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The World Trade Organization

Overview

The World Trade Organization (WTO) was established on January 1, 1995, following the ratification of the Uruguay Round Agreements, and today includes 164 members. It succeeded the 1947 General Agreement on Tariffs and Trade (GATT), created as part of the post-WWII effort to build a stable, open international trading system. The WTO has three basic functions: (1) administering existing agreements; (2) serving as a negotiating forum for new trade liberalization and rules; and (3) providing a mechanism to settle disputes. The multiple WTO agreements cover trade in goods, services, and agriculture; remove tariff and nontariff barriers; and establish rules on government practices that directly relate to trade—for example, trade remedies, technical barriers to trade (TBT), intellectual property rights (IPR), and government procurement. The agreements are based on the principles of nondiscrimination among countries—most-favored nation (MFN) treatment, national treatment, fair competition, and transparency of trade rules and regulations. Some exceptions, such as preferential treatment for developing countries and regional and bilateral trade agreements outside the WTO, are allowed.

The GATT/WTO system over time has led to a significant reduction of trade barriers, supported trade expansion and economic growth, and helped manage trade frictions. At the same time, the WTO faces serious challenges. One fundamental concern is that the WTO could lose relevance due to its inability to adapt to the modern global economy by its members' failure to negotiate a successful round of major trade liberalization since 1994. Several members have proposed reforms to the institution in attempts to safeguard and improve it.

Congress has recognized the WTO as the “foundation of the global trading system,” and plays a legislative and oversight role over WTO agreements. Some Members have expressed support for WTO reforms and U.S. leadership; others introduced joint resolutions in 2020 to withdraw congressional approval of WTO agreements. As debates over the WTO's future intensify, several issues may be of interest to Congress, including WTO agreements' effects on the U.S. economy, outcomes of reform and negotiation efforts, and the value of U.S. membership and leadership.

The Doha Round

The Doha Development Agenda, the latest “round” of multilateral trade negotiations, was launched in 2001 but ended in stalemate, with no clear path forward (**Table 1**). The WTO's large and diverse membership and the “single undertaking” approach made consensus on the broad Doha mandate difficult. The negotiations were characterized by persistent differences among the United States, European Union (EU), and developing countries on major issues, such as agriculture, industrial tariffs and nontariff barriers, services, and trade remedies. Developing countries sought the reduction of agriculture tariffs and subsidies by

developed countries, nonreciprocal market access for manufacturing sectors, and protection for services industries. In contrast, developed countries sought reciprocal trade liberalization, especially commercially meaningful access to more advanced developing countries' industrial and services sectors, while retaining some protection for their own agricultural sectors.

Agriculture, where multilateral solutions arguably remain ideal, continues to be among the thorniest issues on the agenda left over from Doha. In 2015, members agreed to limited deals, including on phasing out export subsidies, minimizing impacts of food aid on local markets, and several measures for least developed countries.

The lasting legacy of Doha may be the successful negotiation of the Trade Facilitation Agreement (TFA), which entered into force in early 2017 and aims to remove customs obstacles and inefficiencies at the border.

Table 1. GATT/WTO Rounds

Year	Name	Subjects covered	Countries
1947-1961	Geneva, Annecy, Torquay, Geneva II, Dillon	5 rounds of tariff reductions	23 (1947); 26 (1961)
1964-1967	Kennedy	Tariffs and antidumping measures	62
1973-1979	Tokyo	Tariffs, antidumping, subsidies, TBT, government procurement	102
1986-1994	Uruguay	Tariffs, nontariff measures, rules, services, IPR, dispute settlement, textiles, agriculture, WTO institution	123
2001-2015*	Doha	Tariffs, nontariff measures, agriculture, services, trade facilitation, trade remedies, and development	142 (2001); 164 (current)

Source: WTO.

Notes: * In 2015, WTO members failed to reaffirm Doha's mandates and many observers considered the round to be effectively over.

Ministerial Conferences (MC) are generally seen as action-forcing events for the WTO. At the last MC11 in 2017, no major deliverables were announced, leaving the stakes high for MC12. Due to the Coronavirus Disease 2019 (COVID-19) pandemic, the WTO postponed MC12, now scheduled for March 2022. In advance, some members want a virtual ministerial meeting to clarify political guidance on particular issues. Members have committed to make significant progress on certain topics, including on multilateral fisheries subsidies negotiations, health and trade, and digital trade.

Plurilateral Initiatives

While multilateral efforts have progressed slowly, several plurilateral talks are underway within and around the WTO.

Past agreements with U.S. membership cover key sectors and are viewed as potential models for other efforts.

