assistance.

Regarding differentiation among developing countries, it is noteworthy that the Chair's draft text on agriculture under the Doha Round specified varying levels of S&DT for different categories of developing countries.⁴⁹ These categories evolved during the negotiations and would likely do so again. Thus, there may not be a need to decide on differentiation in advance for developing economies.⁵⁰ This is particularly relevant because of the difficulty when such negotiations took place earlier on determining objective criteria for determining those qualifying for S&DT.

3.7. Essential Security

The proposal on essential security would be subject to two dissimilar views. One is the position of the US that such issues should be left to the member concerned to decide. The other is an emphasis on additional disciplines in order to curb the abuse of national security exception and to curb unilateral measures inconsistent with WTO rules. More discussions would be needed to reach agreed conclusions on this issue.

3.8. Transparency and Notification

All members want to focus on transparency. However, there are different views to ensure notification requirements being met members that combine technical support and penalties. In this regard, the following text from the Facilitator's report is worth keeping in mind:

“Others also pointed out that improving compliance with notification obligations was an area where progress could be made. Members should

fulfil obligations while accounting for differing capacities. In this regard, they suggested:

- Ensuring notifications are complete and timely, without penalizing developing or LDC Members;
- Introducing graduated transparency measures, such as extended timelines, improved templates, and enhanced technical assistance;
- *Establishing guidelines to reflect all Members' interests in decision-making and meetings.*" (Paragraph 4.17 of the Facilitator's November 2025 Report; emphasis added)

The EU is focusing on support to industry, not to agriculture. EU's submission states: "The first step is to identify gaps and shortcomings that currently prevent Members from effectively addressing negative trade effects caused by State interventions in support of industrial sectors."⁵¹

Since several years now, proposals have been made to rectify the inequity in WTO Rules on agriculture, particularly the large extent of AMS available to developed economies.⁵² Likewise, there is a body of research that shows that Green Box subsidies can also be trade distortive and need an assessment in the context of WTO reform.⁵³ These issues would also be relevant for examination and policy adjustment. In this context, Brazil's submission dated 5th December 2025 states inter alia that: "*An assessment of the Green Box and its criteria, with a view to preventing potential distortive effects on production and trade, while taking into account the objectives of food security, rural livelihoods and environmental protection.*"⁵⁴ In the context of food security, it is worth noting that the proposals on public stockholding are also not emphasised.

4. Conclusions

The WTO reform discussion and submissions from WTO members show that there are a range of views on each individual issue being discussed for WTO reform. An important point to note is that there is an effort to amend some of the foundational principles, such as those embodied in MFN, consensus, development and S&DT. Further, certain principles,

e.g., fairness or addressing development related issues, are not necessarily interpreted in the same way by different members. Therefore, there is a crucial need for members to engage in discussions to better understand the range of perspectives, especially on the major principles and disciplines to reach conclusions that maintain the key positive features of the WTO system.

MFN, consensus and S&DT result in inclusiveness,⁵⁵ a very important feature of the multilateral trading system. The importance of inclusiveness is also shown in the principle of “one member one vote” in Article IX.1 of the Marrakesh Agreement. These principles also contribute to predictability of the operation of the WTO system, which is crucial for creating larger trade opportunities and improving the efficiency and effectiveness of the WTO system.

Likewise, transparency and notification provide greater clarity about the prevailing policy regimes and increases predictability. Transparency also helps determine whether or not a member’s policy is consistent with the WTO. In this regard, an important complimentary requirement is an effective dispute settlement mechanism so that loss of any opportunities due to WTO inconsistent policies could be addressed. Thus, changes in or dilution of MFN, consensus, development and S&DT, would adversely impact key foundational principles of the WTO.

However, there is a dilemma. A number of WTO members are of the view that consensus is used as a veto to block the efforts of several members that consider a need to develop new trade related disciplines to address emerging areas that are becoming important in trade. Further, there is another view that is also expressed in some submissions on WTO reform (e.g., US and the EU) that given the large number of members, it is extremely difficult to have agreements with the entire WTO membership.

