

A First Step to Revive the Rules-Based Trading System

Kimberly Ann Elliott

Abstract

Though it has been struggling with challenges for some time, current nationalist and populist tendencies around the world pose a far more serious threat to the World Trade Organization than anything previously seen. The revival of the rules-based trading system will not happen without a renewed American commitment to multilateralism, but the United States cannot do it alone. Developing countries gain most from this system and should take the lead in a new negotiation to reinforce core WTO principles, including transparency, predictability and nondiscrimination. The principal objective of the proposed negotiating agenda would be confidence building, not market access, and it should be embraced by all WTO members. While modest in its economic effects, an agenda building on the Trade Facilitation Agreement—without special and differential treatment for developing countries—could be a first step along the road to more fundamental reforms.

Center for Global Development
2055 L Street NW
Fifth Floor
Washington DC 20036
202-416-4000
www.cgdev.org

This work is made available under
the terms of the Creative Commons
Attribution-NonCommercial 4.0
license.

A First Step to Revive the Rules-Based Trading System

Kimberly Ann Elliott
Center for Global Development

I would like to thank the Open Society Foundation for financial support of this research and Andy Green, Scott Morris, Peter Ungphakorn, Todd Tucker and Robert Wolfe, along with participants in a Louisiana State University workshop on trade, for feedback and suggestions that substantially improved the paper.

Kimberly Ann Elliott, 2020. "A First Step to Revive the Rules-Based Trading System." CGD Policy Paper 165. Washington, DC: Center for Global Development. <https://www.cgdev.org/publication/first-step-revive-rules-based-trading-system>

Center for Global Development
2055 L Street NW
Washington, DC 20036

202.416.4000
(f) 202.416.4050

www.cgdev.org

The Center for Global Development works to reduce global poverty and improve lives through innovative economic research that drives better policy and practice by the world's top decision makers. Use and dissemination of this Policy Paper is encouraged; however, reproduced copies may not be used for commercial purposes. Further usage is permitted under the terms of the Creative Commons License.

The views expressed in CGD Policy Papers are those of the authors and should not be attributed to the board of directors, funders of the Center for Global Development, or the authors' respective organizations.

Contents

How Did We Get Here?	2
Developing Countries and the WTO.....	4
Reinforcing the WTO System with an All In Negotiation	6
Binding All Tariffs.....	7
Converting All Tariffs to Ad Valorem Values	8
Eliminating All Nuisance Tariffs.....	10
Setting De Minimis Thresholds for Low Value Shipments.....	11
The Value of a Back to Basics Agenda.....	12
Concluding Remarks.....	13
References.....	15

The system of multilateral institutions created after World War II to promote international economic cooperation is now in its eighth decade and is showing its age. More critically, the system is under threat from growing nationalist and populist tendencies around the world that reject the very notion of multilateralism. The World Trade Organization (WTO), like the World Bank Group and International Monetary Fund, is in many ways a victim of its own success. But it has struggled even more than the others to adapt to the changes wrought by economic globalization and the difficult governance challenges they entail. President Donald Trump’s protectionist trade policies and America first approach threaten not just the WTO’s future, but its past successes in lowering and constraining the use of tariffs.

The restoration of the American commitment to multilateralism is essential if there is going to be a revival of the rules-based trading system under the WTO. But others—and developing countries in particular—need to step up as well. Smaller, less powerful countries are the biggest beneficiaries of a rules-based system that prevents bullying and discrimination on the part of their larger trading partners. The large emerging markets—such as Brazil, China, and India—have more scope to defend themselves, but they still benefit from rules that promote more transparent, stable and predictable trade flows, as do the largest and richest countries. So, everyone would benefit from steps to save the system.

WTO members also need to reconsider what its role should be in governing trade in the 21st Century. Part of the backlash against globalization in recent years is rooted in perceptions that negotiators overreached in the last major negotiation—the Uruguay Round—and incorporated rules that did not serve the interests of all parties. The criticism is exaggerated because multilateral negotiations, more so than bilateral deals, reflect the influence of developing countries and contain substantial flexibility in the implementation of the rules. Nevertheless, the agreement on trade-related intellectual property rights, for example, attracted criticism as benefiting major multinational corporations at the expense of poorer countries. Civil society groups in industrialized countries are also critical of a trade agenda that seems increasingly imbalanced in favor of business interests over those of consumers, workers and the environment (Elliott 2019).

Many supporters of the WTO and an open global trading system believe that the trade agenda needs to expand to encompass more behind the border, regulatory issues in order to address the needs of supply chain-based trade.¹ Others want to link market-opening to climate change or worker rights and use the WTO to enforce standards in those or related

¹ Baldwin (2012) argues that the WTO is ill-suited to address the range of regulatory cooperation issues related to supply chain trade and that a new organization is needed. Hoekman and Nelson (2018) analyze the political economy obstacles to pursuing the “deep integration” agenda and suggest that the multilateral trade system will likely remain focused on the shallow integration agenda—notably industrial policy issues raised by China’s economic strategy—while other issues will have to be pursued by like-minded countries through plurilateral approaches. Hoekman and Sabel (2019) analyze how plurilateral approaches could work, while remaining open and at least consistent with, if not fully inside, the WTO. Samans et al. (2016) review and make recommendations on a wide range of issues confronting the global trade and investment regimes, based on a wide-ranging, interdisciplinary consultation process.

areas.² But how and to what extent either of those directions is desirable or realistic remains a subject of vigorous debate. At least in the short run, a more restrained approach may be more effective in supporting the multilateral system—especially given the need to engage developing countries in the effort.

