



ANALYSIS

Plurilateral Agreements and the future of WTO Trade Negotiations

March 2026

Executive summary

The World Trade Organization (WTO) stands at a crossroads. While it remains one of the most significant achievements of post-war international cooperation, its core function as a forum for multilateral trade negotiations has stalled. Since its establishment in 1995, little progress has been made in new negotiating rounds, and the dispute settlement system has been paralysed since 2019.

In this study, we argue that the WTO's difficulties are structural rather than temporary. The organisation was designed for the world of 1995, and parts of its rulebook date back to the late 1940s. That world no longer exists. The global economy has become more multipolar, technological change has accelerated, and WTO membership has expanded to 166 Members with widely diverging interests and levels of development. Consensus-based negotiations among such a diverse membership can no longer deliver complex trade rules at the pace required by a rapidly evolving global economy, particularly in areas such as digital trade, services, climate-related goods and emerging technologies.

Against this backdrop, this study examines plurilateral agreements as a way forward. Plurilaterals – agreements among subsets of willing WTO Members – are not an innovation outside the system but an inherent feature of it, explicitly foreseen in the Marrakesh Agreement and historically central to WTO rulemaking. Experience suggests that plurilaterals (such as the Information Technology Agreement and the Joint Statement Initiatives on e-commerce and services domestic regulation) have been more effective and timely than fully multilateral processes. Their success stems from voluntary participation: Members self-select based on interest and ambition, reducing the structural paralysis that often characterises consensus among all 166 Members. Participation has included both developed and developing countries, demonstrating that plurilaterals need not undermine development objectives.

To preserve systemic legitimacy, however, plurilaterals must remain open, transparent, consistent with core WTO principles, and must not diminish the rights of non-participants. Concerns regarding fragmentation and the sidelining of development issues must be addressed constructively.

We conclude the study with three recommendations for moving forward with trade negotiations in the WTO:

1. Embrace plurilaterals as a legitimate and necessary complement to multilateral negotiations.
2. Strengthen inclusiveness by improving transparency, technical assistance, coordination mechanisms and accession pathways for developing countries.
3. Revisit decision-making norms, including a greater willingness to use existing voting procedures and waivers where consensus proves impossible.

Ultimately, the choice facing WTO Members is not between multilateralism and plurilateralism. Rather, it is whether to use the flexibility already embedded in the WTO system to restore its negotiating function. If properly designed, plurilateral approaches can reinforce, rather than weaken, the multilateral trading system and help ensure its continued relevance in the twenty-first century.

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1 Introduction

The World Trade Organization (WTO) is a singular achievement of international cooperation and diplomacy. The organisation brings together almost every part of the global economy in a framework that governs almost every aspect of international trade.

This framework, the multilateral rules-based trading order, rests on continuously evolving jurisprudence that stretches back eight decades.

While the WTO is a relatively young international organisation, having existed for only 30 years, it is a continuation of the 80-year-long history of the General Agreement on Tariffs and Trade (GATT), which is the international treaty (and its associated ‘interim secretariat’) that preceded the WTO. The WTO secretariat hosts knowledge and expertise in the area of international trade that have been built up over decades.

During its existence, the WTO has made significant contributions to global economic prosperity and poverty alleviation, as the central ‘engine’ of trade liberalisation that has lifted hundreds of millions of people out of poverty and improved the livelihoods of many more.¹ In fact, although current political trends would suggest otherwise, the WTO has been especially beneficial for its largest Members, such as the US and the EU.²

The WTO is also dysfunctional, and has been for many years. Out of the WTO’s four main functions,³ only two are still functional. While the WTO is meant to serve as a forum for multilateral trade negotiations, decades of negotiations have only resulted in a single (or one and a half agreements, depending on the assessment)⁴ multilateral trade agreement.⁵ The latest and current round of trade negotiations, the *Doha Development Round* (Doha round), was launched back in 2001. As of 2025, the Doha Round exists largely in name only. The WTO’s perhaps most publicised function, to settle trade disputes through the dispute settlement system, effectively ceased to function back in 2019.⁶

More recently, some of the most important Members of the WTO have begun flouting the rules – or even outright ignoring the multilateral rules-based trading order – including central principles such as the principle of most favoured nation (MFN).

