



## ON WTO REFORM

### COMMUNICATION FROM THE UNITED STATES

The following communication, dated 15 December 2025, is being circulated at the request of the delegation of the United States.

#### 1 INTRODUCTION

1.1. The reform discussions this fall have been helpful in many respects, and the United States is appreciative of the efforts of Ambassador Petter Ølberg in facilitating these discussions. Since 2017, the United States has been a leader on WTO reform by proposing solutions to concerns that we have identified, and throughout the course of the recent discussions we have sought to actively and constructively engage with other Members on the three issues raised by Ambassador Ølberg: decision-making, special and differential treatment, and level playing field. After reflecting on these discussions, the United States is providing this communication to the General Council to: (1) express U.S. views on the three issues; (2) clarify that a reform agenda at the WTO must address more than just those three issues, to include concerns regarding the most-favored-nation principle (MFN), the role of the Secretariat, and application of the essential security exception; and (3) explain the U.S. view that the WTO is unable to address certain systemic problems, such as imbalances, overcapacity, economic security, and supply chain resilience.

1.2. The United States has serious concerns with the trading system embodied by the WTO, given that the system has overseen and contributed to a world of severe and sustained imbalances. These imbalances, which are driven in part by overcapacity and concentration of production, have created dangerous dependencies and vulnerabilities for many countries and have undermined many countries' legitimate aspirations to develop or maintain industrial capacity.

1.3. Severe trading imbalances and policies aimed at reducing other countries' manufacturing capabilities have harmed not only the United States; they have harmed scores of countries—developed and developing—and these imbalances and policies present the greatest threat to a global economy of fair and reciprocal trade. We urge other Members to follow our lead and take actions—both within the WTO and outside the WTO—to combat such predatory economic policies.

1.4. The WTO cannot serve as the forum for solving all existing and future challenges in the global trading system. Indeed, the WTO does not fully live up to its own mission. The United States considers the WTO to be one of the tools available to economies. Our collective reform efforts should be directed at making changes that recognize the limitations of the organization and strengthen what Members can realistically achieve through the WTO.

#### 2 ISSUES RAISED BY THE REFORM FACILITATOR

##### Decision-making

2.1. All Members seem to agree on this principle: no obligation should be imposed on any Member without that Member's consent. However, a few Members seem to disagree with another reasonable principle: Members that are willing to consent to a new obligation should be able to forge a new agreement among themselves. The path to plurilateral agreements is blocked, and it is a serious problem for the viability of the WTO. Reaching consensus among 166 Members on new, substantive

agreements of any significance is very unlikely, given the wide differences in Members' economic systems and levels of ambition. Members may have wrung all they can from multilateral negotiations.

2.2. If the WTO is to have a future as a negotiating forum, it is likely to be for plurilateral negotiations. Like other Members, the United States is frustrated by our inability to enter into meaningful agreements at the WTO with other Members that want to do so. Finding a path forward at the WTO for plurilateral agreements whose benefits and responsibilities are limited to the consenting parties must be a priority. Such plurilateral agreements would allow those Members that are ready to take on new commitments to do so in a reciprocal manner, while allowing other Members to join and gain the benefits of those commitments in the future, when they are ready. Plurilateral agreements allow likeminded trading partners committed to fair and reciprocal trade to strengthen their ties for their mutual benefit and to do so within the architecture of the WTO agreements. If there is no path for Members to enter into plurilateral agreements at the WTO, we must acknowledge that the WTO is not a viable forum for negotiating. Trade negotiations will happen, but not at the WTO.

### **Special and Differential Treatment**

2.3. For many years, the United States has been clear and specific on the need to reform eligibility for special and differential treatment (SDT). SDT eligibility must be reformed for the WTO to remain credible. Substantively and politically, it is unacceptable for significant players in the trading system to benefit from preferential treatment. It is also untenable for WTO rules to apply to some Members, and not others, in perpetuity. Such a structure even suggests that a developing country is better off not complying with WTO commitments. The United States documented its concerns and provided some examples of the consequences of this flawed approach in a report submitted to the General Council in 2019 (WTO Document [WT/GC/W/757/Rev.1](#)).

2.4. The position of the United States has not been that SDT should be eliminated altogether. For example, it may be appropriate for least-developed countries (LDCs) to benefit from certain flexibilities. However, SDT should be viewed as a tool to enable Members to achieve the capability to follow the same rules that all other Members must follow and in a timely manner. This again goes to the political legitimacy of the WTO and its rules. Without adequate justification or explanation, it is unreasonable for any Member to expect other Members to accept an obligation that the Member itself will not accept.