- **Government Procurement Agreement (GPA).** The GPA provides market access for various nondefense government projects to its signatories. In force since April 2014, the revised GPA expanded market access and covered entities, and currently has 48 parties.
- **Information Technology Agreement (ITA).** A subset of members agreed in 2015 to expand product coverage for tariff-free treatment in the 1996 ITA. The expansion eliminates tariffs on 201 additional technology goods, applied on a MFN basis to all WTO members.
- **Joint Initiative on Services Domestic Regulation.** Concluded in December 2021, 67 members agreed to facilitate services trade by improving transparency on domestic processes and addressing regulatory barriers.

Other plurilateral negotiations of U.S. interest include the joint initiative on e-commerce with over 80 members, aiming to conclude an agreement in 2022. U.S. priorities include disciplines on cross-border data flows and bans on data localization and forced technology transfer. Other ongoing joint initiatives address investment facilitation; micro, small and medium-sized enterprises; and environmental issues. Some members raise concerns that plurilateral approaches, while useful, could potentially marginalize non-participating countries or allow for free riders who benefit from others' commitments.

Ongoing Challenges

Since the Doha Round, intractable issues and active debate have characterized the WTO. Many members and observers concur that the WTO must adopt reforms to remain an effective institution, in terms of its negotiating, monitoring, and dispute settlement (DS) functions. Some members have also called on the WTO to address the trade policy challenges that emerged from the COVID-19 pandemic.

Negotiating Agenda. Some issues on the Doha agenda, ideally negotiated multilaterally, remain contentious and may founder for want of a negotiating venue: for example, attempts to discipline agricultural subsidies or resolve concerns on public stockholding programs. In addition, since 1995, new trade barriers, technology advances, and other issues have emerged. Developed countries have sought to incorporate issues on the agenda, such as digital trade and state-owned enterprises that pose challenges to the trading system. Some, including the United States, point to plurilaterals as the way forward to address new issues.

More broadly, U.S. trade officials contend that WTO rules were not designed to effectively handle the challenges of emerging markets like China that are not fully-fledged market economies. To this end, U.S.-EU-Japan discussions aim to strengthen rules on issues raised by non-market economies where the state plays a major role.

COVID-19. WTO members face challenges in responding to the global trade and economic slowdown from COVID-19. The pandemic has tested cooperation and coordination in global trade policies, disrupted global supply chains, and resulted in trade protectionism. The WTO has committed to work to minimize disruptions to trade, and encouraged WTO members to notify new trade measures. At the same time, many countries have reaffirmed the trading system, lifted temporary restrictions, and view the WTO as playing

an important role in tackling trade policy challenges that have emerged. Some members have advocated for a plurilateral agreement on medical goods. Delay in production and distribution of COVID-19 vaccines has led to calls by some developing countries to waive IPR on vaccines or to seek to issue compulsory licenses for them.

WTO Reform. The Biden Administration has indicated interest in WTO reform efforts so that the institution “empowers workers, protects the environment, and promotes equitable development.” The Administration points to the need to update all three WTO pillars to increase flexibility and strengthen transparency to address global challenges. Some U.S. frustrations are not new and are shared by other WTO members and past U.S. Administrations, but approaches to solutions differ. Several members have submitted proposals now under debate.

Dispute Settlement. To supporters, the DS system is considered a WTO success. The United States has been an active user of the system (**Table 2**). However, some are concerned about the DS system’s continued legitimacy absent reforms and if no new WTO agreements are reached, thus preventing new trade issues from being adjudicated.

Table 2. WTO Dispute Settlement

Total cases filed—all parties	607
U.S. as Complainant	124
U.S. as Respondent	156
U.S. as Third Party	171

Source: WTO, as of January 2022.

The Trump and Biden Administrations each voiced major concerns with DS, including what they consider “judicial overreach” in panel decisions, which, in effect, may create new obligations not specifically negotiated, especially in the area of trade remedies. To spur reform, the Trump Administration blocked appointment of new jurists to the seven-member Appellate Body (AB), which reviews appeals of dispute cases, a practice the Biden Administration has continued. As a result, the AB ceased to function in December 2019. While the EU and others have proposed reforms to address U.S. concerns, thus far, they have been rejected by the United States. In 2020, over 20 members led by the EU put into effect an ad hoc arbitration arrangement to hear appeals on cases amongst themselves.

Unilateral Enforcement Actions. Many observers are concerned that recent U.S. tariffs and counter-tariffs by other countries, as well as escalating trade disputes, are further straining the WTO. Several related WTO disputes are pending DS decisions. In one involving U.S. tariffs on China, a panel ruled against the United States. Some observers express concern that unilateral tariffs, some pursued in the name of national or economic security, may undermine the credibility of the WTO and its key rules and principles, and lead to new trade restrictions. While WTO agreements offer flexibility for temporary measures justified by national security or health crises, the spread of export restrictions following COVID-19 amplified such concerns.

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