That the WTO is going through a crisis, or that the organisation is at a crossroads, is an established truth. As is the fact that the organisation will need to reform in order to stay relevant, if not to survive. WTO Members formally recognised the need for

¹ World Bank Group & World Trade Organization, *The Role of Trade in Ending Poverty* (2015).

² National Board of Trade, *The trade effects of EU regional trade agreements – evidence and strategic choices* (2019).

³ Trade negotiations (1), implementation and monitoring of agreements (2), dispute settlement (3) and building trade capacity in developing country members (4).

⁴ The Agreement on Fisheries Subsidies entered into force in 2025, although only as a “phase 1” agreement. Many of the more difficult issues have been left to trade negotiators to find agreement on in a second set of commitments. “Phase 2” negotiations are ongoing.

⁵ The Agreement on Trade Facilitation, which entered into force in 2017.

⁶ As a result of the United States refusing to agree to the appointment of any new members of the WTO Appellate Body.

reform at the 12th Ministerial Conference in 2022,⁷ and WTO reform is perhaps the single most important issue leading up to the 14th Ministerial Conference (MC14) in 2026.

Much has already been written on the topic of WTO reform, from academic papers to the many official submissions on the topic made by WTO Members.⁸ The organisation, however, remains at an impasse. The upcoming 14th Ministerial Conference could provide new impetus to the process of WTO reform. Against this backdrop, the National Board of Trade seeks to contribute constructively to the ongoing discussion by exploring possible ways forward.

While the need for reform covers every aspect of the WTO and all of its functions, **the focus of this desk study is on what is arguably the core function of the organisation: trade negotiations, and how the WTO might move forward by embracing plurilateral negotiations.**

The following sections contain a short review of GATT/WTO negotiating history, which is followed by an analysis of plurilateral negotiations as an alternative path forward in the WTO. Finally, Section 3 contains our recommendations on how to move forward.

⁷ MC12 Outcome Document, WT/MIN(22)/24.

⁸ World Trade Organization, '[WTO reform – an overview](#)', December 2025.

2 Analysis

2.1 What happened to the WTO?

2.1.1 A changing world

It is beyond the scope of this paper to diagnose the cause(s) of all the problems facing the WTO and the multilateral trading system, or even to give a comprehensive overview of the symptoms.

It is, however, uncontroversial to begin by stating that both the world in general, and the world of international trade in particular, have changed dramatically since the founding of the WTO in 1995, mere years after the collapse of the Soviet Union and the end of the Cold War:

- In 1995, the Cold War had just ended and the United States exercised undisputed political, economic and military primacy. The “western” model of economic governance faced no serious systemic challenger.⁹
- In 1995, China’s share of global economic output was only about one-tenth, while in 2025 it is closer to one-fifth. The growth of China’s share of international trade is even more spectacular, growing from about a 3 per cent share of global trade in 1995 to becoming the top exporter in 2025, as well the second largest importer, together making China the largest trading nation on the planet.¹⁰
- In 1995, the EU had 15 Member States. By 2025, membership had almost doubled to 27 Member States, and the successive enlargements of the EU have added over 100 million people to the Union as citizens.
- In 1995, there were less than 50 bilateral and regional trade agreements. In 2025, there are almost 400.¹¹

The world of 1995, the world that the WTO was built for, no longer exists. The relative clarity of that unipolar world has evaporated. In the 1990s, convergence between the European Union and the United States was often sufficient to set the direction of the multilateral trading system. The rise of China and other emerging powers, the return of great-power rivalry, and political shifts within the West itself (not least the erosion of US reliability since the first Trump administration) have produced a far more multipolar and fragmented geopolitical environment. Power politics has re-entered the global arena with force, and economic security is now inseparably intertwined with trade policy.

⁹ Dr Edelman Eric S., *Understanding America's Contested Primacy* (2010), Center for Strategic and Budgetary Assessments.

¹⁰ Maddison Angus, *Chinese Economic Performance in the Long Run* (2008), Development Centre – Organisation for Economic Co-Operation and Development & World Bank data.