For purposes of systemic confidence building, this paper proposes a relatively narrow, norm-strengthening agenda with developing countries mostly forgoing special and differential treatment. Specifically, it proposes to build on the recent Trade Facilitation Agreement with a back to basics negotiation that focuses on tariffs and requires countries at all levels of development to contribute. US policymakers would need to be supportive of this agenda, but I would not expect them to take a leading role. Rather, small open economies and key developing countries who would gain the most from a stronger and more stable system should take the lead.³

A tariff focused negotiation may sound very 20th Century.⁴ But it addresses 21st Century needs by tackling sources of relatively low initial trade costs—nuisance tariffs and duties assessed on low value shipments—that have a “cascading effect” as goods move around increasingly fragmented supply chains (Escaith 2017). It also seeks to reduce the uncertainty that plagues small and medium enterprises, as well as bigger supply chain operators, by calling for tariff bindings and the exclusive use of ad valorem tariffs across all countries and sectors.

A relatively limited multilateral agreement to make trade more transparent and predictable might not do much to provide new market access, but that is not the point. By engaging all members in a joint effort to reinforce core WTO principles, this proposal aims to rebuild confidence in the WTO as an effective rule-setting organization.

How Did We Get Here?

Although American policymakers have always been somewhat leery of constraints on US policy autonomy, they joined with British policymakers and others after World War II to create a set of global institutions to provide economic stability and promote growth. A central aim of their efforts was to avoid the tit for tat trade wars and competitive currency devaluations that had contributed to deepening the Great Depression. The International Trade Organization—the third leg of the triad, along with the World Bank and International

² While there was pressure in the early days of the WTO to incorporate labor and environmental standards into multilateral trade rules, more recent proposals tend to focus on strengthening enforcement of labor and environmental standards in bilateral trade agreements and changing WTO rules to permit more policy space for member countries to take action against “social dumping” and climate change. See, for example, Paul (2019), Shaffer (2018) and Rodrik (2017). For a farreaching proposal for changing the global trading system to accommodate action on climate change, see Tucker (2019).

³ Perhaps a group such as the 47 developed and developing countries that issued a statement in July 2017 calling on members to “safeguard the integrity of the open, rules-based Multilateral Trading System embodied in the WTO” could play this role; see https://www.wto.org/english/news_e/news17_e/mc11_26jul17_e.pdf.

⁴ Economist Jeffrey Frankel recently pushed a return to basics, tariff-focused agenda that would aim to unwind the tariffs imposed by the Trump administration and do more to discipline such actions in the future. See

Monetary Fund—never came to fruition because of opposition from the US Congress. But the United States, United Kingdom and 21 other countries, including a number of less developed economies, established the General Agreement on Tariffs and Trade (GATT) to negotiate trade liberalization and discipline discriminatory measures.⁵

Over the ensuing four decades, the GATT succeeded in dramatically lowering tariffs applied by developed country members. It was less successful in lowering barriers to agricultural trade—again in part because of opposition from the US Congress—or tariffs among less developed members. In the GATT’s first three decades, developing countries were mostly allowed to free ride on liberalization negotiated by the so-called Quad—the US, Canada, European Union and Japan. But that became less tenable as the larger developing economies grew and became more important players in international markets. Moreover, as tariffs in the major economies came down, the effects of nontariff barriers on trade became more prominent, and trade in services became a more important part of the global economy.

GATT members launched the Uruguay Round of multilateral trade negotiations in 1986 in Punta del Este, Uruguay, with the aim of addressing the gaps that had emerged and the tensions they created. The resulting agreement, which took seven years to negotiate, was broad and farreaching. It created rules in a number of new areas, including services trade and protection for the intellectual property embedded in a growing range of goods and services, as well as creating a framework for modestly reducing trade-distorting agricultural support. Negotiators opted for a single undertaking approach that required all parties to accept all parts of the agreement. But it retained “special and differential” treatment (SDT) for developing countries, which allowed them to cut tariffs less ambitiously and gave them longer periods to phase in certain obligations.⁶ In an effort to further strengthen the global trading system, the Uruguay Round Agreement also created the WTO and endowed it with a more institutionalized and more binding dispute settlement system.

A quarter century after it was created, however, the WTO is facing unprecedented challenges. The greatest risks to its future—including the repeated threats by US President Donald Trump to withdraw from the organization—will hopefully prove to be temporary. But others have been building for some time and will not disappear even with a change in US leadership and attitudes. In particular, developing countries, if they want the system to survive, have to adopt a larger vision than just protecting special and differential treatment.

Sharp disagreements over how much developing country members should contribute during the Doha Round of multilateral negotiations, which was launched in 2001, were a major factor in the round’s collapse. That failure, along with the refusal by some developing countries—notably India—to approve multilateral negotiations in new areas, means that WTO rules are increasingly ill-equipped to address emerging trade issues. These include the growing importance of services in all facets of trade, including in increasingly fragmented

⁵ Jackson (1991), chapter 2, provides a detailed history of the failure of the ITO and the founding of the GATT; see also Aaronson (2002).