Further, there is a view that non-members of the plurilateral agreement would be “free riders” if MFN is provided because they would not be subject to any obligation but would receive all the rights and benefits of the agreement. Therefore, a case is presented for diluting consensus for enabling the conclusion of a plurilateral agreement, and diluting MFN to avoid “free riders”.

In this context, the EU has argued that “consensus” is not “unanimity”. However, Section III. (a) above on “consensus” has shown that there has to be unanimity among the members present in the meeting to consider any particular matter under the WTO, and any amendment to the MFN principle can apply only upon acceptance by all WTO members.

Thus, both consensus and MFN are foundational principles of WTO, and the issue of dilution must be considered with great care to consider whether the objectives could be met without diluting these principles.

Plurilaterals: The example of the Information Technology Agreement shows that less than full membership agreements with 90+ trade coverage of members are possible on a consensus basis with the results applied on an MFN basis. The discussion on MFN related issues has suggested options for addressing the free-rider concerns (summarised below).

In addition, a very important principle to keep in mind is that a plurilateral agreement should not adversely impact the existing WTO rights and obligations of non-members. This may happen if the plurilateral has some systemic impacts. Therefore, the plurilateral should not be accepted until the systemic concerns of non-members are addressed.

Annex 4 agreements are plurilateral trade agreements i.e., less than full membership of WTO. Agreements such as the ITA also have membership that is less than full membership. To the extent that future agreements would tend to be less than full membership agreements, there is a need to consider a change in the definition of plurilateral trade agreements under the Marrakesh Agreement.⁵⁶ This is important because a proliferation of Annex 4 agreements would lead to major fragmentation of the WTO system, with a significant dilution of inclusiveness, fairness, and predictability.

Furthermore, once an agreement is part of Annex 4, members of that agreement can make changes without reference to the rest of the WTO members (outside the Annex 4 agreement). Those changes could adversely affect the WTO rights of the non-members. Thus, the acceptance of any changes in an Annex 4 agreement should be subject to the same consensus criteria of their acceptance in the WTO system.

Possible avenues for solutions for MFN concerns: To the extent that there is still a concern regarding MFN, the paper provides three different yet overlapping options for addressing the “free rider” concerns. The first is to consider whether the free rider problem is likely to arise in practice. The second is to consider the concept of “de minimis” under which a specified market share threshold could be considered relevant to determine whether or not non-membership of a member creates a “free rider” concern. The third option is a variant of the concept underlying the Reference Paper on Telecommunications (henceforth “Reference Paper”).⁵⁷ The Reference Paper specified certain regulatory principles, and WTO members were allowed to voluntarily choose any, all or none of these regulatory principles as their obligations. In certain cases, this could be a basis for finding solutions to the free rider concern as well.

Important to Preserve the foundational Principles for Security and Predictability of the Trading System: A structure of disciplines, which are focused on as small a movement from the current situation as possible, is very important particularly in the context of plurilaterals. Table 9 above shows that without such discipline for plurilaterals, there would be a major loss of security and predictability of the multilateral trading system.

Development and S&DT: It is agreed that Development-related issues include S&DT as well as other concerns. More specific focus of the proposals is on S&DT; the proposals of US and the EU require differentiation amongst developing countries. In this regard, EU has also said that lessons can be drawn from linking of implementation with assistance in the Trade Facilitation Agreement for drawing up objective and transparent criteria to differentiate between developing countries.

It is worth noting that the Chair’s draft text under the Doha Round specified varying levels of S&DT for different categories of developing countries. These categories evolved during the negotiations and would likely do so again. Thus, there may not be a need to decide on differentiation in advance for developing economies.⁵⁸ This is particularly relevant because the membership has experienced difficulties in a priori determining objective criteria for those qualifying for S&DT.