¹¹ World Trade Organization, ‘[Regional Trade Agreements Database](#)’, December 2025.

2.1.2 Technological progress

Another crucial transformation that has happened since 1995 is the accelerating pace of technological change. The multilateral trading system was designed in an era when the Internet was in its infancy and when very few could have imagined cloud computing, generative AI or even instantaneous cross-border data flows. In 1995, less than 1 per cent of the world's population was using the Internet, and the World Wide Web itself was still a new phenomenon.

Since then, the digital economy has expanded at a speed that has fundamentally altered how goods and services are produced, traded and consumed.

Artificial intelligence, particularly generative AI (GenAI), is the most recent visible example. By 2020, early models of ChatGPT surprised engineers by being able to generate coherent text that was largely free of errors, a great technological leap by itself.¹² But by 2023, ChatGPT was already able to complete university-level exams, write functioning software by itself and engage in legal reasoning.¹³ When ChatGPT was made available to the public, OpenAI managed to attract 100 million monthly active users within two months of release, one of the fastest adoptions of any consumer technology on record.¹⁴ GenAI tools have also made it possible to swiftly and cheaply wage disinformation campaigns on a global scale, are already being used in armed conflicts, have dramatically lowered the barriers for hacking or creating malicious software, and may even facilitate the creation of biological agents that could be weaponised.¹⁵

Regulators – caught off-guard by the pace of technological progress – are racing to catch up. But technological innovation is advancing far faster than national regulators are able to draft new rules, let alone trade negotiators from 166 different countries. And although digital tools have made some aspects of negotiations easier (for example, the normalisation of videoconferencing since the COVID-19 pandemic), the underlying political dynamics and structural constraints of multilateral negotiations have not changed.

It is telling that WTO Members did not manage to agree on even a basic set of commitments on “e-commerce” until the 2020s (much less on emerging technologies such as GenAI), despite the fact that the digital economy had already been a central feature of global trade for years, if not decades, before then. This delay reflects not a lack of awareness or interest among Members, but the structural reality that consensus-based multilateral negotiations between 166 member countries move too slowly to keep pace with technological change.

¹² B. Brown Tom et al, '[Language Models are Few-Shot Learners](#)', arXiv:2005.14165 [cs.CL].

¹³ OpenAI, '[GPT-4 Technical Report](#)', arXiv:2303.08774 [cs.CL].

¹⁴ Yahoo! Finance, '[ChatGPT on track to surpass 100 million users faster than TikTok or Instagram: UBS](#)', December 2025.

¹⁵ Twomey John et al, '[Do deepfake videos undermine our epistemic trust? A thematic analysis of tweets that discuss deepfakes in the Russian invasion of Ukraine](#)', PLoS ONE 18(10): e0291668 (2023), United Nations Office for Disaster Risk Reduction (UNDRR) & Simon Institute for Longterm Governance, *Existential risk and rapid technological change - Advancing risk informed development* (2023) and U.S. Department of Commerce National Institute of Standards and Technology, *Artificial Intelligence Risk Management Framework (AI RMF 1.0)* (2023).

It is practically impossible for WTO Members to negotiate, sign and implement fully multilateral agreements on fast-moving technological issues at a pace that keeps rules aligned with reality, even if they were able to agree on principles such as technology neutrality. As shown by the WTO e-commerce agreement, however, progress remains *possible* among a smaller, self-selected group of WTO Members.

2.1.3 Expanding membership

The structural pressures described above were not the only forces undermining the viability of multilateral negotiations. Even before the world became more multipolar and before technological change accelerated, the GATT/WTO negotiating model was already showing signs of strain.

The signing of the GATT demonstrated that it was possible to negotiate an ambitious trade agreement among a limited set of countries (23 contracting parties at the signing in 1947) with a roughly comparable level of development. Apart from the subsequent WTO agreements, that kind of success has also been replicated with various other agreements, including the North American Free Trade Agreement (NAFTA¹⁶), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Economic Community of West African States and even the European Union (EU). None of these agreements have 166 signatories, however.

The GATT reached more than 100 signatories already during the Tokyo Round in the 1970s.