⁶ Schott and Burman (1994) provide a broad overview of the results while Hamilton and Whalley (1994) present a detailed economic analysis of the Uruguay Round.

global value chains, and the rapidly growing importance of digital trade. China's emergence as a major global trade power and the mismatch between its state-led economic system and WTO rules designed with more market-oriented systems in mind also pose potent challenges to the system.⁷

Solutions to the challenges facing the WTO thus lie, at least in part, in restoring its negotiating function.⁸ But that requires creativity as well as political will from a broad range of actors. Members are already trying out different plurilateral approaches that bring together subsets of like-minded countries to, for example, lower tariffs on environmental goods or create new rules for e-commerce. Hoekman and Sabel (2019) and Hoekman (2018) discuss in detail how these different approaches work and how to ensure they remain compatible with and supportive of WTO rules.

For the WTO to remain credible and effective, however, some negotiations should be multilateral. And to be successful in that, members need to update special and differential treatment (SDT) to reflect current global realities (Low et al. 2018). A few recent agreements addressing specific issues—notably the Trade Facilitation Agreement (TFA)—suggest that incremental, multilateral approaches, employing SDT flexibly, are possible and can play a useful role in moving the WTO forward.

Developing Countries and the WTO

The vast majority of the WTO's 164 members in early 2019 were developing countries. Many of them are relatively small, poor and vulnerable to bullying and discrimination from larger, more powerful countries. Those are the countries that benefit most from having a rules-based trading system. Yet many developing countries are also increasingly important actors in international trade, accounting for nearly half of global merchandise trade in 2018. Most notably, China surpassed Germany as the world's second largest trader of goods and services and it now accounts for roughly 10 percent of global exports of goods and services, about the same as the United States (WTO 2019).

Currently, WTO members can assert their own status as either developed or developing. Those in the latter category are able to avail themselves of special and differential treatment that allows them to make lesser commitments or take longer to phase them in. For example,

⁷ See Wu (2016), Hillman (2018a) and Zhou et al. (2019) for varying views on how WTO rules could be used to constrain Chinese trade policies and practices.

⁸ As of the end of 2019, the most urgent problem facing the WTO was the potential paralysis of the dispute settlement process because of the Trump administration's refusal to approve new members for the appellate body. That issue is beyond the scope of this paper, but there is an extensive body of work discussing how the crisis evolved, various mechanisms for managing it in the short run, and proposals for resolving it in the longer run. For a variety of views, see Payosova, Hufbauer, and Schott (2018), McDougall (2018), Wagner (2019) and Hillman (2018b). For a detailed explanation of the dispute settlement system, how problems arose, and ways that some countries are addressing the effective lack of an appeals option, see this blog post by Peter Ungphakorn, <https://tradebetablog.wordpress.com/2019/08/21/bother-at-wto-court/>. There are also a number of entries discussing the appellate body crisis on the International Economic Law and Policy blog at <https://ielp.worldtradelaw.net/>.

Korea—even though it has been a high income, industrialized country for many years—clings to developing country status to give itself more flexibility in protecting its agricultural sector. On a de jure basis, the only permissible distinction among developing countries is for United Nations designated “least developed countries.” In practice, many specific provisions in WTO agreements differentiate among developing countries and reflect their level of development and capacity (Low et al. 2018; Hoekman 2018).

China’s accession to the WTO early in 2001 exacerbated the tensions created by SDT and the lack of any formal mechanism for distinguishing among developing countries with very widely differing trade capabilities. Still, Beijing had to make more extensive economic reforms and grant more concessions as part of its accession agreement when it joined the WTO than any other country (China Power Team 2019). Moreover, while its state-led economic model poses problems for the WTO (Wu 2016), China does consistently take steps to come into at least nominal compliance when WTO panels rule against it (Baccus et al. 2018; Zhou 2019).

China submitted a proposal for WTO reform in 2018 that defended SDT, but it also called on developing countries to “actively assume obligations commensurate with their level of development and economic capability.”⁹ Given that the WTO operates by consensus, attempts to go beyond this and negotiate formal rules for differentiating among developing country members is a waste of time.¹⁰ But given its size, China should do more. Specifically, Beijing should follow Brazil’s example and declare itself a developed country for purposes of negotiating new trade agreements.¹¹ This would not change anything substantively in the short run, but it would diffuse some of the political angst caused by China’s eligibility for SDT—even if, in practice, it is already treated differently than other developing countries.

The new Trade Facilitation Agreement illustrates how a creative approach to special and differential treatment can facilitate multilateral agreement. Under this agreement, SDT is more flexible and it is based on each member’s individual capacity and development needs. This is an alternative, and less divisive, path for moving away from the broad brush approach to SDT that distinguishes only between developed and developing countries (Low et al. 2018). Especially in areas establishing or harmonizing rules, where implementation requires countries to commit often scarce resources, the TFA model of allowing

⁹ The proposal is available in WTO document WT/GC/W/773 here, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/wt/gc/w773.pdf>.

¹⁰ The Trump administration submitted a proposal for doing this but, since it would have to be approved by consensus, it is a nonstarter. For further discussion of these issues, see former Costa Rican Trade Minister Anabel Gonzalez’s analysis here, <https://www.piie.com/blogs/trade-investment-policy-watch/bridging-divide-between-developed-and-developing-countries-wto>.

