

Asia and the strategy for global multilateral trade

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State of the global trading system

The world trade system is in crisis and the World Trade Organization (WTO) is under pressure to reform. Safeguarding the WTO regime and updating its rules are closely linked issues that need to be dealt with simultaneously to gain political traction and support for an effectively functioning world trade system.

Asia's economic integration benefited greatly from the open rules-based trading system. But the industrialisation and rapid development of Asian economies, and huge changes in the structure of the global economy and technological advances, mean that the WTO is not sufficiently fit for purpose.

Economic interdependence in the Asia Pacific is already high and a more robust international trade regime is needed to better secure further gains from trade. Solutions to the trading system's problems require leadership and commitment from the Asian region, including China. Australia has a core stake in Asia's deeper engagement in the multilateral trading system and addressing its problems. There are brighter prospects for system revival and repair with US participation under the Biden administration.

The development of a practical, sequenced reform agenda requires operating on many fronts at once, not merely within the WTO and its ministerial process. Small confidence-building steps build momentum on larger issues. Urgent issues include reforming the WTO Appellate Body and dealing with COVID-19's impact on the trading system. Medium-term priorities are the transparency of the system and approaches to climate change. Long-term objectives for reform include bringing the rules up to date on long-standing issues in market-oriented conditions particularly as they relate to emerging economies, as well as in important new areas such as the digital economy. All these issues have a better chance of success if seen collectively with signalling and early commitments to the resolution of the longer-term issues.

Regional platforms and institutions could help in working through issues that require time to reach common ground. Existing arrangements and agreements in the region offer opportunities for the exploration and testing of approaches to reform.

Inspired by earlier G20 initiatives on WTO reform by Indonesia, a G20 task force with active Asian engagement could signal high-level commitment for system repair, strengthening the global economic outlook for longer-term economic recovery.

Plurilateral initiatives that encourage wider participation are a practical and flexible approach to gathering momentum in trade reform. Countries can join initiatives with which they align and on which the unwillingness of others to participate cannot block progress.

This paper examines world trade reform priorities, sequencing and practicalities. The objective is to articulate a strategy for progress supported by the motivations, shared interests and institutional arrangements of Asia and the Pacific that can mobilise political impetus for change. It reviews some

of the major issues that confront the world rules-based trading system and defines a way forward that aims to bring in Asia and engage the administration in Washington.

Trade rules in decay

The speed of Asia's economic ascendance, particularly the rise of China, has placed strain on a system already in need of underlying reform. A path is yet to be found through major longstanding and emerging issues that confront the WTO to ensure that international economic interdependence is managed well and fairly. Issues have festered and, under previous administrations, the United States adopted unilateralism and protectionism — retreating from the system it established and undermining instead of reforming it.

The United States' trade wars with China and other partners, its flouting of WTO obligations and its abuse of system loopholes crippled a fragile system. The WTO is without a functioning Appellate Body, the US–China trade war and Phase One deal adopted a managed trade approach — the economic burden of which [fell primarily upon US citizens](#) — and Section 232 sanctions and other measures have multiplied. Finding consensus to repair and strengthen the institutional framework of rules-based trade will be a complicated and drawn-out process.

In justifying unilateral action, previous US administrations charged that aspects of the established institutional order are unfair. Some longstanding complaints predate the Trump administration and are shared by other WTO members. Many relate to how the global trade regime accommodated the rise of Asia and in particular China. The Asian region's growth and transformation as a global industrial hub and America's position in regional value chains was seen, wrongly, as the source of US trade deficits, most importantly with China. But the issue of US trade deficits with China and other regional partners was the political hook on which to hang a range of more substantial complaints about how the system disadvantages the United States and other countries. Issues such as 'industrial subsidies and state enterprises', for example, were [highlighted](#) in a US–EU–Japan Trilateral Trade Ministers' Joint Statement in January 2020.

The legacy of state ownership and intervention [in many Asian economies](#), notably China, continues to distort their interaction with international markets. The resurgence of the state in the Chinese economy — with state-directed industrial policies, state subsidisation of major industries, the burnished status of state-owned enterprises (SOEs) and political intervention in the operation of enterprises — is a growing concern. Some of these developments were argued to reflect neglect of WTO commitments, including to 'market-oriented policies' in the Marrakesh Declaration, and specific WTO accession agreements, such as the 'separation of government and enterprise' in China's protocols of accession to the WTO in 2001. But WTO cases dealing with these issues in turn have not been forthcoming. Some of these issues reflect gaps in the rules that need to be filled through a difficult process of system strengthening and rules-building.