The Tokyo Round negotiations (at 6 years) took twice as much time as the preceding Kennedy Round, which in turn took more than twice as much time as the preceding Dillon Round, which was still only completed at the last minute (the day before congressional approval for the US to negotiate would expire).

The Uruguay Round resulting in the creation of the WTO was a labourious, complex and lengthy process that went on for even longer than the Tokyo Round. By the end of the 8-year long negotiations, membership had increased to more than 120 countries.

The only complete and multilateral agreement to come out of the Doha round so far, the Bali Package, took 12 years to negotiate, by which time membership had already reached more than 150 Members. The Bali Package only represents a partial – and minor at that – resolution of the Doha Round, with commitments that arguably come at little cost and represent low-hanging fruit in the realm of trade liberalisation.¹⁷

Looking at each round of GATT/WTO negotiations, their complexity and length, a pattern starts to emerge. Following the trajectory of increasing complexity and length, it no longer seems as unreasonable that the Doha Round would take 20 years to conclude (although we have by now even passed that mark).

¹⁶ As well as its successor, the Canada–United States–Mexico Agreement (CUSMA/USMCA/T-MEC).

¹⁷ This must be viewed against the backdrop of what it is still a tremendous success. The multilateral trading system **greatly** expanded between 1947 and 1995, and continues to expand today. MFN tariffs and rules commitments that at the start covered only two dozen economies expanded to cover essentially the entire global economy and over 160 countries.

The world in general – and technological progress in particular – is evolving at a significantly faster pace than WTO Members are able to conduct multilateral trade negotiations. The result is an ever-widening gap between the need for new rules and commitments, and negotiated results. This gap is concerning, but it is also a direct result of the tremendous success that the GATT, the WTO and the multilateral system have been.

2.2 Plurilateral agreements, a way forward

That multilateral negotiations have stalled therefore does not necessarily reflect a lack of negotiating needs and ambition among WTO Members, but the simple reality that such negotiations can no longer deliver complex, twenty-first century rules at pace.

From the very beginning, Members have instead made use of an alternative negotiating format that operates within the multilateral framework: plurilateral agreements.

During the GATT era, a number of the most significant advances in trade rulemaking were achieved through agreements among subsets of contracting parties. The GATT-era Tokyo Round produced a series of so-called “codes”, which were plurilateral agreements on issues such as subsidies, technical barriers to trade, government procurement, customs valuation and import licensing. Over time, most of these were ‘multi-lateralised’ and ultimately became a part of the multilateral framework of the WTO.

Then in 1996, shortly after the WTO was founded, one of the most successful plurilateral agreements was concluded, the Information Technology Agreement (ITA). The ITA (and its successor, the expanded ITA2) has been credited with playing a major role in enabling the growth and development of the digital economy, with trade in the goods covered by the ITA tripling during the first 10 years the agreement was in force.¹⁸ Exports from developing countries grew at an even faster rate,¹⁹ and roughly half of all WTO Members are now signatories to the ITA.

The GATS protocol on telecommunications,²⁰ another plurilateral agreement, took only 3 years to negotiate and covers almost 70 WTO Members. Although negotiations on the E-Commerce Joint Statement Initiative (WTO e-commerce agreement) are still technically ongoing, actual negotiations were concluded in 2024, after 5 years of negotiations with more than half of all WTO Members. Similarly, negotiations on the Joint Initiative on Services Domestic Regulation took 4 years and include 67 Members.

It is important to note that membership of the WTO plurilateral agreements is diverse. While nearly all developed countries have signed up to the plurilateral agreements, so have many developing countries, as well as a number of the least developed countries (LDC).

¹⁸ World Trade Organization, ‘[20 Years of the Information Technology Agreement - Boosting trade, innovation and digital connectivity](#)’, December 2025.

¹⁹ Anderson Michael and Mohs Jacob, ‘The Information Technology Agreement: An Assessment of World Trade in Information Technology Products’, *Journal of International Commerce and Economics* (United States International Trade Commission) (2010).

²⁰ Schedules of Specific Commitments Concerning Basic Telecommunications.

