

# Trade and WTO Reform: Union Priorities for 2021

## The WTO Ministerial in 2021 must lay the pathway for serious reform.

The WTO and its membership have a critical role to play in the **global economic governance**, but it cannot be more of the same, where cheap exploitative labour fuels global profits and billions of people are excluded from the benefits of trade, which accrue to a tiny elite. The current trade rules and the shape they provide to the global economy are responsible for underpinning extreme inequalities and often exploitative, dehumanising production conditions, with no global floor of human or labour rights. They also promote wasteful consumption, causing environmental degradation and climate change, the further disempowerment of disenfranchised groups, persisting poverty, and food insecurity.

The WTO is in crisis, and it's time for fundamental change. If not, the lack of trust people have in globalisation will deepen, with increased despair, social unrest and the further undermining of democracy.

Since its founding in 1995, the WTO has pursued a narrow vision of increased trade liberalisation without regard for social or environmental impacts. Shared prosperity, human and labour rights and a sustainable planet must no longer be ignored, but rather placed at the heart of the global trading system. The corporate model must change, and the government members of the WTO must accept their responsibility to protect working people.

In order for the WTO to rebuild its legitimacy and relevance, the ITUC calls on the organisation and its member states to fully integrate the ILO's Decent Work Agenda into the global trading system with the following measures:

**Establish a fair competition floor** based on widely accepted labour and environmental commitments, including the 1998 ILO Declaration on Fundamental Principles and Rights at Work and relevant occupational health and safety (OHS) standards.

**Develop monitoring and compliance models** to hold governments and companies to account for upholding international labour standards.

**Create meaningful platforms for robust social dialogue** to ensure trade policy reflects the interests of all stakeholders.

Several WTO members have started a discussion aiming to reform the WTO. Within this initiative, the trade union movement sees opportunity to realign the global trade system's rules with those demands outlined above and the goals of the 2030 Agenda for Sustainable Development to urgently address the climate crisis, exploitation, and income inequality.

In addition to concluding the Doha Development Round and reforming the Agreement on Agriculture, the Reform should increase cooperation between the ILO and the WTO and establish a just **floor for competition, with capacity building mechanisms and enforceable labour and environmental standards.**

All new multilateral and plurilateral negotiations should include **sustainability impact assessments**, which analyse their likely impacts on decent work, labour-income share, inequality, including an analysis of gender, the environment, and other Sustainable Development Goals. The assessments should be conducted at the start of negotiations to guide the parties' efforts to maximise the creation of good jobs and mitigate any

potential negative impacts. When impact assessments show that an agreement is likely to create a decent work deficit or when serious likely negative impacts cannot be effectively mitigated, negotiations should be abandoned.

Experts and academics have criticised the current dominant **economic modelling** as inaccurate and ideologically disposed towards further trade liberalisation. In order to create outcomes that are closer to reality, the WTO should contribute, in cooperation with UNCTAD, the ILO and other international organisations, to a scientific initiative to develop more credible economic modelling.

The WTO's existing **Trade Policy Review Mechanism** must be updated to take into account labour standards violations, particularly in export sectors. In order to support inclusive growth, the WTO should encourage members to effectively integrate internationally agreed labour standards into their trade agreements and programs. In addition, "Aid for Trade" programs should ensure there are resources to cover adjustment costs and skills development for workers who are negatively impacted by trade liberalisation.

*Specific areas of action regarding the current WTO agenda include:*

## **Immediate action to address the COVID-19 pandemic**

In October 2020 South Africa and India tabled a proposal calling for a temporary waiver for all WTO members of certain provisions of the TRIPS Agreement in relation to the "prevention, containment or treatment" of COVID-19. The proposal, which enjoys the support of over 100 WTO members, would allow countries to bypass the IP-related barriers to the manufacturing and supply of diagnostics, medical equipment, treatments and vaccines related to the pandemic.