Opportunities for progress

Putting the brakes on the decay of the global trade regime will involve installing relief vents into a system under pressure after a period of stagnation and deterioration. Momentum needs to be gathered and sustained in a way that helps forge consensus over time.

Launching a go-it-alone strategy only ramps up the pressure and raises the costs. The Phase One ceasefire to the US–China trade war halted direct escalation but did not mark progress from initial positions or deal with the demonstration effect that disrespected the rules on others. It left aside dealing with structural issues in the wider trade system and focussed on short-term political payouts. Unilateral measures such as these damage the system in the long run. A better way is to make progress through international institutions and broad buy-in. This approach has been endorsed by both the current US and Chinese leaderships on a number of occasions.

Reform measures have to comply with the core multilateral norms if they are to strengthen the system. The Biden administration Trade Representative Katherine Tai has a record of engagement with the global rules-based trade regime. Tai places emphasis on multilateralism while maintaining a hard line against practices not directly in US interest. Tai may take inclusive approaches and drive priorities through political support both from within Washington and among international partners. This approach combined with Tai's recognition of the benefits of a functioning WTO raises modest prospects for WTO reform and creates opportunities for backing confidence-building steps toward modernising global rules-based trade which were not possible under the Trump administration.

The damage that US unilateralism inflicted on the system under former president Trump is not irreparable. The Biden administration, while standing firm on the long-standing squabbles that the United States has with the trade regime, particularly regarding China, could see it take a different approach over time. It promised renewed engagement with multilateralism and the coordination of priorities with international partners and bodies. President Biden has a window of opportunity to deliver. With the White House and both houses of Congress aligned, the United States can lead reform in trade and other key global institutions to help create new rules where they are lacking today. An explicit focus on a trade policy strategy to help middle-class America will still present challenges to US openness.

There needs to be support for early, simple steps to lift some of the stop-gap obstructions and reactivate core functions at the WTO. While the US administration has not yet branded a comprehensive trade reform strategy, US support for a new WTO director-general as the Biden administration came to office was a step in the right direction. Expressing interest in finding compromises to make the Appellate Body functional would be a constructive next move. Turning back some of the unilateralist policies of the previous administration would send a positive signal of support for the rules-based system.

The Biden administration's re-commitment to actively work with others on reinvesting in the functions of the WTO, and commitment to cooperation on reform, could bring much-needed momentum to resolving major issues in the rules-based trade regime.

The view from Asia

The multilateral rules-based trading system has for over 70 years underpinned international trade that supported economic growth and prosperity the world over. Nowhere has its impact on economic and social transformation been more important than in Asia. President Biden's term could present opportunities to lift cooperation and reinvigorate the trade regime, but Asian capitals have been defending it through the phase of US retreat under President Trump.

This includes progress in expanding the regional rules-based trade framework in the negotiation of the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) in 2018 and the Regional Comprehensive Economic Partnership (RCEP) in 2020. Both were in part designed to defend region-wide interests in international cooperation and the multilateral trading system and keep open to eventual US re-engagement.

Decades of above global average growth in Asia promoted by open trade has vested in the region an abiding interest in maintaining and elevating economic cooperation. The ASEAN+6 group, including six G20 members, now accounts for over 40 per cent of global GDP and 33 per cent of global trade. The region became the global centre of economic gravity not by coincidence but by commitment to market reform and international integration under the multilateral trade order and policies of economic liberalisation.

RCEP, initiated and carried forward by ASEAN, was a clear regional signal of commitment to multilateralism. Its conclusion amid a pandemic was a recognition that without regional cooperation in Asia, economic hardship would be prolonged. RCEP remaining open to new members is an acknowledgement of the need for trade initiatives to be flexible and inclusive. By design, this ASEAN-driven initiative purpose-builds adaptability into its economic cooperation agenda. Cooperation forms the backbone of the ASEAN agenda and this approach has kept ASEAN resilient and its Asia-wide relations constructive.

Japan, Vietnam and Singapore, together with Australia and New Zealand, also invested political effort to keep the TPP alive after the United States exited under the Trump administration. Several countries in the region are also contributing to the multi-party interim appeal arrangement (MPIA) to navigate around the Appellate Body's loss of member quorum. Indonesia assumed a leading role in pushing for coordinated WTO reform at the G20 which will ramp up to its G20 host year in 2022.

Asia's strategic interest in economic cooperation and multilateral arrangements are an important asset in a renewed effort to repair the multilateral rules-based trade regime. Asia is both a central object of attention and a locus for action on the issues under contention. It is also a critical element in their resolution. Over [two-thirds](#) of the external financing required to support national responses to the pandemic-induced economic crisis in the Asia Pacific has come from the region's own developmental institutions such as the ADB and the AIIB rather than traditional financiers like the World Bank or the IMF. Mobilising the shared interests, motivation and institutional arrangements of the Asia Pacific can help drive political impetus for global trade reform and change.