2.5. Nonetheless, this has become the norm at the WTO. The past decade has seen many proposals from a large share of Members that seek to exempt themselves from current or future WTO rules. The United States would expect Members that preach about the importance of the rules-based multilateral trading system to be disciplined by those rules, not exempt from them. Reform in the area of "development" must focus on transitioning all Members to follow the same rules, regardless of their economic differences. Otherwise, the value of the rules themselves is rightfully questioned.

### **Level Playing Field**

2.6. The actions of Members with economic systems that are incompatible with the principles of the WTO have tilted the playing field away from free market economies and have eroded trust in the ability of this organization to ensure fair treatment in global trade.

2.7. We need to focus on where the WTO can add value and incentivize reciprocity. For the United States, we believe the WTO can add value in discrete ways. In November 2017, the United States became the first Member to put forward a concrete proposal for WTO reform, aiming to improve Members' compliance with their notification commitments. Recognizing that some Members, particularly LDCs, face capacity constraints with notifications, the proposal created opportunities for targeted delivery of notification-related technical assistance and capacity building. Importantly, the proposal also included administrative measures to hold accountable those Members that chronically do not adhere to their notification obligations and have no need of technical assistance. As the United States explained in the General Council, "WTO Membership is a privilege that also includes notification obligations that all Members agreed to as a condition of Membership." But the Membership, as a whole, has not accepted this basic principle.

2.8. Transparency plays a critical role in delivering value to Members and our stakeholders. Certain Members' lack of transparency and chronic lack of adherence to WTO notification obligations prevent other Members from effectively using the WTO committee system to monitor compliance with WTO rules and principles, a core function of the WTO. A Member's failure to comply with its notification obligations not only undermines trust in that Member; it undermines trust in the organization and the agreements negotiated at the WTO. Chronic and widespread noncompliance with notification obligations also makes it more difficult for Members to identify opportunities to negotiate the "reciprocal and mutually advantageous arrangements" envisioned in the WTO's founding documents. At a practical level, no Member would sit down to negotiate binding rules without an adequate understanding of other Members' practices and measures in that area.

### **3 OTHER PROBLEMS AT THE WTO THAT NEED TO BE ADDRESSED**

#### **Most Favored Nation (MFN) Principle**

3.1. The MFN principle, which seeks to prevent discriminatory trade practices and promote equal treatment among trade partners, was designed for an era of deepening convergence among trading partners. During that era, countries were expected to adopt open, market-oriented trade policies, as stated by the founding Members of the WTO in the preamble to the *Marrakesh Declaration*. That expectation was naïve, and that era has passed. It has been replaced by an era of deepening divergence, rooted in some countries' unwillingness to pursue and uphold fair, market-oriented competition, some countries' insistence on maintaining economic systems that are fundamentally incompatible with WTO principles, and many countries' pursuit of chronic trade surpluses that have adverse economic and political consequences in deficit countries. To face these challenges, trading nations must be able to treat different trading partners differently.

3.2. The MFN principle is not just unsuitable for this era; it prevents countries from optimizing their trade relationships in ways that would benefit each party in that relationship. Put differently, MFN impedes welfare-enhancing liberalization. It pushes Members to engage in one venue—the WTO—and attempt to develop a one-size-fits-all approach. If Country A lowers a tariff for Country B, and Country B lowers a tariff for Country A, both countries have to lower those tariffs for all countries, unless their agreement covers "substantially all the trade" or a waiver or exception applies. This does not actually advance the economic objectives of the organization, and it prevents trading partners otherwise willing to enter into mutually beneficial agreements from doing so. It sets up an impossible requirement of negotiating the same terms with all Members, resulting in an all-or-nothing approach that typically ends in "nothing".

3.3. WTO Members have a long history—dating back to the GATT era—of recognizing the limits of the MFN principle. The 'Enabling Clause' eliminated the MFN principle for Members that claimed developing country status. Particularly given the distinction between developed and developing status is now blurred, it is time to recognize the necessity of allowing all Members to enter into mutually beneficial agreements that may not extend to every Member.