The ITUC, PSI and other GUFs have joined a broad swath of global civil society in calling for immediate approval of the TRIPS Agreement waiver. \_

However, developed nations with large pharmaceutical industries, including the US, the EU, Switzerland, Norway, Australia, Canada, Japan and the United Kingdom, are blocking approval of the waiver with unconvincing arguments about protecting innovation and the corporate bottom line. Their opposition is effectively blocking the mass production of much-needed supplies and vaccines, placing the lives and livelihoods of millions of workers at risk by prolonging the pandemic and its economic fallout.

Winnie Byanyima, head of UNAIDS, [called](#) on the WTO members to not repeat "the painful lessons from the early years of the AIDS response, when people in wealthier countries got back to health, while millions of people in developing countries were left behind".

Meanwhile, developed nations are proposing an agreement to eliminate tariffs on medical supplies as the WTO's answer to the COVID pandemic. However, such an agreement would not guarantee equitable distribution of medicines and equipment, especially in free market conditions where rich countries price out developing countries and hoard available supplies for their populations. Rather than focus on the further liberalisation of medical supply chains, the WTO must focus on measures like the TRIPS waiver that will allow for a rapid scale up of the vaccines and drugs that are vital to ending this global pandemic.

## **E-commerce negotiations**

Trade unions call for the abandonment of the e-commerce negotiations in the WTO. Cross-border data transfers, data storage and use, access to source codes, and other supposedly e-commerce issues are inherently political, as they will determine the future distribution of wealth and power, access to technology, access to information and dealing with disinformation, the quality of good governance and democracy, consumer habits, climate action and in general, many issues beyond e-commerce.

The WTO, with its reductive approach to government regulation, is not the right place for the future of work and global economy to be agreed. The proposals tabled by the most assertive promoters of these negotiations are identical to the demands of Big Tech. This is another reason trade unions view this endeavour with suspicion.

The ITUC and the PSI have published two reports on the [e-commerce](#) negotiations identifying a series of risks for workers' bargaining power, income inequality, privatisation of public services, workplace surveillance, personal data privacy and other ethical risks to global society.

*The negotiations must be abandoned immediately and instead, governments should discuss and agree rules and establish institutions for global data governance in an appropriate forum, with the participation of social partners, and with a clear mandate to make data-driven technologies available to all and ensure they deliver in service to the planet.*

## Investment facilitation and domestic regulation disciplines

The negotiations on investment facilitation concern, among other things, the predictability and objectivity of investment measures, administrative procedures and mediation mechanisms. There is great potential for an overlap between the domestic regulation disciplines negotiations and the investment facilitation ones, as they both aim at limiting governmental competence to draw investment policy and at establishing a corporate-friendly environment in which investors increase their power over governments. Among other regulatory space, the domestic regulation disciplines talks cover licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services.

The negotiations discuss the establishment of standards on national investment policy measures to determine the measures' legitimacy. The WTO dispute settlement experience shows that the vague provisions of the General Agreement of Trade in Services (GATS) – that regulation should be “transparent”, “impartial”, and “not more burdensome than necessary” – have led to postponing, weakening and blocking regulation. The use of other disciplines, including expedited administrative procedures and the processing of applications in “reasonable time periods”, can have a similar effect. Disciplines disguised as measures friendly to small and medium enterprises (SMEs) and provisions concerning access to ombudspersons and complaints procedures for corporations also limit regulatory policy space.

The trade union movement has analysed and criticised the plans for a Trade in Services Agreement (TiSA). Among other preoccupations is the rapidly transforming structure of the global economy – in particular, many traditional goods sectors being re-described as services; for instance, mining iron would be treated as trade in goods, where iron ore was the product. Treating mining as ore gathering, ore cleaning and polishing, and other tasks involved in mining, reclassifies it as a service, and WTO services rules apply. The UNCTAD has warned that digitalisation, including with technologies like 3D-printing, could potentially reclassify all goods as services.