Staged dual approach

Reforms can be categorised as either maintaining or modernising the system and be organised into a sequenced plan of action based on urgency and reform momentum. A possible roadmap would be to deal with the Appellate Body and COVID-19 in the short term, system transparency and climate change in the medium term, and domestic subsidies and the digital economy in the longer term. There are many other aspects to WTO reform that go beyond these issues, but there are now opportunities to take steps to resolve some of the major flaws, generating the momentum needed to move on to dealing with other issues.

System maintenance

Defending the WTO system's ability to enforce multilateral rules and preserve its key established functions is one aspect of the approach to reform. Maintaining and updating rules and norms is critical to the integrity, efficiency and accessibility of the institution. The condition of the dispute resolution mechanism, shortfalls in transparency, and the lack of international support for the WTO's mandate and body of rules are some of the flaws relating to the management of the system.

The most pressing issue is to reinstate the established functions and processes of the WTO for which support and resources have been withheld. The highest priority is addressing the grievances surrounding the Appellate Body's practice. Resolving this would help restore confidence in rules enforcement and catalyse momentum towards wider institutional reform. Action in the medium term can address the perceived lack of transparency in the system. Low notification rates, the Special and Differential Treatment provisions process and other informational issues corrode the institution's foundations of trust. The cracks have widened as emerging economies gained in both size and development. Reform over the longer term could deal with clarifying market-oriented conditions especially surrounding issues relating to SOEs and state subsidisation. These pressure points in the system will deepen tension if left unaddressed.

System modernisation

The WTO's framework of rules requires modernisation to secure its relevance in the 21st century. COVID-19, climate change and the growth of the digital economy have exposed a raft of issues requiring global governance that has yet to be negotiated. The stages proposed in sequence reflect the nature of the issues — while COVID-19 will top the policy agenda until it is at bay, regulating the digital economy is likely to remain on the agenda indefinitely as technology evolves, and thus a long-term view on reforming the digital economy is appropriate.

COVID-19 upended the global economy and turned many countries inwards, introducing an additional shift towards protectionism, particularly around medical supplies, and reorganising industry and supply chains. Medical supply and vaccine protectionism makes addressing COVID-19 within the international trade system framework a top priority. Regional institutions and forums have an opportunity to play a role in bringing together leaders to commit to open medical and vaccination supply chains. Ensuring free flow of medical supplies and vaccine-related goods would reduce uncertainty and help coordinate the global fight against the virus.

The crisis of climate change similarly calls for a collaborative international approach as the number and scale of natural disasters increase. Trade barriers on environmental goods remain widespread and are a first target for attention. There is the potential for reviving the stalled Environmental Goods Agreement and expanding it, engaging the US Biden administration around elevation of the priority of climate change-related policies in the Asia Pacific region.

An agenda of modernisation over the longer term would deal with digitalisation issues. COVID-19 highlighted the importance of digital economy. The different national approaches to regulating the digital economy call for working towards agreement on the principles that might govern the digital economy. This process could increase cooperation and transparency on digital trade issues, such as cross-border data transfer and use, and reduce the risk of fracturing in the global digital architecture.

Delivering reform

The agenda for reform needs to be advanced on several fronts at once and step-by-step, to build confidence in the process. Immediate work can start on urgent issues while dialogue commences on resolving more complicated issues over the longer term.

Summoning the enormous political motivation required for trade system reform will be the most challenging aspect. The consensus-based approach to trade reform in the WTO has stalled since the Trade Facilitation Agreement was agreed over seven years ago and has not been a major driver for progress since the Doha Round was launched two decades ago.

High-level initiatives and alternative channels beyond those that have been used traditionally will be needed to create the impetus for repair and reform. Asia Pacific economies have to be marshalled to grasp this task else it will fail. The region has both the ambition and incentive to contribute.

Regional platforms such as ASEAN, APEC or the East Asia Summit and existing regional agreements can offer pathways towards the solution of wider global problems. G20 countries from the region such as Indonesia are taking the lead in recognition of the need for a high-level approach to system reform.

The various arrangements in the region can play a crucial role in navigating the path towards WTO reform. A G20 task force could review the system and help set strategic directions on structural and institutional issues such as the Appellate Body, system transparency and friction over market-oriented conditions. This task force could also help set ambitions for progress on new and emerging issues, including medical supply chain restrictions, barriers to environmental goods trade, and transparency and security in cross-border e-commerce.