The difficulties of reaching an agreement that is acceptable to both developed and developing countries – a problem that has so often stymied progress in multilateral trade negotiations – are still present in plurilateral negotiations, but to a lesser degree. The relative success and speed of plurilateral negotiations compared to multilateral ones can be explained, at least in part, by the fact that participation is voluntary. Plurilateral negotiations are open to all WTO Members, but only those with a demonstrated interest in a particular issue choose to join. This creates negotiating groups composed of Members that may be at different levels of development, but that do share a minimum level of ambition, policy alignment and problem-diagnosis. As a result, the dynamic within these negotiations differs substantially from that of fully multilateral negotiations, where every round must accommodate Members with fundamentally divergent priorities and, in some cases, no real interest in the subject matter at all. When participants are self-selected on the basis of interest and ambition, the ‘Developed–Developing’ countries dynamic does not disappear, but it becomes negotiable rather than paralysing.²¹

2.2.1 Plurilaterals as an inherent feature of the WTO system

Contrary to the perception that plurilaterals represent a deviation from multilateralism, they are explicitly foreseen in the Marrakesh Agreement, and are in line with the aims and functions of the WTO as described in the Marrakesh Agreement.

While multilateral processes (e.g., Ministerial Conferences or TNC processes) are available to all Members, nothing in the WTO Agreement requires that *all* negotiating outcomes be universally binding. Instead, WTO law draws a clear distinction between negotiation *processes* and *outcomes*.²² What matters is that any agreement reached among a subset of Members respects core systemic principles: openness, transparency, non-discrimination and the preservation of non-participants’ rights.

This logic underpinned several early plurilateral agreements of the WTO, including the Agreement on Government Procurement (GPA), the Information Technology Agreement (ITA) and the GATS Telecommunications Reference Paper.²³ Each began with a subset of Members, expanded over time and delivered meaningful new rules without eroding the rights of non-participants. In other words, plurilateralism is not an exception to the WTO rulebook but one of its core design features.

2.2.2 Addressing developing-country concerns

Despite their inclusion in the WTO agreements, plurilateral negotiations have, as of late, faced significant criticism from both within the WTO and from outside the organisation. The main arguments are that plurilateral negotiations are derailing the

²¹ International Chamber of Commerce (ICC), *How to fix the WTO: A holistic framework for reform* (2023).

²² Mamdouh Hamid, *Plurilateral Negotiations and Outcomes in the WTO* (2021).

²³ ICC, *How to fix the WTO: A holistic framework for reform*.

multilateral trade agenda, allowing developed countries to sidestep the development-focused Doha Round and fragmenting the multilateral trading system.²⁴

This criticism is relevant, and deserves to be both heard and answered.

First, plurilateral negotiations are not an outside graft onto the multilateral trading system, but an inherent part of its design. The WTO agreements contain clear provisions for plurilateral outcomes, distinguish between processes and outcomes, and deliberately allow Members to pursue negotiations in different configurations.

Second, the practical record of the past three decades demonstrates that plurilaterals have become the most successful part of the negotiation function of the WTO, and perhaps the only part of the negotiating function that still works. The plurilateral agreements, both those dating back to the founding of the WTO and the more recent Joint Statement Initiatives, are supplying the WTO with more new rules and commitments than multilateral negotiations have done in 30 years.

And finally, the question is how to respond to the criticism that plurilaterals “allow” developed countries to sidestep long-standing demands from developing countries for a rebalancing of WTO rules. These demands are not new: many argue that they were part of the political bargain that made the creation of the WTO possible in the first place. And they should not be dismissed. On the contrary, it is important to state clearly that these concerns deserve to be heard and discussed constructively, in line with the commitments and assurances repeatedly made throughout both the Uruguay and Doha Rounds.

But it is equally true that there is no inherent reason why these concerns cannot be addressed in parallel with plurilateral negotiations. The world has changed profoundly since 1995 (or even since the Doha Round was launched, in 2001), and developing countries are not a monolithic bloc. Today, a large and growing group of developing countries are themselves keen to move forward on new rules in areas ranging from digital trade to investment facilitation. In this sense, plurilaterals are not a mechanism for bypassing developing countries, they are a mechanism that many developing countries actively want to use.