Furthermore, as shown in the proposal of the African Group (Annex Table 1), the issue of development covers several aspects including S&DT that need to be addressed

Notification and transparency: The suggestion by certain members reported in Paragraph 4.17 of the Facilitator’s November 2025 Report is worth considering. It gives importance to:

- Ensuring notifications are complete and timely, without penalizing developing or LDC Members;
- Introducing graduated transparency measures, such as extended timelines, improved templates, and enhanced technical assistance;
- Establishing guidelines to reflect all Members’ interests in decision-making and meetings.” (Emphasis added).

This emphasis is important because the proposal on penalization has not got traction in earlier discussions.

Other issues discussed in this paper require further discussion of a number of relevant areas raised by WTO members for consideration. They include for instance:

- (a) The EU does not emphasise issues relevant for agriculture reform, such as those mentioned by Brazil in its proposal of 5th December 2025.
- (b) Some important proposals emphasised for long by WTO members (e.g., public stockholding) have not been considered by the Facilitator in his report.
- (c) Essential security - The relevant guardrails or disciplines in this context are not clear and need further clarification.

Endnotes

¹ Joost Pauwelyn (2005)

² Bernard Hoekman (2011)

³ Broadly, there are four broad strands in the literature: (1) Judicial Political Imbalances and implications for the WTO Principles – see e.g., Pauwelyn (2005 and 2026), Robert Howse and Joanna Langille (2023); (2) Realism versus Integrity in Reform Debates – see e.g., Bernard Hoekman, Xinqun Tu and Robert Wolfe (2023); (3) The debates on Consensus, MFN and Plurilaterals – see, e.g.,

- Robert Wolfe and Peter Ungphakorn (2025), Bernard Hoekman (2025), Ana Peres (2024), Sait Akman and Others (2023), Narlikar (2022), Hamid Mamdouh (2021a and b), and Ming Du and Qingjiang Kong (2020); (4) Debates on Fairness – see e.g., Julieta Zelicovich (2022), T Renee Bowen and J Lawrence Broz (2022), and WTO Documents WT/GC/W/971, 984 and 986.
- ⁴ Bernard Hoekman and Petros C Mavroidis (2021)
- ⁵ From: https://www.wto.org/english/thewto_e/minist_e/mc12_e/briefing_notes_e/bfwtoreform_e.htm
- ⁶ See WTO document JOB/GC/469 dated 5th November 2025.
- ⁷ WTO document JOB/GC/469 of 5th November 2025.
- ⁸ WTO Document WT/GC/W/984 dated 15 December 2025 and WT/GC/998 dated 23 March 2026.
- ⁹ Members are considered as “free riders” if they are not members of an agreement i.e., they do not have obligations under the agreement but have the benefits from the Agreement due to application of MFN.
- ¹⁰ “Development, several Members noted, extends beyond S&DT and should also be considered in terms of the equitable distribution of trade outcomes within the broader fairness track” From Paragraph 3.1 of the November 2025 report of the Facilitator on WTO Reform (WTO document JOB/GC/469 of 5th November 2025).
- ¹¹ From paragraphs 3.6 and 3.7 of the Communication to the WTO by the US on WTO Reform, Document WT/GC/W/984 dated 15 December 2025.
- ¹² Article X:9 of the Marrakesh Agreement Establish the World Trade Organization states that: “The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4.” [Emphasis added]
- ¹³ This US submission was criticised for the proposed “administrative measures”. For more detail, see <https://www.twn.my/title2/wto.info/2017/ti171116.htm>
- ¹⁴ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/W992.pdf&Open=True>
- ¹⁵ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/W971.pdf&Open=True>
- ¹⁶ Other points include, for example: The answer is not to dilute consensus through abstract qualifications. Several instruments for breaking deadlocks can be explored in a structured manner, for example, mediated processes, facilitated discussions to enable convergence-building among the affected parties, and

where necessary escalation to capitals to resolve deadlocks. These processes must guarantee complete internal transparency to avoid small-group meetings that exclude African countries.