¹¹ Brazil agreed to forgo developing country status at the WTO in exchange for US support of its petition to join the Organization for Economic Cooperation and Development; see <https://www.reuters.com/article/us-brazil-trade/brazils-new-status-would-not-affect-prior-ag-commitments-wto-chief-idUSKCN1R12NW>. Taiwan, trying to avoid President Trump’s ire, also recently declared itself a developed country for WTO negotiating purposes, see <https://asia.nikkei.com/Politics/Taiwan-quits-developing-economy-status-in-WTO-with-eye-on-China>. See also, Cutler and Doyle (2019).

differentiated treatment, and providing technical and financial assistance when necessary, is an appropriate one.¹²

But when it comes to core principles, developing countries can and should do more to accept basic obligations and contribute to institutional strengthening. An agreement that builds on the TFA and cleans up some of the remaining exceptions cluttering the trade landscape is one place to start.

Reinforcing the WTO System with an All In Negotiation

Since the last major round of GATT trade negotiations concluded with the Uruguay Round Agreement and the creation of the WTO, multilateral trade negotiations have mostly stalled out. It took WTO members six years and one spectacularly failed ministerial meeting in Seattle before it could finally launch the Doha Round of negotiations in 2001. But that round muddled along for 7 divisive years before basically going into hibernation in 2008. In the decade since, it has proved impossible to revive and complete the Doha Round, but equally impossible to kill and bury it.

A number of developing countries have used the failure to conclude the Doha Round negotiations as an excuse not to develop a broad, new negotiating agenda for 21st Century issues. Despite that, the WTO has made important progress on a number of important, if relatively narrow, issues, including two iterations of an agreement to reduce tariffs on information technology goods, a ban on agricultural export subsidies, and the Trade Facilitation Agreement (Hoekman 2018, pp. 12-13).

The proposal here is to build on the incremental approach where the WTO has had some success. It does so in ways that reinforce core principles for keeping trade open and nondiscriminatory, and that help reduce uncertainty and make trade relations more predictable. Since the core elements of this proposal aim to reinforce core WTO principles, all member countries should embrace them, with little or no special and differential treatment. The negotiation would aim to do four things:

- Bind all tariffs in all countries, regardless of level of development
- Convert all non ad valorem tariffs to ad valorem equivalents
- Eliminate “nuisance tariffs,” perhaps those at or below 2 percent
- Set de minimis thresholds for low value shipments on which import duties will not apply

Why this agenda now? A very different agenda will eventually be needed if, as argued by Hoekman and Nelson (2018), the world economy is headed in the direction of “post-industrial” capitalism. But what that means for the WTO will take some time to figure out.

¹² Low et al. (2018) discuss in depth the problems with past special and differential treatment approaches and what potentially more productive approaches might look like.

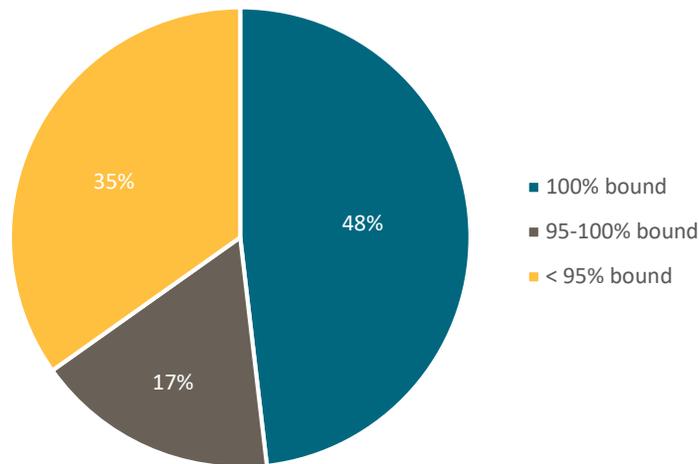
In the meantime, the WTO is under extraordinary stress that a successful and broadly supported multilateral negotiation might help alleviate.

Binding All Tariffs

A central goal of the original GATT was to limit the use of and negotiate reductions in member countries' tariffs. The core obligation supporting this goal is in Article II, which prohibits members from raising tariffs above the levels bound in their tariff schedules (Jackson 1991, p. 40). Developed country members generally bind most or all of their tariffs and most of them have applied tariffs that are close to those bound levels. Developing country members often want to retain the flexibility to use tariffs and thus bind fewer tariff lines while also having bindings that are frequently well above the applied levels. This introduces uncertainty about the future level of those tariffs.

Of 135 WTO members in 2018, including the 28 European Union member states as one, 65 members have bound 100 percent of tariff lines (figure 1).¹³ Overall, 88 members have bound at least 95 percent of tariffs in their schedules, while those with binding levels below 95 percent are overwhelmingly developing countries. As part of this back to basics to negotiation, all WTO members, including the least developed countries, would agree to bind all of their tariffs.

Figure 1. Share of WTO Members by Tariff Binding Commitments



¹³ Each EU member state is also a WTO member separately, but the EU negotiates trade agreements on behalf of members and they are all bound by the EU tariff schedule. The numbers on bindings and on the use of non ad valorem tariffs (below) are from the WTO-ITC-UNCTAD *World Tariff Profiles 2018*, which is the source for figures 1 and 2.

The obvious question is whether there should be limits on the level at which tariffs are bound under this proposal. It would expand the benefits if countries also agreed to cap tariff peaks by agreeing to a maximum allowable bound tariff. If adopted, adding this element to the proposal would mean that even countries with 100 percent of their tariffs bound would also have to contribute if they have tariffs that exceed the chosen cap.

Capping tariff peaks would be easier for nonagricultural than for agricultural products. Only six members currently have bound nonagricultural tariffs that are well above 200 percent, and only three of those (Norway, Japan, and Maldives) were actually applying tariffs at that level. In agriculture, 45 members have bound tariffs over 200 percent and 23 of them were applying tariffs from 210 percent to 1,000 percent in 2018. Negotiators could allow countries to retain somewhat higher tariff caps for agricultural tariffs, or leave them to a later negotiation, if necessary to reach agreement.