As long as plurilateral negotiations retain key characteristics: transparency, open accession, MFN-consistency for existing rules, and no diminution of non-participants’ rights, there is little basis for the claim that they fragment the system. In a world of rapidly changing politics and technological progress, where reaching consensus among 166 Members has become nearly impossible, insisting on multilateral negotiations as the only legitimate way forward does more harm than good for the multilateral trading system.

What WTO Members should focus on, therefore, is how to ensure that both plurilateral negotiations and outcomes are done in a way that strengthens the multilateral trading system. If plurilaterals are now the most effective vehicle for WTO rulemaking, then the task ahead is to make them as fair, open and development-friendly as possible.

²⁴ The Legal Status of ‘Joint Statement Initiatives’ and Their Negotiated Outcomes, submission from India, Namibia and South Africa, WT/GC/W/819.

3 Recommendations

Our preceding analysis shows that the challenges facing the WTO's negotiating function are structural, not temporary. A rapidly changing global economy, accelerating technological progress and a significantly expanded and more diverse membership have made it nearly impossible for the WTO to deliver new multilateral rules at the pace and depth required, in all areas required. Plurilateral approaches have therefore become the only consistently viable path for rulemaking. The question for WTO Members is not whether to use plurilaterals, but how to do so in a way that strengthens inclusiveness, development and the multilateral trading system as a whole.

The following recommendations outline how WTO Members could move forward.

3.1 Embrace plurilaterals

Plurilateral negotiations should be treated as a legitimate and increasingly necessary complement to multilateral processes. They allow willing Members to move forward where consensus is unattainable, while keeping the WTO at the centre of global trade governance rather than allowing rulemaking to shift toward regional or bilateral fora.

WTO Members should:

- **Affirm the legality and systemic legitimacy of open plurilaterals** under the Marrakesh Agreement, when they respect the principles of transparency, open accession and preservation of non-participants' rights.
- Avoid treating plurilaterals as a deviation from multilateralism. **Plurilaterals are an inherent feature of the WTO.**
- Encourage other Members to make use of this negotiating modality proactively in areas where technological or economic change is fastest. This could include plurilateral agreements on **lowering barriers to trade in goods and services important for climate action**;²⁵ liberalising trade in **services required for the process of electrification** of the economy;²⁶ **expanding the ITA** to cover additional IT products in the fields to agricultural technology, renewable energy, healthcare technology and recycling; and **facilitating cross-border data flows**.²⁷ At the National Board of Trade, we have written extensively on potential areas of agreement for new plurilateral negotiations.²⁸

²⁵ National Board of Trade (NBT), *Trade barriers to goods and services important for climate action* (2020).

²⁶ NBT, *Trade Policy for Electrification* (2025).

²⁷ NBT, *Navigating Cross-Border Data Flows and the GDPR* (2025).

²⁸ NBT, *Trade and Climate Change – Promoting climate goals with a WTO agreement* (2021).

3.2 Strengthen inclusiveness

If plurilaterals are to become a core instrument of WTO rulemaking, they must be designed in ways that improve the ability of developing countries to participate meaningfully. Many of the obstacles to participation have been documented in our analysis of the non-participation of developing countries in the Joint Statement Initiative on e-commerce.²⁹ WTO Members should therefore adopt a common approach to inclusiveness in all plurilateral initiatives. Key elements should include:

- **Early and clear communication of negotiating plans.**
Developing countries often face difficulty preparing positions because negotiating agendas emerge in informal settings or evolve rapidly. Members should commit to timely circulation of negotiating proposals, scoping papers and draft texts.
- **Technical assistance targeted at negotiation capacity.**
Developing-country delegations frequently lack technical staff specialised in digital issues, services, investment or regulatory matters. WTO Members and the WTO Secretariat should provide technical assistance not only on substance, but on how to assess proposals, draft text and engage in iterative negotiations. This includes secondments, expert support and training for capital-based officials.
- **Structured coordination opportunities.**
Small delegations have limited ability to attend every meeting or track multiple plurilateral negotiations simultaneously. Members should encourage structured coordination groups, shared expert pools and support mechanisms that help developing countries follow the negotiations more effectively.
- **Clear accession pathways and opt-in mechanisms.**
Open plurilaterals should provide transparent conditions for accession and should avoid locking in membership criteria that implicitly exclude late joiners. Ensuring that developing countries know *how* and *when* they can join is essential to legitimacy.
- **Explicit recognition of development needs in the substance of the agreements.**
This includes capacity-building commitments, staged implementation and flexibility for LDCs – approaches that are entirely compatible with plurilateral design.³⁰

