

WTO at the Crossroads: Legal Challenges and Strategic Responses in a Fragmented Trade Order

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Abstract

The World Trade Organization (WTO) faces unprecedented challenges, including a paralyzed dispute settlement system, fragmented trade rules, and stalled multilateral negotiations. These issues have led to a rise in regional trade agreements and unilateral trade measures, undermining the WTO's core principles of consensus and global trade liberalization. This article examines the WTO's legal challenges, the impact of geoeconomic tensions, and the strategic responses being proposed to reform the organization. It also explores the future of multilateral trade governance, emphasizing the urgent need for institutional reform to prevent further fragmentation and preserve the WTO's central role in global trade. The article diagnoses legal and institutional weaknesses that have pushed the WTO toward fragmentation, maps the geopolitical and policy drivers behind rising regionalism and unilateralism, and sets out pragmatic legal and governance responses to restore effective multilateral rulemaking and dispute settlement. Results Through doctrinal analysis, case studies, and negotiation record review, it identifies Appellate Body paralysis, consensus-induced gridlock, substantive rule gaps (subsidies, industrial policy, digital trade, state enterprises), and the rise of plurilateral and regional alternatives, and it proposes a two-track set of remedies combining immediate operational fixes (interim appellate arrangements, targeted interpretive clarifications, temporary plurilateral bridges) with phased institutional reforms (procedural adjustments, enhanced transparency, capacity building). The study's contribution lies in integrating legal doctrine, political-economy diagnosis, and institutional design into a cohesive, sequenced reform roadmap that prioritizes legally implementable interim mechanisms while setting criteria for deeper governance change. Implications Adoption of the proposed measures could arrest further fragmentation, enable coordinated responses to supply-chain, climate, and digital regulation challenges, and rebuild the WTO's normative centrality; conversely, failure to pursue the reforms risks entrenching competing governance forums, eroding dispute settlement predictability, and weakening multilateral trade governance.

Keywords: World Trade Organization, Dispute Settlement System, Trade Fragmentation, Regional Trade Agreements, Geoeconomic Tensions, WTO Reform

1. Introduction

The World Trade Organization (WTO), comprising 166 member states representing over 98% of global trade, has long stood as the cornerstone of multilateral trade governance. However, the WTO today faces an array of unprecedented challenges. Its negotiation

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functions have stagnated, its dispute settlement system has been paralyzed, and global trade is increasingly splintering into competing regional blocs. Major economies, seeking to bypass the stagnation of the WTO, have increasingly resorted to unilateral tariffs and regional trade agreements, undermining the WTO's founding principle of consensus-driven liberalization. WTO Director-General Ngozi Okonjo-Iweala and Chief Economist Ralph Ossa have warned that unchecked protectionism could spark destabilizing trade wars, with catastrophic consequences for global economic growth. This article explores the legal challenges confronting the WTO in a fragmented trade order and evaluates strategic responses aimed at revitalizing multilateral trade rules [1].

Literature Review

The WTO's dispute settlement system, once hailed as the "crown jewel" of multilateral trade governance, has become a focal point of concern in recent years. Prior to 2019, the Appellate Body played a critical role in resolving trade disputes and ensuring the consistency and predictability of global trade law. However, in 2019, the United States blocked the appointment of new judges to the Appellate Body, leading to a lack of quorum and effectively paralyzing the dispute settlement process. This disruption has had a domino effect on global trade law, creating fragmentation in trade rules and undermining the consistency of the WTO's enforcement mechanisms. While the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) has been proposed as a stopgap solution, its scope and effectiveness remain limited [2].

Concurrently, the stagnation of the WTO's negotiating functions has led to a rapid rise in regional and bilateral trade agreements. By 2023, nearly 600 regional trade agreements (RTAs) had been notified to the WTO, many of which extend beyond the disciplines of the WTO and create a patchwork of trade regulations. This trend has led to increased complexity for businesses and regulatory bodies as regional agreements often conflict with WTO jurisprudence. Furthermore, an increasing number of trade disputes are being resolved outside the WTO framework, further fragmenting the interpretation and enforcement of trade obligations [3].