Converting All Tariffs to Ad Valorem Values

Non ad valorem tariffs are often complex and are more trade-distorting than ad valorem tariffs because they more thoroughly insulate domestic producers from global price changes. With an ad valorem tariff, the duty is calculated as a percentage of the value of the imported product. So, for example, a 10 percent tariff on a \$100 item equals \$10. With a specific tariff, which is the most common non ad valorem tariff, the duty is an amount per a set quantity of imports. So, for example, a specific tariff might be set at \$10 per ton of imported wheat. That is in some ways simpler and more transparent than levying an ad valorem tariff because there is no need to determine the value of the shipment. The problem is that the relative cost to the importer of a specific tariff varies depending on the price of wheat. If the price is \$100, then the ad valorem equivalent of the tariff is 10 percent; but if the price falls to \$50 per ton, the effective tariff cost rises to 20 percent. If a specific tariff is expressed in terms of the local currency, traders also face an exchange rate risk.

In addition to these relatively straightforward specific tariff calculations, some countries also use mixed or compound tariff formulas.¹⁴ In the former case, the duty amount can be based on either an ad valorem or specific formulation, with the choice depending on whether the tariff line specifies that customs authorities collect the lower or higher amount that results. With a compound tariff, authorities will collect both an amount based on an ad valorem rate and a specific tariff rate. Finally, some tariffs are based on technical factors, such as the content of certain components.¹⁵ Perhaps the simplest example, is a (pre-EU membership) Polish tariff on vermouth that was based on the alcohol content (WTO 2004, p. 2).

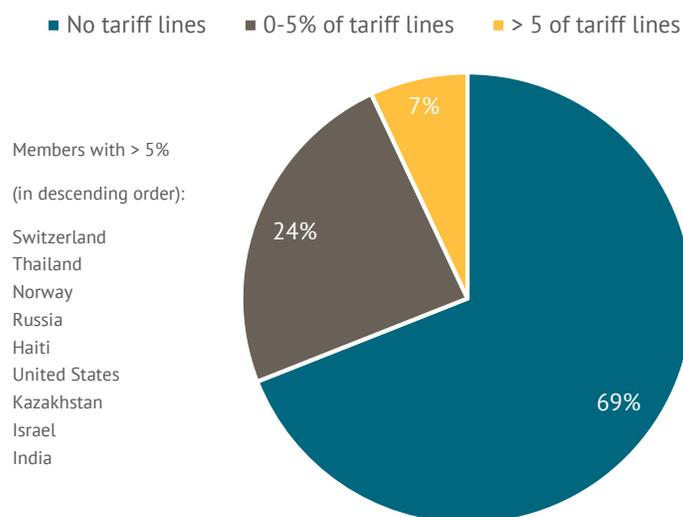
¹⁴ A note prepared by the WTO Secretariat during the Doha Round of trade negotiations provides definitions and examples of the different non ad valorem formulations. The note was prepared for the negotiations on agricultural liberalization and it also provides information on the distribution of non ad valorem tariffs on agricultural products across countries and products. See WTO (2004).

¹⁵ But these tariffs can also be incredibly complex, as with EU tariffs on some food products; see here for a mind-boggling example, <https://tradebetablog.wordpress.com/2016/08/18/eu-tariff-takes-biscuit/>.

The conversion to ad valorem tariffs is not simple. It requires deciding on the base period for determining prices, and then collecting detailed product-level data on import values and quantities. Selecting the base period would be politically sensitive because it will affect the height of the tariff, depending on whether average prices during that period were relatively high or low. But there were extensive discussions of the technical issues during the Doha Round and agreement on many of them, so there is a basis for moving forward.

In terms of political feasibility, two-thirds of WTO members—93 of them—use only ad valorem tariffs. For three quarters of the others, non ad valorem tariffs constitute less than 5 percent of their tariff lines (figure 2). Developing and developed countries alike use non ad valorem tariffs but they are particularly a problem in developed countries with high levels of protection for agriculture.

Figure 2. Share of WTO Members Using Non Ad Valorem Tariffs



Switzerland is an outlier, with more than 80 percent of all its tariffs using non ad valorem formulations. For agricultural products, four of the five top users of non ad valorem tariffs are rich countries, with the US, EU and Norway joining Switzerland in having more than 30 percent of those tariff lines calculated in non ad valorem terms. The fifth is Thailand. The problem is less extensive with nonagricultural products. Other than Switzerland, only eight countries have more than 3 percent of tariffs lines that use a non ad valorem formulation, but that includes some relatively large countries—India, Russia, Thailand and the United States (figure 2).

In this case, as with bindings and tariff peaks, reform is likely to be easier for nonagricultural than for agricultural products. But the benefits would also be much lower if some members insist on excluding agriculture. A compromise outcome might involve at least eliminating all compound tariffs and complex tariffs based on technical features imposed on agricultural products, as well as converting all industrial tariffs to ad valorem terms.