Taken together, these measures would help ensure that plurilateral negotiations are not only efficient, but also inclusive and development-friendly. They mirror the recommendations made for improving participation in the e-commerce negotiations and are equally applicable to any future plurilateral initiative.³¹

²⁹ NBT, *The E-Commerce Negotiations in the WTO – Understanding non-participation* (2021).

³⁰ NBT, *The E-Commerce Negotiations in the WTO – Understanding non-participation* (2021).

³¹ NBT, *The E-Commerce Negotiations in the WTO – Understanding non-participation* (2021).

3.3 Revisit decision-making norms

Consensus has long been treated as an absolute principle, rather than what it is: a default procedural norm that is already limited in scope by the WTO Agreement.³²

A rule designed to promote inclusiveness has, in practice, often produced paralysis. Members should therefore not shy away from making use of the voting procedures already present in the Marrakesh Agreement in situations where consensus proves impossible:

- **Use voting** in areas where the WTO Agreements explicitly permit it and where insistence on consensus allows one or two Members to block the will of large majorities.
- Make fuller and more **strategic use of Article IX:3 waivers** to allow willing Members to implement new commitments without eroding the rights of others.
- Clarify that resort to voting or waivers in carefully circumscribed areas is **not a challenge to multilateralism**, but a tool for enabling the WTO to function under contemporary conditions.

³² Hamid, *Plurilateral Negotiations and Outcomes in the WTO* (2021).

4 Concluding remarks

The crisis facing the WTO is not a failure of its original mission, but a symptom of its extraordinary success. By expanding to encompass nearly the entire global economy, the WTO has achieved a level of universality that makes the traditional consensus-based model – one designed for a smaller and more homogenous group – structurally incapable of keeping pace with the 21st century, and with a world that has changed significantly since 1995.

As we argue in this study, plurilateral agreements are not a threat to the multilateral system but a way forward: a means of adapting to these changes and a potential path out of the WTO's current crisis. By allowing groups of willing Members to move ahead on pressing issues such as climate action, electrification and digital trade, the WTO can remain the central negotiating forum for global trade rules. The creation of the WTO itself was the result of such a process, in which subsets of GATT Members concluded plurilateral agreements on trade rules that were later 'multilateralised' and now form an integral part of the WTO rulebook. Historical experience thus shows that plurilateral agreements have not fragmented the multilateral trading system, but rather strengthened it.

When designed in an open, transparent and development-friendly manner, plurilateral agreements allow progress to be made among willing Members while preserving the rights of non-participants and keeping the door open to wider participation over time.

The task ahead is therefore not to choose between multilateralism and plurilateralism, but to ensure that plurilateral approaches are used in ways that reinforce, rather than weaken, the multilateral trading system.

MC14 represents an opportunity not to resolve every outstanding issue facing the WTO, but to clarify how the organisation intends to negotiate and evolve in the years ahead. Whether the WTO can move beyond its current impasse will depend on Members' willingness to use the full range of tools already embedded in the system, including plurilateral approaches that allow progress while preserving multilateralism.

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Sammanfattning på svenska

Summary in Swedish

Världshandelsorganisationen (World Trade Organization, WTO) står inför avgörande vägval. Organisationen är en av de mest framgångsrika institutionerna för internationellt samarbete och utgör grunden för det multilaterala regelbaserade handelsystemet. Samtidigt har dess centrala funktion som ett forum för multilaterala handelsförhandlingar i praktiken stannat av. Sedan organisationen bildades 1995 har medlemmarna inte lyckats ro i hamn någon större förhandlingsrunda. Doharundan, som inleddes 2001, är fortfarande oavslutad men i praktiken begravd. Tvistlösningsystemet upphörde i praktiken att fungera 2019.