- ¹⁷ Other points include, for example: Reform debates should distinguish between distortions caused by excessive market-distorting subsidies and outcomes driven by productivity improvements, business model innovations and efficiencies. Particular attention must be given to intellectual property rights (TRIPS) to ensure they not constitute an obstacle to public health or climate adaptation.
- ¹⁸ Other points include, for example: Reform must address the imbalance between continued large-scale support use by developed countries and the narrower space available to developing countries to support vulnerable farmers and ensure domestic production resilience. Reform discussions should confront the various realities directly, including through strengthened deliberation, transparency, and credible dispute settlement mechanism, rather than presuming that constraint should be concentrated on developing countries' policy tools.
- ¹⁹ WTO Reform, Communication from the African Group, Document WT/GC/W/971, 31 October 2025.
- ²⁰ WTO document WT/GC/W/975 dated 28 November 2025, WT/GC/W/991 dated 27 February 2026. An earlier submission of the LDC group is in WTO document WT/GC/W/979 dated 4 December 2025.
- ²¹ WTO document WT/GC/W/991, op. cit., last paragraph on page 2.
- ²² From paragraph 4.10 of the report of the Facilitator for WTO reform, op. cit.
- ²³ "Economic security discussions involve sensitive information and assessments, which require trust, confidentiality, and shared interests among the governments involved. There is little value, and at times considerable risk, in holding discussions among partners with vastly different values and perceptions of economic security. Those considerations preclude pursuing work on economic security at the WTO", From paragraph 4.8 of the US Communication WTO Reform, op. cit.
- ²⁴ For details, see paragraphs 4.9 and 4.10 of the US Communication on WTO Reform, op. cit.
- ²⁵ WTO document WT/GC/W/993 dated 6 March 2026.
- ²⁶ Ibid. pages 4 and 5.
- ²⁷ Ibid. page 5.
- ²⁸ On 3rd March 2026, Paraguay has submitted an unofficial room document suggesting a draft Ministerial Decision with a work plan up to December 2027.

- ²⁹ For instance, Article X.2 and X.9 of the Marrakesh Agreement.
- ³⁰ Quotations are from paragraphs 2.2 and 2.12 of the November 2025 report of the Facilitator on WTO Reform.
- ³¹ See paragraph 4.11 of the Facilitator's November 2025 Report, *op. cit.*
- ³² See paragraphs 4.4 and 4.8 of the Facilitator's November 2025 Report, *op. cit.*
- ³³ See paragraph 4.10 of the Facilitator's November 2025 Report, *op. cit.*
- ³⁴ https://www.wto.org/english/news_e/news25_e/gc_16dec25_255_e.htm
- ³⁵ From the report available at https://www.wto.org/english/news_e/news25_e/gc_16dec25_255_e.htm
- ³⁶ Footnote c in IX.1 states that: "Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding."
- ³⁷ The statement of the Facilitator for WTO Reform as reported in https://www.wto.org/english/news_e/news25_e/gc_16dec25_255_e.htm
- ³⁸ See, https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm
- ³⁹ The relevant text on critical mass was: "Participants will implement the actions foreseen in the Declaration provided that participants representing approximately 90 per cent of world trade in information technology products have by then notified their acceptance, and provided that the staging has been agreed to the participants' satisfaction." See paragraph 4 in the Annex of the document available at: https://www.wto.org/english/theWTO_e/minist_e/min96_e/16.pdf
- ⁴⁰ As pointed out by Hamid Mamdouh, a new Annex may also be required. See the implications of paragraph 37 in https://diplomacydialogue.org/images/files/20211016-Plurilateral_Negotiations_and_Outcomes_in_the_WTO.pdf
- ⁴¹ See *op. cit.* paragraphs 3 and 7.
- ⁴² "These documents will be reviewed and approved on a consensus basis". (Emphasis added) See paragraph 2 of the Annex in https://www.wto.org/english/theWTO_e/minist_e/min96_e/16.pdf
- ⁴³ "Each participant shall incorporate the measures described in paragraph 2 of the Declaration into its schedule to the General Agreement on Tariffs and Trade 1994, and, in addition, at either its own tariff line level or the Harmonized System (1996) ("HS") 6-digit level in either its official tariff or any other published versions of the tariff schedule, whichever is ordinarily used by importers and exporters". See paragraph 1 of the Annex in *op. cit.*
- ⁴⁴ China's submission to E-Commerce negotiations INF/ECOM/19 of 24th April 2019 states in paragraph 3.2 that: "Members should define the trade-related