Eliminating All Nuisance Tariffs

Low tariffs, in the range of two to three percent or so, are often called nuisance tariffs because they cost more to collect than they raise in revenue. These tariffs are generally too low to provide any protective effect and eliminating them would save governments money and allow them to concentrate scarce resources on more important tasks, such as reducing drug trafficking or customs fraud. Based on analysis of detailed tariff schedules for the G-20 countries, this proposal would affect primarily industrialized countries and China (see table 1). Developing countries tend to have relatively higher tariffs and, if the developing country members of the G20 are representative, they have few if any bound tariffs at low enough levels to clearly qualify as nuisance tariffs. Even their applied tariffs mostly fall above such levels.

Analysis of tariff schedules from the WTO reveals around 2,000 tariff lines that G20 countries have bound at 2 percent or less. The European Union, United States and China account for more than half of those, with Australia, Canada, Japan and Korea accounting for most of the rest. The value of trade covered by those tariff lines in 2016 was almost \$1 trillion, not a trivial amount. Some of that trade occurs on preferential terms, either under unilateral trade preference programs, such as the Generalized System of Preferences, or as part of bilateral or regional trade agreements. Even in those cases, however, elimination of nuisance tariffs would have benefits because importers would not have to prove origin in order to get preferential access.

Aside from China, other developing and emerging power members of the G20 have few or no tariff lines bound at levels as low as 2 percent. Extending the proposal to applied tariffs below that level would cover only an additional \$100b, based on 2016 data. For that small amount of trade, it would probably not be worth the additional negotiating effort to extend the proposal to applied tariffs. There would also be questions about how to do so, since applied tariffs can change from year to year.

Raising the definition of a nuisance tariff to 3 percent would also probably not be worth the additional negotiating effort required. It would extend coverage to a relatively small number of emerging power tariffs—except in Russia where the impact would be more significant. It would also have the political downside of reaching the US tariff on automobiles. Although set at a relatively modest level of 2.5 percent, that tariff—in combination with strict rules of origin under both the original North American Free Trade Agreement and the renegotiated US Mexico Canada Agreement—has resulted in the development of a regionally integrated industry that the governments and industries in all three countries would fiercely defend.

Table 1. Nuisance Tariffs and De Minimis Thresholds in G20 Countries

Country	Potential nuisance tariffs (6-digit tariff lines ≤ 2 percent)				De minimis thresholds	
	Number bound	Number applied	Imports affected, bound (million dollars)	Imports affected, applied (million dollars)	US dollar value	Comments
Argentina	0	260	0	2,739	25	Postal shipments only
Australia	445	5	5,771	571	810	Does not apply to VAT
Brazil	0	294	0	5,525	50	Postal shipments only
Canada	115	90	7,971	18,526	15	
China	160	122	287,176	91,675	8	Shipments with duty and VAT liability < 50 RMB
EU	651	581	357,369	244,416	186	Does not apply to VAT
India	0	3	0	1,079	150	Only samples, gifts
Indonesia	0	21	0	5,110	100	
Japan	156	128	19,351	23,703	90	
Korea	105	101	20,092	24,218	150/200	Samples, personal items, with exceptions; higher for US, Puerto Rico under FTA
Mexico	0	193	0	59,720	50/300	Larger for postal shipments only
Russia	42	85	5,673	11,232	89	
Saudi Arabia	4	1	465	103	98	
South Africa	0	11	0	189	No info	
Turkey	2	524	306	19,535	37	
US	458	407	244,688	269,822	800	
Total	2,138	2,826	948,862	778,163	N/A	

Sources: World Integrated Trade System (WITS), online; Global Express Association, “Overview of de minimis value regimes open to express shipments world wide,” updated March 2018.

Setting De Minimis Thresholds for Low Value Shipments

Similar to eliminating nuisance tariffs, many countries set de minimis thresholds for low value shipments on which it would generally cost more to assess duties than to forgo them. The Trade Facilitation Agreement, which aims at reducing unnecessary costs associated with trade, calls on WTO members to set de minimis thresholds below which import duties would not apply, but it suggests nothing about the desirable level of such thresholds. The TFA also explicitly excludes value added and other internal taxes from application of this provision. This is consistent with GATT Article III, which requires member governments to

treat imports the same as domestic products for purposes of domestic regulation and internal taxes.

Setting de minimis thresholds for low value shipments would lower trade transactions costs—paperwork and brokerage fees—beyond the savings associated with not having to pay the import duty. It would also save government resources and it would allow customs authorities to focus on higher value and riskier shipments (Lapitov et al. 2017). Tax fairness arguments support the TFA approach of focusing on import duties and not VAT or other internal taxes. But doing so would also reduce the benefits from reducing paperwork and lowering the brokerage fees associated with getting products through customs.

The Global Express Association has compiled data on 70 countries plus the European Union (see table 1). Of these, they found only six countries with no de minimis threshold at all. At the time of the survey, 29 countries set thresholds of less than or equal to \$50 with another 12 at levels between \$50 and \$100. There were 23 countries with thresholds over \$100. The United States and Australia have the highest levels, by far, at \$800 or more. India and the EU have thresholds of 150 dollars and euros, respectively. Canada, Switzerland and China have among the lowest thresholds, showing that implementing this part of the proposal would require contributions from industrialized and developing countries alike.

The range of threshold values suggests that somewhere around \$100 would be a reasonable target for a negotiation on this issue. As with the other issues included in the proposed package, it would signal stronger support for the multilateral trading system if developing countries participate fully. But since ensuring that de minimis shipments do not become an avenue for fraud or other illicit activities is important, developing countries may need additional assistance to strengthen their customs authorities before implementing this part of the proposal. Moreover, since the provision calling on countries to set de minimis thresholds is already in the TFA, there is a pragmatic argument for following the TFA approach to special and differential treatment, which conditions implementation on each country's capacity to do so, or the provision of financial or technical assistance for countries in need of it.