I denna analys argumenterar vi för att WTO:s problem är strukturella snarare än tillfälliga. Organisationen skapades för en värld som inte längre existerar, och delar av regelverket är från slutet på 1940-talet. Det har visat sig svårt att uppdatera regelverket, och under tiden har den globala ekonomin blivit mer multipolär, den teknologiska utvecklingen har accelererat kraftigt och medlemskretsen har vuxit till 166 medlemmar med skilda intressen och utvecklingsnivåer. Det är idag i praktiken omöjligt att leverera nya och komplexa handelsregler i den takt som krävs, särskilt inom områden som digital handel, tjänster, klimatrelaterade varor och ny teknik, när beslutsfattandet bygger på konsensus i en så pass heterogen medlemskrets.

Mot denna bakgrund analyserar vi plurilaterala avtal som en möjlig väg framåt. Plurilaterala förhandlingar (där en grupp villiga WTO-medlemmar går vidare tillsammans) är inte ett avsteg från multilateralismen utan en integrerad del av hur WTO konstruerades. Marrakeshavtalet tillåter plurilaterala lösningar, och historiskt sett så har flera viktiga överenskommelser vuxit fram genom plurilaterala initiativ. Informationstekniksavtalet (ITA) följer denna modell, men det gör även modernare initiativ, såsom e-handelsavtalet och avtalet om inhemsk tjänstereglering.

Erfarenheten visar att plurilaterala förhandlingar ofta är mer effektiva och snabbare än multilaterala processer. Deltagandet är frivilligt och bygger på gemensamt intresse och ambitionsnivå, vilket minskar risken för blockeringar. Samtidigt har såväl utvecklade länder som utvecklingsländer deltagit, vilket visar att modellen inte nödvändigtvis står i motsats till utvecklingsdimensionen.

För att plurilaterala avtal ska stärka, och inte underminera, det multilaterala systemet måste de dock utformas med omsorg. De bör vara öppna för anslutning, transparenta, förenliga med WTO:s grundprinciper och inte inskränka icke-deltagande medlemsländers rättigheter. Utvecklingsländers farhågor om fragmentering och åsidosättande av tidigare åtaganden bör tas på allvar och hanteras konstruktivt.

Analysen avslutas med tre rekommendationer:

1. Acceptera, och uppmuntra, plurilaterala förhandlingar som ett legitimt och nödvändigt komplement till multilaterala processer.
2. Gör de plurilaterala förhandlingarna mer inkluderande, bland annat genom ökad transparens, riktat tekniskt stöd till utvecklingsländer och tydliga anslutningsmekanismer.
3. Ompröva normerna för beslutsfattande i WTO, inklusive en mer aktiv användning av de röstnings- och dispensmöjligheter som redan finns i WTO-avtalet.

WTO:s vägval står ytterst inte mellan multilaterism och plurilateralism. Frågan är snarare om WTO:s medlemmar är beredda att använda den flexibilitet som redan finns inbyggd i systemet för att återupprätta organisationens förmåga att leverera nya regler. Väl utformade plurilaterala initiativ kan bidra till att stärka och förnya det multilaterala handelssystemet, för att möta behoven i en snabbt föränderlig värld.

The National Board of Trade Sweden is the government agency for international trade, the EU internal market and trade policy. Our mission is to facilitate free and open trade with transparent rules as well as free movement in the EU internal market.

Our goal is a well-functioning internal market, an external EU trade policy based on free trade and an open and strong multilateral trading system.

We provide the Swedish Government with analyses, reports and policy recommendations. We also participate in international meetings and negotiations.

The National Board of Trade, via SOLVIT, helps businesses and citizens encountering obstacles to free movement. We also host several networks with business organisations and authorities which aim to facilitate trade.

As an expert agency in trade policy issues, we also provide assistance to developing countries through trade-related development cooperation. One example is Open Trade Gate Sweden, a one-stop information centre assisting exporters from developing countries in their trade with Sweden and the EU.

Our analyses and reports aim to increase the knowledge on the importance of trade for the international economy and for the global sustainable development. Publications issued by the National Board of Trade only reflect the views of the Board.

The National Board of Trade Sweden, March 2026, ISBN: 978-91-89742-83-3