2. Research Method

This article adopts a qualitative approach, analyzing the WTO's legal challenges and evaluating various proposed solutions based on secondary data, including official WTO reports, scholarly articles, and recent legal commentaries [4]. The analysis is structured around the two main issues facing the WTO: its paralyzed dispute settlement mechanism and the fragmentation of trade rules due to regional agreements. In particular, this article assesses the potential for reforms within the WTO framework, as well as the feasibility of alternative solutions such as plurilateral trade agreements and Joint Statement Initiatives (JSIs). Additionally, the article explores recent trends in global trade governance, including the rise of economic nationalism and unilateral trade measures [5]. Building on that methodological foundation, the article systematically evaluates reform pathways by triangulating doctrinal interpretation with empirical indicators such as dispute initiation rates, negotiation transcripts, and membership statements, while situating legal options within contemporary geopolitical constraints. It weighs the legal merits and political feasibility of measures ranging from incremental procedural fixes inside the WTO to more ambitious treaty amendments or the cultivation of plurilateral coalitions, paying special attention to how less-developed members and large trading powers would be affected. The analysis also identifies likely short-term consequences of each pathway for predictability, equity, and enforcement, and it develops

scenario-based recommendations that prioritize reversibility, consensus-building, and capacity support. Finally, the article acknowledges limitations related to rapidly evolving digital trade practices and non-trade policy linkages, and it calls for ongoing empirical monitoring and stakeholder dialogue to guide adaptive governance of international trade.

3. Results and Discussion

The WTO's dispute settlement system, which once ensured the uniform application of trade law, has been effectively crippled by the inability to appoint judges to the Appellate Body[6]. The lack of quorum in the Appellate Body has left trade disputes unresolved, leading to increasing uncertainty in global trade relations. This paralysis has been exacerbated by the WTO's failure to make meaningful progress in the Doha Round of negotiations, with key issues such as agricultural subsidies, services liberalization, and digital trade rules remaining unresolved. As a result, countries have turned to regional trade agreements as an alternative mechanism for establishing trade rules [7].

The proliferation of these agreements has further fragmented global trade, as they often extend beyond the purview of WTO rules, creating a complex web of regulations that conflict with WTO jurisprudence. As of 2023, the WTO had recorded nearly 600 regional trade agreements, with many diverging from the organization's core principles. These agreements have also exacerbated the fragmentation of trade dispute resolution, with countries increasingly turning to regional bodies to resolve disputes rather than the WTO's multilateral system [8].

Efforts to restore the WTO's dispute settlement system have been proposed, including calls for a two-tier binding dispute settlement mechanism. However, the path to reform remains contentious. The United States advocates for a more flexible approach, while other WTO members have called for the restoration of an independent Appellate Body [9]. In the absence of consensus, some have proposed a plurilateral appellate arrangement as a stopgap measure. This reflects the growing need for a more adaptable and flexible WTO system that can address modern trade challenges while balancing national interests and global cooperation [10].

In light of the stagnation of the WTO's negotiation functions, plurilateral initiatives such as Joint Statement Initiatives (JSIs) have emerged as a potential solution. These initiatives, which allow a coalition of willing members to agree on trade rules, have sparked controversy due to concerns that they may undermine the inclusivity of the WTO system [11]. However, JSIs may provide an opportunity to update trade rules in specific sectors, such as digital trade, that are increasingly important in the modern global economy. By allowing non-participating countries to benefit from the outcomes, JSIs could serve as a way to update WTO rules and prevent the organization from becoming irrelevant [12].

The WTO's legal framework must evolve to address emerging global trade issues, including digital trade, industrial subsidies, and environmental sustainability [13]. Reforms to update rules on special and differential treatment for developing countries and to strengthen disciplines on state-owned enterprises and industrial subsidies are necessary to maintain the WTO's relevance in a rapidly changing global economy [14]. Furthermore, the organization must navigate the rise of economic nationalism, which challenges its foundational principles, particularly in the context of unilateral tariffs and protectionism [15].

4. Conclusion

The WTO stands at a critical juncture in its history. The organization's ability to adapt to modern trade challenges will determine its future role in global trade governance. If the WTO can effectively address its legal challenges, promote multilateral cooperation, and modernize its rules, it can continue to serve as the cornerstone of global trade. However, without meaningful reforms, the WTO risks marginalization, leading to a more fragmented and uncertain global trading system. The WTO must adapt its dispute settlement mechanism, negotiate new trade rules, and strengthen its role in global governance to remain relevant in the 21st century. The future of the WTO hinges on its capacity to reinvigorate its core principles of non-discrimination, transparency, and multilateral cooperation in an increasingly fragmented world trade order.

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