At the same time, regional forums can help to forge progress on these issues where opportunities present themselves. APEC or the East Asia Summit, for instance, could act as platforms for securing regional commitments that reverse or commit against pandemic-related trade restrictions. Singapore and Australia, for example, have the experience and ambition to share ground-breaking digital economy principles and standards, encouraging their wider adoption and building greater trust and transparency. Initiative from the region on issues such as these could mobilise broader coalitions of support for progress towards strengthening and modernising the global trade system.

Shared agreement will be hard to achieve but coalitions from the Asia Pacific committed to comprehensive trade system reform can play an important role.

The urgent issues

Maintenance — Appellate Body

How the system has dealt with disagreements between key trading states has contributed to a loss of confidence in the WTO Appellate Body among some countries.

Under the Agreement on Subsidies and Countervailing Measures (ASCM), WTO members are not permitted to support exports or advantage domestic over imported products. But the WTO rules are unclear on how SOEs acting on behalf of governments to support industry should be treated. A [Joint Trilateral Statement](#) of US–EU–Japan Trade Ministers of January 2020 connects this issue as it relates to China’s SOE policy to broader misgivings about the operation of the WTO Appellate Body as judicial activism. These parties rejected Appellate Body interpretations that disqualify certain SOEs as ‘public bodies’. This dispute about China and industrial subsidies was a driving force behind the US decision to block appointments to the Appellate Body, though the European Union and Japan objected to the block. The dispute highlighted the urgency behind the need to clarify the settings and approaches of the Appellate Body and reform and develop the wider WTO body of rules.

Between 1995 and 2018, two-thirds of the Dispute Settlement Body’s panel proceedings went to appeal. Since 2019 the appeals process within the WTO has stalled with the Appellate Body’s loss of quorum. The pause on the Appellate Body compromised the accessibility and authority of the WTO dispute settlement mechanism. The lack of recourse to the dispute settlement mechanism has not only suspended its proceedings, but also diminished incentives to initiate new proceedings. There is little incentive for countries to fill the gaps or build on the rules if there is no functioning dispute settlement system to back their implementation.

Major reputational problems stem from the reservations about and perceptions of the Appellate Body’s accountability and power. The United States and others charge that the Appellate Body over-extended its mandate and introduced unreasonable procedures. Attention has been drawn to judicial activism, an undue attachment to precedent, its reviews on panel findings of fact, low accountability to the Dispute Settlement Body and non-adherence to deadline expectations.

For now, the United States [continues to choke](#) Appellate Body appointments as the Biden administration considers its stance and reviews options, but other countries are calling on the new administration to send a [signal](#) of goodwill and a recognition of the need for operation through the reform-building process. Restarting nominations is needed to reinstate basic functionality in the system on which there can be progress separate from the effort to reform the Appellate Body.

The Obama and Trump administrations instituted the Appellate Body block partly as a coercive bargaining tool to drive US interests in the process. To deal with the consequent logjam, a plurilateral multi-party interim appeal arrangement (MPIA) was launched by 20 members, including Australia, Canada, China, the European Union and Singapore, as an opt-in open-to-all measure to navigate around the Appellate Body’s effective decommissioning. It now includes 25 members. Although intended only as a short-term work-around to the crisis (the MPIA does not aspire to address Appellate Body issues), that marked a useful stop-gap approach to working around WTO

paralysis, and set a precedent that might inspire similar approaches to bypassing other stalled multilateral issues.

Resolving core issues with the Appellate Body and producing a sustainable long-term solution, however, requires a multilateral deliberative process. This will only be possible with the participation of the US government and close coordination among a proactive and organised group of advocating members.

This suggests a role for the G20, whose members represent over 75 per cent of global trade, as a venue for deliberation and commitment on the Appellate Body issue. The G20 forum could act as both the vehicle for setting an overall strategy and as a forum to work through the big issues. It could be key to securing the strategic buy-in of the major economies needed to drive forward to consensus.

A high-level G20 task force could be launched off the back of reform proposals by Indonesia at the 2019 Osaka summit. Indonesia in its 2022 G20 host year is well placed to lead such a task force as a major economy with a foot in both the developing world and ASEAN, and a central position in the regional economy and a [balanced](#) position between geopolitical frontlines. An initiative of this kind from Indonesia would attract strong support from Australia and other G20 partners in the region.

Establishing the G20 task force would signal high-level commitment to dealing with deep-seated structural issues such as the hamstrung dispute resolution process.