aspects of electronic commerce, electronic transmission, etc., and clarify the relationship between future electronic commerce rules and the existing WTO Agreements.”

⁴⁵ EU’s proposal on plurilateral agreements is more wide-ranging than that of the US, but it does potentially include what is being proposed by the US, i.e. non-MFN agreements.

⁴⁶ MPIA is an interim arrangement for settling disputes at the appeal stage now-a-days when the Appellate Body of the WTO is not functional. There are currently 57 WTO members who have agreed to access MPIA procedures for appeal arbitration, counting all European Union members as separate WTO members. Since the EU member states engage in trade disputes collectively, the effective number of WTO members agreeing to access MPIA is 30.

⁴⁷ This is an important principle emphasized, for instance, by both the African Group and the EU.

⁴⁸ The US also considers a transition for LDCs as well over time to transition to the same disciplines as all other WTO members.

⁴⁹ See for example the paper at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1032484 especially the Table on page 31.

⁵⁰ A similar differentiation among developing economies was also carried out in the Chairs draft text for NAMA.

⁵¹ First paragraph in the section on “The necessary review of the multilateral rulebook on level playing field and industrial policy”

⁵² See for example a proposal by China in document WT/GC/W/773, dated 13 May 2019.

⁵³ See for example, <https://www.wttlonline.com/stories/wto-green-box-subsidies-challenged,10883> and pages 65-66 of https://www.iisd.org/system/files/publications/tkn_greenbox_china.pdf

⁵⁴ Quoted from page 3 of WTO document JOB/AG/271, dated 5th December 2025

⁵⁵ These principles, in particular Development and S&DT, result in fairness, which is one of the foundational principles of the WTO.

⁵⁶ See also paragraph 37 of https://diplomacydialogue.org/images/files/20211016-Plurilateral_Negotiations_and_Outcomes_in_the_WTO.pdf

⁵⁷ See, https://www.wto.org/english/tratop_e/serv_e/telecom_e/tel23_e.htm

⁵⁸ A similar differentiation among developing economies was also carried out in the Chairs draft text for NAMA.

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Annexure

Annex Table 1. African Group Proposal: Key Areas and Expected Outcomes of WTO Reform

Reform Area	Expected Outcome
Development	WTO reform must produce tangible and concrete results, outcomes aligned with Africa's development aspirations under Agenda 2063, including industrialization, food security, and poverty alleviation.
Special and Differential Treatment (S&DT)	Flexibilities/ S&DT must be preserved, strengthened, made precise, effective, operational and efficient across all WTO agreements. Considering the developmental needs of developing and least-developed countries, with a view to enabling them to secure food security, policy space, develop industrial capabilities, and diversify their economies.
Agriculture Reform	WTO reform must discipline trade-distorting domestic support in developed countries and remove barriers that distort trade in agricultural products.
Industrial Development	WTO reform must contribute towards economic diversification, structural transformation in developing countries, and the sustainable strengthening of their integration into world trade.
Technology Transfer and Innovation	The WTO reform must promote access to innovation by operationalizing technology transfer provisions, particularly for digital and green technologies.
Inclusive and Transparent WTO Bodies	All processes in WTO Bodies and ministerial conferences should be inclusive and transparent. Positions of all Members must be fairly represented; negotiations should remain open and Member-driven.