#### **Role of the Secretariat**

3.4. The United States sees the role of the WTO Secretariat as fundamentally administrative, not substantive. In a Member-led organization, the Secretariat facilitates the day-to-day administration of Members' work, which focuses on administering and monitoring compliance with WTO agreements and negotiating new trade rules. The United States has long acknowledged and appreciated the Secretariat's work in this respect. However, in recent years, the Secretariat has increasingly pursued roles—and issued social media posts and other communications—that step far beyond the neutral administration of Members' work. The Secretariat has sought to influence the agenda for work at the WTO. It has advocated for specific outcomes at the negotiating table and has leveraged its tools to apply pressure to Members that hold different views. It has assigned to itself a growing role in monitoring and commenting on Members' trade-related measures, including by judging whether those measures restrict or facilitate trade. These roles belong only to Members, not the Secretariat. The Secretariat also envisions itself as a trade research unit, undertaking projects that have not been authorized by Members, may be prejudicial to Members' positions, and may utilize funds from Members. All of this erodes trust in the Secretariat as a neutral administrator.

3.5. To maintain its credibility, the Secretariat's work must be transparent, objective, neutral, fiscally-disciplined, and guided by Members. For more than a decade, the United States and several other Members have been raising systemic concerns about the Secretariat's failure to appropriately inform and consult with Members prior to undertaking certain activities that are highly relevant to Members' work, including in the Council for Trade in Goods and its sub-bodies. These activities raise important questions about resource management and allocation. In order to preserve trust in the organization, a serious WTO reform effort needs to address the role of the Secretariat.

### **Essential Security**

3.6. For more than 70 years, the United States has been clear in its view that each country has the sovereign right to take action necessary to protect its essential security interests. This position has been shared by many Members who expressed similar views throughout previous decades at the GATT and WTO when their own security measures were questioned. The WTO Agreement reflects the understanding among trading partners that judgments on matters of essential security are to be left to governments and not adjudicators. However, WTO panels have recently interpreted WTO rules to find that the WTO has the authority to pass judgment on actions determined by Members to be in their essential security interests.

3.7. Litigating sovereign matters of essential security at the WTO undermines public trust in the WTO by dragging the organization into inherently political matters. To prevent further undermining of the WTO, Members need to adopt a shared understanding of the essential security exception that prevents second-guessing of a Member's critical essential security decisions.<sup>1</sup>

## **4 PROBLEMS THE WTO CANNOT ADDRESS**

4.1. Members do not abide by existing WTO rules and can barely negotiate new rules within the WTO's remit. For more than a decade, greater than half of the Membership has demanded significant exemptions from existing rules. It therefore defies belief that the WTO, which is unable to achieve its primary mission, would somehow take on new issues.

### **Imbalances**

4.2. For decades, many countries, including close partners of the United States, sought artificial trade advantages through subsidies, wage suppression, currency policy, and labor and environmental abuses. The result for the United States was an ever-increasing trade deficit and waves of offshoring. In 2024, the U.S. trade deficit in goods was USD\$1.2 trillion, an absurd and unsustainable amount that is the highest in history, dwarfs the second-highest trade deficit in goods of USD\$302 billion, and cannot reasonably be explained as the result of real comparative advantage. In reply, chronic trade surplus countries incoherently claim that trade deficits do not matter while refusing to address their distortive practices that drive those deficits. In a well-functioning trading environment, massive, persistent imbalances would be impossible, with a few exceptions; a country's persistent surplus is prima facie evidence that it is externalizing its distortive practices. The United States is taking action to address these practices, and we welcome like-minded countries to join us. However, the WTO is not a viable forum for addressing these imbalances; in practice, chronic surplus countries would need to agree to rules that would deprive them of the advantages they currently enjoy.

### **Overcapacity and Overconcentration of Production**

4.3. The pervasive use of non-market policies and practices is the root cause of two systemic problems in the global trading system: overcapacity and overconcentration of production in numerous industrial sectors.

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<sup>1</sup> Contrary to statements by certain members, the self-designation of development status is not equivalent to the self-judging nature of the essential security exception. "Development" is a term reflecting measurable criteria, and there is a long history of measuring it. For example, all WTO Members accept that LDC status is based on objective criteria. In contrast, essential security involves a country's inherent right to take action that it deems necessary to protect its essential security interests. What a Member's "security interests" are, whether they are "essential", and what action it "considers necessary" to protect them are subjective assessments that only a Member may make on behalf of its society.