The challenge is in preparing a statement on how G20 members might collectively propose clarifying the Appellate Body process. This statement needs to be laid out in a way that satisfies the many issues raised and helps guide the body towards acting in better accordance with the Dispute Settlement Understanding. Preparation could include an assessment on the body's flaws and discussion towards an eventual statement of principles. Within this process, there may be a need to encourage the establishment of new normative standards on appointments that strengthen judicial independence. A useful statement on the appointments process is only possible once confidence is restored through resolving outstanding issues key members have raised.

Modernisation — Pandemic management

The pandemic exposed vulnerabilities in how the trade system deals with global health security. The measures that many countries implemented to restrict movement of medical goods across borders and stockpile beyond critical domestic demands undermined core WTO principles, and caused global shortfalls and inefficient allocation of resources in countries facing shortages.

There needs to be a concerted international approach applied specifically to the trade system that considers the consequences of pandemics. Commitments should be made that defend the need to ensure open, secure and resilient supply chains for critical goods and services such as agricultural products through pandemics. Critically, there needs to be specific commitments that would facilitate the open movement and equitable distribution of medical supplies and vaccines. This would represent recognition that domestic recovery in any country is vulnerable while infections continue to spread elsewhere. It would also acknowledge that collective effort needs to be invested to make

the global trade order more resilient and effective in confronting global health crises and other shocks.

New COVID-19 variants will emerge in places without adequate access to vaccines. While infection spreads, the risk of mutations infecting vaccinated populations remains, threatening to undermine any national vaccination effort.

Some projections suggest that global herd immunity might not be achieved [until 2024](#), [notwithstanding new variants](#). The [COVAX initiative](#), with its current level of support, is expected to vaccinate only a fraction of recipient-country populations. In most recipient countries, the infrastructure for the provision of vaccines, including refrigeration, syringes, personal protective equipment, transport and logistics is insufficient. Meanwhile many governments in vaccine-producing advanced countries are desperate to fix [their own handling failures](#) through vaccine [export controls](#). Vaccine nationalism is an alarming trend among many [advanced countries](#), which hold a large majority of vaccines but comprise only 16 per cent of the global population.

WTO Director-General Ngozi Okonjo-Iweala, in some of her first comments upon taking office, recognised these issues and has made advocating against pandemic-related trade restrictions a top priority. There is an opportunity for like-minded countries to pull together and form a commitment to keep international vaccine and medical supply lanes open. Medical supply chains are global and export controls could still trigger a dangerous, difficult-to-reverse domino effect enveloping developing countries with control over vaccine [inputs](#), putting production at risk on a global scale.

The proposed TRIPS waiver is in the process of gaining consensus at the WTO, but this will take time. There is an urgent need for [formal agreements](#) in the meantime that include concerted calls to avoid vaccine and medical supply-related trade barriers. The initiative could start in the Asia Pacific region, which has led the way in COVID-19 management and control.

Regional initiatives support and strengthen trade between members within the system. Regional progress on a global problem can be leveraged beyond the region. Regional forums such as APEC or the East Asia Summit can act as venues to shore up global vaccination-related commitments.

APEC has a record of success in facilitating concerted initiatives, including the Information Technology Agreement and tariff reductions in the APEC List of Environmental Goods. These and other schemes such as APEC's Supply Chain Security Toolkit set the backdrop for an initiative in vaccines and medical supply chains. They provide a good precedent for working towards a COVID-19 agreement that commits countries to maintaining unrestricted flow of vaccines and their inputs, medical supplies and equipment, information sharing on outbreaks and technology, and eventually vaccine and medical supply sharing among regional partner countries.

The East Asia Summit, or alternatively ASEAN+6, are also both potential platforms for an initiative which would involve the participation of India, a country that is interested in eventually [taking a lead role](#) in global vaccine distribution. India has sought to become a global pharmaceutical manufacturing centre and was participating in mass international vaccine sharing through various independent and joint initiatives before its tragic second wave. Despite the emergency shifting Delhi's focus back to domestic control, India's longstanding position in favour of equitable access to

COVID-19 vaccines can be expected to contribute to the effort that ensures the unrestricted trade and flow of vaccines in the Asia Pacific region.

A collective expression against vaccine nationalism backed up with a commitment to achieve equitable inoculation globally would be recognition that health and economic security are deeply related to trade openness.

Medium-term action

Maintenance — Transparency

The institutions that govern global trade degrade where there is asymmetric information and miscommunication, as they do in any organisation. The multilateral system is struggling with an information deficit among its members, creating knock-on effects for its function and operations.

Members agree to notify the WTO of changes to subsidy regimes and policies. These notifications verify compliance to WTO rules and ensure informed decision-making for the parties involved in trade-based deliberations. The number of COVID-19-related trade measures that have been implemented without notification has meant increasing uncertainty in international trade on new and fast-changing border requirements. Compliance with universal commitments is falling.