The Value of a Back to Basics Agenda

The point of negotiating a back to basics package of measures to bind all tariffs, convert all tariffs to ad valorem forms, eliminating nuisance tariffs and setting de minimis threshold below which duties would be waived would be as a confidence-building measure to help restore the WTO's role at the center of the global trading system. It would not have a major impact on market access around the world, but it would build on the Trade Facilitation Agreement and would help to fill in the remaining gaps in the shallow integration agenda. It would also address 21st Century issues by lowering transactions costs in ways that facilitate trade across global value chains and for small and medium enterprises. And that should be of as much interest to American, European and Japanese firms as it is to firms from emerging markets and developing countries.

On the confidence building side, this agenda would have several benefits. The main advantage of having all countries, regardless of level of development, agree to bind all of their tariffs, even if at relatively high levels, would be to underscore that it is the poorest countries with the biggest stake in keeping the WTO strong and that they also can and will contribute to supporting that goal.

But this package would not only have positive political effects. It would also facilitate trade by enhancing transparency and predictability and, by reducing some of the fixed costs of trade, it would provide disproportionate benefits for small businesses trying to participate in global markets. Moreover, with intermediate goods now accounting for more than half of global merchandise trade, the benefits of eliminating nuisance tariffs and raising de minimis thresholds would be multiplied. For goods produced in highly fragmented global supply chains, costs that appear small on a transaction by transaction basis, such as a 2 percent tariff, add up substantially when goods cross borders multiple times before reaching their final destination. Escaith (2017, pp. 97, 100) notes that these “trade costs reduce the gains from trade that countries expect from participating in GVCs,” and that the magnification of tariffs across supply chains tends to be more costly for developing countries.

Raising the de minimis threshold in Canada from the current \$20 to \$100m, according to one detailed analysis, would confer benefits of roughly \$250 million to \$300 million on domestic consumers and businesses (Lapitov et al. 201?). Eliminating nuisance tariffs and setting de minimis thresholds at higher levels than currently exist in many countries would also save governments time and money and allow them to focus scarce resources on more valuable or riskier shipments. Lapitov et al. (201?) estimate that the Canadian government would save \$190 million by raising the threshold for small shipments from \$20 to \$100, while losing only \$52 million in customs revenue.

Would this package be feasible to negotiate? If the benefits are modest, albeit real, the political and other costs should also be quite small. And the contributions would be shared across countries, without giving an advantage to any particular group. Developing countries would be the ones mostly contributing on bindings, while industrialized countries would be asked to do more in eliminating nuisance tariffs. Countries at various levels of development would have to contribute on converting tariffs to an ad valorem basis and on creating or raising de minimis thresholds.

Including agriculture would raise the benefits of this package, but the political costs would also be greater. While pursuing these basic principles across the board would be preferable, political reality may dictate an initial negotiation focused on nonagricultural products with a separate negotiation on agriculture that could address other issues specific to that sector, including tariff escalation, measures of domestic support and public stockholding (Elliott 2017).

Concluding Remarks

As part of a broader shift in US trade policy to make it more balanced and inclusive (Elliott 2019), the next US president should restore a commitment to multilateralism and support

for international institutions, including the World Trade Organization. But to make that ultimately effective, the United States will need help from other members, including the large emerging powers. Developing country members benefit most from the protection a rules-based trading system provides and should take a leading role in negotiations to preserve it.

Since the WTO reform agenda is long and will take years to come to fruition, this paper recommends a short run, “back to basics” negotiation focused on promoting transparency, predictability, and nondiscrimination in trade. The primary objective is not market access but to get developing countries to join with the United States and other members to demonstrate concrete support for core multilateral principles and to begin restoring the WTO’s negotiating function. This proposal is not meant to preempt other negotiating efforts. Rather the hope is that this modest agenda could give an important boost to confidence in the WTO at a time when it desperately needs that.