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Preservation of Consensus-Based Decision-Making	Consensus must be maintained as the foundation of WTO decision-making.
Dispute Settlement Reform	Restoration of a two-tier, independent, and impartial dispute settlement system is critical for the credibility and predictability of the WTO.
Balanced Treatment of Emerging Issues	New topics should be approached through a development lens, and they ought not to take precedence over unresolved development priorities of the majority of WTO Members, in particular those already covered by multilateral mandates.
Capacity Building and Implementation	Institutional support, including financing technical assistance and capacity building must remain a central priority to ensure Africa's full participation and integration into global trade.
Accession to the WTO	Reform should include faster and more transparent accession processes, increased fairness for developing and least-developed countries, to facilitate the integration of new members into the global trading system.

Source: Document WT/GC/W/971, dated 31 October 2025

Annex Table 2. EU: Objectives, Organization of Work and Tasks - Fairness

1. Balance of Rights and Obligations: *General objective:* Initiate a broad discussion on the appropriateness of the balance of rights and commitments agreed in 1995 in the current global context. Address identified shortcomings.

Key areas: Fundamental principles underpinning the GATT, tariffs, rules on tariff negotiations, trade in services commitments.

Task to Members: Discuss the fundamentals and address potential shortcomings of the current balance of rights and obligations, including: (a) reflections on the role of MFN and reciprocity; (b) Members' respective levels of openness in light of changes in share in global trade; (c) possible new links between commitments taken and the level of tariffs liberalisation.

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2. Level Playing Field in Industrial Sectors: General objective: Identify gaps and address the shortcomings in: (1) transparency; (2) disciplines; and (3) remedies.

Key areas: Subsidies (ASCM), Safeguards, State interventions in support of industrial sectors not covered by the ASCM, trade effects of State-owned enterprises, competitive neutrality, development dimension and industrialisation.

Task to Members: (a) Identify gaps and shortcomings in the current rules, and on that basis develop improvements to existing rules and new disciplines, as appropriate; (b) Continue Member-driven informal deliberations on Trade and industrial policies; (c) Consider targeted adjustments for policy space for industrialisation and for addressing negative trade impacts of State interventions, while ensuring the effectiveness of the rules.

3. Development and S&DT: General objective: (1) strengthen the evidence base of identifying enablers (both rules and flexibilities) for integration of developing countries into global trade; (2) explore targeted and needs-based approaches to S&DT, including time-bound exemptions and links to commitments; and (3) explore objective and transparent differentiation criteria of developing countries.

Task to Members: (a) Assess the effectiveness and utilisation of S&DT provisions in existing agreements, including beneficiaries; (b) Shift from open-ended exemptions to more granular, time-bound and targeted S&DT based on demonstrated needs and with clear links to commitments and compliance with rules; (c) Explore examples of differentiation of developing countries from other international organizations and consider the applicability of those approaches to the WTO.

Annex Table 3. EU: Objectives, Organization of Work and Tasks - Flexibility

1. Consensus and Decision-making: General objective: Explore tools to facilitate bridge-building and effective decision-making.

Key areas: Fundamental principles underpinning the GATT, tariffs, rules on tariff negotiations, trade in services commitments.

Task to Members: (a) Explore operationalising responsible consensus and tools such as constructive abstention, opt-outs, reservations and accountability measures in the case of blocking; (b) Explore examples of differentiation in decision-making procedures by assessing practices and insights from other international organizations.

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2. Institutional reforms: *General objective:* Revisit the institutional set-up of the system with a view to facilitate bridgebuilding and outcome-oriented procedures.

Task to Members: Develop options and possible parameters for a small body with steering function under the General Council balancing representativeness, geographical balance and efficiency considerations.

3. Variable geometry and plurilateral agreements: *General objective:* Cater for a more flexible framework of rules and acceptance of variable geometry where Members are not prevented from moving forward with interested parties.

Task to Members: Explore pathways to accommodate different types of plurilateral agreements.

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