[Described](#) by the Subsidies Committee Chair as plummeting to a ‘chronic low’, the ASCM’s annual subsidies notifications is now fulfilled by only half the members, dropping from a peak rate of two-thirds in 2011. Most non-compliant members ascribe capacity constraints as the problem in meeting their obligations related to their developing-country status.

To patch this gap, the WTO Secretariat might assume an elevated role in its assistance compiling information and providing technical support to countries that do not have the administrative capacity. The Secretariat already provides some support, but many members continue to cite a lack of capacity. Notifications may often be invalidated or incomplete due to local [constraints](#), including a lack of bureaucratic familiarity, translational issues or limited bureaucratic capacity. The Secretariat could make greater interventions in these aspects for those that call for it. This could form part of the proposed WTO reform agenda in advance of Indonesia’s G20 host year and be put forward in support of the special needs of developing countries, lifting global compliance with multilateral obligations.

The lack of a WTO-agreed definition of a ‘developing’ country and the self-designation process plays into the lack of transparency. Members taking Special and Differential Treatment who are no longer widely regarded as developing is a source of systematic tension. The United States has taken aim not just at China but South Korea, Singapore, Brunei and others in the region as beneficiaries of a process established for struggling countries incapable of pulling together the political and economic capacities to implement the normal process. Ten sessions of the annual WTO Special and Differential Treatment monitoring mechanism set up to negotiate the issue failed to frame any submissions for reform.

Reforming Special and Differential Treatment itself through establishing an agreed definition for ‘developing’ and ‘developed’ countries is very difficult given the [spectrum of interests involved](#). Flexible approaches to new trade agreements may help work around the Special and Differential Treatment issue. The reform agenda could encourage future plurilateral agreements to build in time-bound commitments or other phase-out criteria for Special and Differential Treatment. Operating on an agreement-to-agreement basis, this would limit Special and Differential Treatment provisions after a defined period has passed or developing-country participants reach a certain threshold and level of development against a pre-determined benchmark.

Asia has already demonstrated that there is potential for countries to be encouraged to forego Special and Differential Treatment. The recent lead of Taiwan and Singapore, which forewent the claim to differentiated treatment, may call in other countries that need a push towards recognising their developmental achievements. In a contribution to the reform agenda, countries could entirely forego Special and Differential Treatment as Taiwan has done or choose to limit Special and Differential Treatment provisions on an agreement-to-agreement basis like Singapore. These options reduce tension in the system, speed up the trade agreement negotiation process and, ultimately, provide greater economic benefits to all participants as foregoing Special and Differential Treatment accelerates market liberalisation.

Modernisation — Climate change

Environmental goods and services still face significant barriers in trade globally. Trade in environmental goods, including solar panels, wind turbines and other products sensitive to climate impact, are valued at over US\$1 trillion annually. Yet some goods can face tariffs as high as 35 per cent. The proposed Environmental Goods Agreement (EGA) took an ambitious approach in calling for an extension of the 2012 APEC List of Environmental Goods tariff elimination. The negotiations, begun in 2014, were seen as a potential harbinger of the new flexible, issues-based approach to WTO negotiations.

The stalling of the EGA in 2016 followed obstacles such as uncertainty about the exact content of the list, the potential for non-members to free ride and procedural issues. These obstacles and the election of Donald Trump in the United States saw the proposed agreement shelved.

With the Biden administration resubscribing to the Paris Agreement, there is opportunity to revive negotiations on the EGA and draw in additional participants. The proposed agreement had included [18 participants](#) who, apart from China, were all high-income countries.

The skew to advanced countries in the proposed agreement is reflected in the list of goods which is biased towards high-tech and industrial products. A revised list that includes environmental goods that reflect developing countries' interests such as biofuels, organic products and other eco-friendly agricultural products would help draw in new participants. Australia and other advanced countries' support for inclusiveness in the reform strategy would be a significant driver for a renewed, larger environmental goods agreement.

APEC countries, including developing Asian countries such as Indonesia, the Philippines, Thailand, Malaysia and Vietnam, all signed up to the APEC List of Environmental Goods and fully implemented its 54 tariff reductions [by 2016](#). The following year APEC began taking a keen interest in [liberalising environmental services](#) as a next step. Recommendations have recently been put forward towards identifying and dismantling barriers to environmental services trade within the Asia Pacific. These initiatives reflect the will of the developing Asian region to work towards climate-oriented trade goals. Vietnam just became the latest developing country to adopt carbon pricing. Thailand is on its way to eliminating single-use plastics. China pledged to be carbon neutral within four decades. These are developing countries with industrialisation aspirations that are taking bigger steps than many advanced counterparts in the region.