References

- Aaronson, Susan Ariel. 2002. *Taking Trade to the Streets: The Lost History of Public Efforts to Shape Globalization*. University of Michigan Press.
- Bacchus, James, Simon Lester and Huan Zhu. 2018. *Disciplining China's Trade Practices at the WTO: How WTO Complaints Can Help Make China More Market-Oriented*. Policy Analysis No. 856. Washington: Cato Institute, November 15.
- Baldwin, Richard. 2012. *WTO 2.0: Global Governance of Supply Chain Trade*. CEPR Policy Insight No. 64. Centre for Economic Policy Research.
- China Power Team. 2019. "How Influential Is China in the World Trade Organization." *China Power*, July 31, 2019, updated September 16. Available at <https://chinapower.csis.org/china-world-trade-organization-wto/>.
- Cutler, Wendy, and Kevin Doyle. 2019. "China's developing country status in the WTO: time for an upgrade?" *East Asia Forum*, January 21. Online at www.eastasiaforum.org.
- Elliott, Kimberly Ann. 2017. *Global Agriculture and the American Farmer: Opportunities for U.S. Leadership*. Washington: Center for Global Development.
- _____. 2019. *Developing a More Inclusive US Trade Policy at Home and Abroad*. CGD Policy Paper 146. Washington: Center for Global Development, June.
- Escaith, Hubert. 2017. "Accumulated Trade Costs and Their Impact on Domestic and International Value Chains." In David Dollar, Jose Guilherme Reis and Zhi Wang, *Measuring and Analyzing the Impact of GVCs on Economic Development: Global Value Chain Development Report 2017*. A joint product of the World Bank Group, the Institute of Developing Economies, the Organisation for Economic Co-operation and Development, the Research Center of Global Value Chains within the University of International Business and Economics, and the World Trade Organization. Washington: The World Bank.
- Hamilton, Colleen, and John Whalley. 1996. *The Trading System after the Uruguay Round*. Washington: Institute for International Economics.
- Hillman, Jennifer. 2018a. *The Best Way to Address China's Unfair Policies and Practices Is Through a Big, Bold Multilateral Case at the WTO*. Testimony before the U.S.-China Economic and Security Review Commission, Hearing on U.S. Tools to Address Chinese Market Distortions. Washington, June 8.
- _____. 2018b. *Three Approaches to Fixing the World Trade Organization's Appellate Body: The Good, the Bad and the Ugly?* Available at <https://www.law.georgetown.edu/wp-content/uploads/2018/12/Hillman-Good-Bad-Ugly-Fix-to-WTO-AB.pdf>.
- Hoekman, Bernard (principal author). 2018. *Revitalizing Multilateral Governance at the World Trade Organization*. Report of the High-Level Board of Experts on the Future of Global Trade Governance. Global Economic Dynamics, Bertelsmann Stiftung.
- Hoekman, Bernard, and Douglas Nelson. 2018. *21st Century Trade Agreements and the Owl of Minerva*. EUI Working Papers, RSCAS 2018/04. Robert Schuman Centre for Advanced Studies, Global Governance Programme, European University Institute.
- _____. and Charles Sabel. 2019. *Open Plurilateral Agreements, International Regulatory Cooperation and the WTO*. EUI Working Papers, RSCAS 2019/10. Robert

- Schuman Centre for Advanced Studies, Global Governance Programme, European University Institute.
- Jackson, John. 1991. *The World Trading System: Law and Policy of International Economic Relations*. Cambridge, Massachusetts: The MIT Press.
- Lapitov, Olim, Christine McDaniel and Simon Schropp. 2017. *Modeling the Economic Effects of Raising the De Minimis Threshold in Canada*. Technical Paper, E-Brief. Essential Policy Intelligence.
- Low, Patrick, Hamid Mamdouh, and Evan Rogerson. 2018. *Balancing Rights and Obligations in the WTO: A Shared Responsibility*. Stockholm: Government Offices of Sweden.
- McDougall, Robert. 2018. *Crisis in the WTO: Restoring the WTO Dispute Settlement Function*." CIGI Papers No. 194. Waterloo, Ontario: Centre for International Governance Innovation, October.
- Paul, Joel Richard. 2019. *Trading Up: Reversing the Race to the Bottom*. Working Paper 9/23/19. Presented at *A New Deal For This New Century: Making Our Economy Work For All*, co-sponsored by New York University Law School, Institute for Corporate Governance and Finance, and Stanford University, Rock Center for Corporate Governance, October 3-4. Available at <https://www.law.nyu.edu/centers/icgf/events/new-deal-new-century/papers>.
- Payosova, Tetyana, Gary Clyde Hufbauer, and Jeffrey J. Schott. *The Dispute Settlement Crisis in the World Trade Organization: Causes and Cures*. PIIE Policy Brief 18-5. Washington: Peterson Institute for International Economics.
- Rodrik, Dani. 2017. "The Trouble with Globalization." *The Milken Institute Review*, fourth quarter.
- Samans, Ricard, Ricardo Melendez-Ortiz, Harsha Vardhana Singh and Sean Doherty. 2016. *Strengthening the global Trade and Investment System in the 21st Century: Synthesis Report*. The E15 Initiative. Geneva: International Centre for Trade and Sustainable Development and World Economic Forum.
- Schott, Jeffrey J., assisted by Johanna W. Burman. 1994. *The Uruguay Round: An Assessment*. Washington: Institute for International Economics.
- Shaffer, Gregory. 2018. *Retooling Trade Agreements for Social Inclusion*. Legal Studies Research Paper Series No. 2018-54. University of California at Irvine School of Law.
- Tucker, Todd. 2019. *The Green New Deal: A Ten-Year Window to Reshape International Economic Law?* Available at <https://ssrn.com/abstract=3411142>.
- Wagner, Markus. 2019. "The Impending Demise of the WTO Appellate Body: From Centrepiece to Historical Relic?" Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3399300.
- World Trade Organization (WTO). 2019. *World Trade Statistical Review 2019*. Geneva.
- World Trade Organization, Committee on Agriculture. 2004. *Calculation of Ad Valorem Equivalents (AVEs): Data Requirements and Availability*. Note by the Secretariat. TN/AG/S/11. Geneva.
- World Trade Organization, International Trade Centre, and UN Conference on Trade and Development. 2018. *World Tariff Profiles 2018*. Geneva.
- Wu, Mark. 2016. "The 'China, Inc.' Challenge to Global Trade Governance." *Harvard International Law Journal*, vol. 57, no. 2 (Spring): pp. 261-325.

- Zhou, Weihuan. 2019. *China's Implementation of the Rulings of the World Trade Organization*. Oxford, UK: Hart Publishing.
- Zhou, Weihuan, Henry S. Gao, and Xue Bai. 2019. "China's SOE Reform: Using WTO Rules to Build a Market Economy." *International and Comparative Law Quarterly*, vol. 68, no. 3.