4.4. The United States has continuously raised these systemic problems at the WTO since at least 2016. We have repeatedly described how overcapacity is causing serious damage to market-oriented industrial production in the United States and around the world. For example, in the steel sector, the OECD estimates that overcapacity was 602 million metric tons in 2024, driven by capacity expansion dramatically outpacing demand growth. When a country subsidizes its steel firms at 10 times the rate at which other countries subsidize their firms and develops capacity for almost twice the number of vehicles its own market purchases, global trade is distorted. When a country pursues such a beggar-thy-neighbor economic model, its output growth comes at the rest of the world's expense.

4.5. The United States has repeatedly warned that overconcentration of production is creating dangerous vulnerabilities that will be exploited and weaponized. Currently, a single country's manufacturing production exceeds that of the nine next-largest manufacturing countries combined. The resulting imbalance affects all economies, developing and developed. One country's exports of finished consumer electronics products have exceeded those of all other countries combined, despite wages in that country being more than double those of several alternative manufacturing locations. Many Members contribute to these dynamics. These distortions have led to severe overconcentration in key sectors.

4.6. The WTO—its committees, dispute settlement system, and negotiating arm—is not able to address these systemic problems. For example, the United States repeatedly attempted to use WTO committees to tackle well-chronicled, endemic lack of transparency, including by counter-notifying subsidy programs and state trading enterprises. But these efforts were band-aids on a gushing wound. The stubborn fact is that years of diligent monitoring work in WTO committees have had no discernible impact on certain Members' lack of transparency or pervasive use of non-market policies and practices. The WTO dispute settlement system also provided no help. Disputes took years to wind through the system, and even when a specific measure was found to be non-compliant, severe and irreversible harm to jobs, factories, and communities was suffered long before the dispute was resolved, if it was resolved at all. Further, the Appellate Body inappropriately restricted Members' ability to counter non-market economic distortions and to provide relief from unfairly traded imports.

4.7. Multilateral rulemaking cannot address these systemic problems unless relevant Members benefiting from such practices agree to fundamental changes to their economic systems. As there is no prospect of that happening, any WTO negotiation would surely result in watered-down obligations and gray zones that could easily be exploited.

### **Economic Security**

4.8. The WTO is a forum to negotiate trade agreements and to administer and monitor compliance with those agreements. It has no competence on security matters, including economic security. The Secretariat's comments intended to discourage friend-shoring and near-shoring are reminders that this organization is out of its depth on security-related matters. Beyond lacking competence, an international organization of 166 Members is not suited for work on economic security. Economic security discussions involve sensitive information and assessments, which require trust, confidentiality, and shared interests among the governments involved. There is little value, and at times considerable risk, in holding discussions among partners with vastly different values and perceptions of economic security. Those considerations preclude pursuing work on economic security at the WTO.

### **Supply Chain Resilience**

4.9. There are several reasons why the WTO will not be a productive forum for working on supply chain resilience. First, the organization has a longstanding bias toward trade liberalization rather than resilience, assuming goods should always be produced in the lowest-cost location. This approach leads to regulatory arbitrage in favor of countries that choose relatively low levels of labor and environmental regulation and enforcement, which in turn creates supply chain dependencies and vulnerabilities, as many countries experienced during the COVID-19 pandemic. Second, discussions at the WTO often assume that trade flows merely reflect comparative advantage, not distortions resulting from non-market policies and practices that unfairly tilt the playing field away from market-oriented economies. At the WTO, more trade is unquestioningly assumed to be better; risks are often not understood or are downplayed. A third reason is the repeated preference for

maintaining the status quo at all costs. This is evident in the frequent calls for "predictability and stability" and the repeated warnings that near-shoring and friend-shoring could "lead the world toward fragmentation of trade." There is clear evidence, however, that adhering to the status quo with a severely distorted playing field can lead to only one result: further concentration of production and Members' loss of productive capacity.

4.10. These factors render the WTO a non-viable forum for serious work on supply chain resilience, which requires that Members source critical goods from multiple locations, including at home, rather than from a concentrated supplier. At times, this objective requires imposing trade barriers on unreliable countries, subsidizing alternatives, and allowing prices to reflect a true market outcome instead of unfair competition.

## **5 CONCLUSION**

5.1. The United States welcomes opportunities to speak candidly about the organization's problems and limitations. If the WTO does not reform by making tangible improvements in those areas that are central to its mission, it will continue its path toward irrelevancy. If, however, the WTO recognizes its limitations and focuses on tangible steps to improve its core functions, then it will be on a better path to credibility and relevance.

5.2. The United States looks forward to further discussions on the above issues and to working with likeminded partners—whether bilaterally, at the WTO, or in other fora—to address the above-described matters.

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