Time is running out amid the increasing prospect that trade clubs may form based on carbon intensity of output, fracturing the world into low-intensity and high-intensity carbon blocs. The EU's [Carbon Border Adjustment Mechanism](#) (CBAM), in the process of being drawn up for 2023 implementation, and intended to be WTO-consistent, has found interest in the United States, Japan and the United Kingdom, who may be looking at erecting carbon border taxes of their own. It is important that other countries do not end up carbon-priced out of trade with major global partners. The trading system needs to better accommodate and encourage those pushing to reduce carbon output in their production through implementing a voluntary, comprehensive agreement to eliminate environmental goods tariffs. For now, trade barriers on these goods discourage transformation to clean production and hold back progress to a cleaner future.

Climate leadership in trade can restart with specific action in rebooting the EGA, securing the participation of major Asian industrialising nations.

Long-term reform

Maintenance — Market-oriented conditions

The multilateral system through its framework of rules is a mechanism that can drive difficult economic reforms and market opening. Its principles and norms set the rules of the game for international trade.

In December 2020, the Trump administration's representative at the WTO Dennis Shea [claimed](#) the playing field was 'unlevel', arguing that '[China's economic liberalisation] has not fully materialized' though 'market orientation is part of the WTO's DNA'. Mr Shea points to China's powerful state-owned enterprises and financial institutions, their political goals, and that they are shielded from foreign competition and engage in intellectual property theft and technology transfer. He suggested that the non-market aspects of China's economy are incompatible with WTO values and with China's agreements in the WTO. Many of these concerns have since been [echoed](#) by the Biden administration.

Instead of a '[big, bold](#)' WTO case against China and reform of the WTO, the United States under Trump responded by retreating from its support for the system and imposed unilateral sanctions on China on national security grounds.

The United States could have proceeded to cases at the WTO on a number of grounds, including some of China's possible failures to live up to WTO accession commitments, including on information sharing, state-owned enterprises and technology transfer. But there remains the possibility that China might have been acting [consistently](#) with international obligations on face value in some of these issue areas. Uncertainty in the rules was one reason why the US administration had not brought some formal WTO cases along with its protests, particularly in the context of Trump's disregard for international institutions.

If China is not following the expectations set in multilateral agreements, then it is on the membership to bring in the umpire to arbitrate. China has a record for accepting WTO dispute settlements, by and large abiding by them. There are issues to be ironed out in the system, such as the need to enhance the transparency of countries' trade practices and clarify the Appellate Body's approach and processes, which would impact individual matters, including potentially on whether China's state-owned enterprises unfairly subsidise industry as well as other issues related to state interference. Rather than writing off the system, the task is to build into the WTO reform strategy a way to negotiate towards restoring confidence in the Appellate Body.

For other issues where non-market practices are not meeting international expectations, it is on WTO members to propose and deliver new trade rules towards transparency, incremental market opening and liberalisation. Binding developing countries tighter to transparency and market-oriented conditions is possible through enhanced rule-making consistent with multilateral norms.

There has always been a role for new agreements to reinforce these market-oriented expectations. The recent EU–China Comprehensive Agreement on Investment was a significant step in foreign access to Chinese markets, one of the major sticking points between China and other trading

partners, including the United States. Under the agreement, EU investors may access new Chinese sectors, including the chemicals industry, electric cars and telecoms, and face lower barriers investing in services industries.

There is an opportunity for other initiatives to encourage the liberalisation of closed markets in other ways. China [expressing](#) interest in signing up to the CPTPP, for example, indicates some willingness to adopt the agreement's extensive state enterprise obligations, including restrictions on preferential treatment and provisions to increase state enterprise transparency. Chinese interest in the CPTPP [could be tied](#) to the recent State Council three-year action plan to reform state firms. Interest in joining the CPTPP may have acted as a domestic catalyst to initiate reform as it has done in the past.

Developing country reform is an ongoing process and the international system needs to encourage that through formalising international expectations as rules. Attractive economic agreements can drive countries into implementing difficult reforms that benefit both themselves and the global economy.

A G20 trade task force, in its review of the fundamental issues and in facilitating dialogue, could encourage developing countries to invest in stronger market principles in line with international expectations. Difficult domestic reform in the short term should be put in the context of long-term benefits. The task force would have a role of agenda setter, information provider and venue for shared commitment toward the common aims. With an agenda that defines focus and action points, structural issues in these areas can be probed and countries can pull together in working toward a better understanding of expectations and standards. Differences between countries that are presenting obstacles to cooperation can be dealt with on separate fronts. The task force may open dialogue for common principles in investment, state subsidies or intellectual property rights, for instance, reviewing points of friction and common interests, and look for pathways that countries might take in meeting goals. The G20 pursued this course of action before in crafting an international strategy to deal with post-2008 financial reforms.