An investment facilitation agreement and furthering GATS provisions with the current domestic regulation disciplines would curtail even more policy space for governments to establish criteria and policies to attract long-term, responsible, productive investment. Investors already enjoy bizarrely excessive privileges under bilateral investment treaties (BITs) that give them the ability to challenge regulation ad hoc directly in Investor to State Dispute Settlements (ISDS).

*Governments have the competence to take measures that would facilitate, attract and promote investment unilaterally. There is no advantage in committing national investment policy in the WTO, especially when at the same time governments have launched a process to reform the heavily problematic ISDS in order to balance investors power and increase their policy space.*

**Localisation measures on foreign investment**, like requirements for joint ventures, foreign ownership ceilings, and investment performance that includes targets for the employment of local labour, training and skills building, and the sourcing of local materials, are key industrial policy tools and should remain available to all economies. In the WTO Reform, part of the membership supports restricting such measures. If agreed, this approach would undermine the accomplishment of global goals on sustainable development. The WTO should agree to remove any restrictions on governmental policy-making regarding FDI.

As the WTO Agreement on **Trade-Related Investment Measures (TRIMs)** already restricts many such government measures and establishes transitional periods, any additional regulatory restrictions should be avoided. The members should engage in negotiations to review the restrictive TRIMs regime only aiming at

making development policy measures widely available. Countries are, either way, free to commit to refrain from discriminating in favour of local enterprises unilaterally if the belief that non-discrimination attracts investment prevails.

## Fishing subsidies

Overfishing is a problem that threatens the sustainability of the global marine ecosystem. Disciplining subsidies with WTO rules could be a step in the right direction if it respects the principle of special and differential treatment. Subsidies to big industrial fleets that have been overfishing for decades should not be treated in parity with subsidies given to individual fishers with small capacity in a developing country.

*Trade unions call on WTO members to introduce disciplines and limitations on fishing subsidies in a way that does not affect small fishing communities and to consider fishing subsidies broadly so as to include fossil fuel subsidies and other advantages given to big fleets.*

## Development

In order to contribute to the achievement of the Agenda 2030, WTO members should re-affirm and ambitiously conclude the Doha Development Round and its Implementation Agenda.

*The trade union movement urges WTO members, developed and developing countries alike, to agree to preferential access schemes on condition of ILO standards implementation and in order to achieve the goals of the Decent Work Agenda; operationalise and implement the LDC package agreed in Bali in 2013; simplify the Rules of Origin so as to facilitate LDCs to make use of preferential access to markets; allow unilateral duty-free quota-free access for all LDC products; extend indefinitely the waiver on services enjoyed by the LDCs; and conclude an ambitious agreement to operationalise special and differential treatment principles and amend the Monitoring Mechanism so as to improve the impact of special and differential treatment provisions on development.*

## Agriculture

Reforming the Agreement on Agriculture is a long-standing demand of the trade union movement. Trading arrangements for agriculture have great impact on one billion people who depend on subsistence agricultural activities. The WTO members must ensure that an Agreement on Agriculture guarantees food security and improves the incomes and livelihoods of small producers. It should also guarantee that WTO rules on agricultural subsidies do not treat developing countries in a discriminatory way.

*The international trade union movement urges WTO members to allow governments to classify stockholding programmes for food security purposes under the “green box” provision of the Agriculture Agreement; eliminate the distinction of subsidies according to the colour of the boxes in which they are notified, as it has no scientific justification; provide for a functioning special safeguard mechanism (SSM) in order to help developing countries react to import surges; foster duty-free and quota-free (DFQF) imports of food products from least-developed countries (LDCs) by all members as long as they do not harm their domestic food consumption; forbid exports of food products at prices below the average national production cost; eliminate all cotton subsidies and all other subsidies that damage food security and domestic production in the developing world; and raise the allowed de minimis support for developing countries, including by updating the method of calculation, particularly for those without aggregate measurement of support (AMS) commitments, and taking inflation into account.*