Modernisation — Digital economy

The need to modernise international institutions to reflect the importance of e-commerce and the digital economy in today's society is palpable. The COVID-19 pandemic has accelerated the application of digital technologies. Online transactions increased by [about a quarter](#) across major economies and up to [80 per cent](#) in India and other cash-based economies forced to quickly go digital. The Osaka Track launch at the G20 in 2019 was an [acknowledgement](#) by world leaders of the gaps in the rules on digital trade and the need to make progress on what Roberto Azevedo called a 'constitution for the economy of the 21st century'.

Since then, the WTO Joint Statement Initiative (JSI) on e-commerce, with 86 participants including the United States and China, reported progress in [late 2020](#) and [early 2021](#) with negotiation on 'authentication, paperless trading, customs duties on electronic transmissions, open government data, open internet access, consumer protection, spam and source code'. A way through larger, more controversial issues, including data flows, localisation and privacy, has not yet been found. Though recent initiatives such as the Osaka Track Data Free Flow with Trust and APEC's Cross Border

Privacy Rules have tried to gather momentum on setting principles and guide cooperation on these issues.

The data-driven digital business model of many of the world's largest tech giants rely on the storage, movement and use of its users' digital data, including across borders. China, [the world's largest online market](#), is uncomfortable with fully open cross-border data flows and regulates some of its movement. The United States tends to favour the free flow of data across international boundaries. In a separate but related issue, China and India have some data localisation requirements, others such as the United States do not. While the European Union places restrictions to secure personal data privacy as a fundamental human right in its view, others such as the United States and China are less inclined to do so. Restrictive measures reflect national security concerns around the control and use of citizens' data by other state and non-state actors, but risk creating a fragmented 'splinternet' through different national regulations. This obstructs innovation, competition and productivity in the fastest growing dimension of the global economy.

In consequence there is no multilateral understanding on international operations that involve vast multi-billion-dollar industries in online goods retail and online services such as cloud computing, financial services and digital entertainment. Due to the great differences in interests, and without resolving the national security concerns that motivate the restrictions, the more serious issues seem likely to be excluded from an eventual agreement prepared on current progress in the JSI. This would be an unfortunate permanent outcome.

Instead, plurilateral initiatives or trade agreements among like-minded countries have become a testing ground for trade policies in these issues, delivering progress and setting precedent for others to follow or adapt. Since the first e-commerce chapter in Singapore and Australia's bilateral FTA in 2013, dozens of new agreements around the world have included strong e-commerce commitments, [including](#) on the transfer and use of data.

A foundational, long-term, globally applicable solution needs meaningful multilateral support and the digital economy should be seen as a key aspect of WTO reform. This effort can draw from the pathfinder agreements made so far among the subsets of WTO members. Most of these agreements share in common what could be an important starting point for the WTO: an acknowledgement that data flows should be free flowing as the first basic principle and exceptions, such as on security grounds, should be set out specifically and clearly.

Many from the region, such as Australia, Japan and Singapore, have already performed as conciliators and negotiators towards this principle in current JSI e-commerce negotiations and in developing the digital aspects of the CPTPP. They benefit from the experience of delivering dedicated digital economy chapters and agreements in their bilateral and plurilateral relations. Experience in the region suggests that strong advocates for building digital trade principles and rules into the multilateral framework can be found in the region and encouraged.

In substantiating first principles, a basic multilateral agreement may look to increase transparency in digital trade through setting up a WTO notification system around domestic regulatory changes that impact data flows. There may also be a multilateral commitment to keeping future digital trade agreements open to other participants, as the Digital Economy Agreement between Singapore and Australia has done, in an effort to encourage the adoption of digital trade practices. These would be

first steps to building some norms and trust in an area currently without global governance and mark consensus for the need to keep the world trade system relevant.

Meanwhile, dealing with the national security concerns that are driving some data flow restrictions could involve a joint effort to manage and mitigate risks perceived by governments. International standards on data protection, technical requirements on secure data storage and use, and increased market access in sectors related to the digital economy are goals and achieving them would begin to bridge fractures in the global digital economy architecture. Common standards mark possible steps towards international understanding and more unified and coherent global governance.

Achieving common standards successfully on a global scale will be a process of setting expectations, adopting initiatives, building confidence and gradually broadening membership. To avoid lasting digital trade blocs, the process of managing security issues needs to involve the various interests and would sensibly proceed by developing non-binding principles in the first instance.