



WTO: Ministerial Delay, COVID-19, and Ongoing Issues

Overview

Due to the coronavirus pandemic (COVID-19), the World Trade Organization (WTO) canceled its 12th Ministerial Conference (MC12) planned for June 2020. The biennial meeting, which usually involves active U.S. participation, was widely anticipated as an action-forcing event for the WTO amid serious challenges facing the multilateral trading system. Some members had hoped key results for ongoing negotiations could help bolster the WTO's relevance. In addition, a dispute settlement (DS) crisis continues, with the Appellate Body ceasing to operate in December 2019, and no consensus on solutions. Broader reforms of the institution also remain under active discussion, including some U.S. proposals. While MC12 and other meetings were suspended, members are attempting to continue some WTO operations virtually. Members will also face selecting new leadership, as WTO Director-General Azevêdo announced plans to step down in fall 2020, a year before his term's end.

The WTO can play a unique role in coordinating global trade responses, which could be critical in mitigating the grim global economic and trade outlook in the wake of COVID-19. The WTO has committed to work with other international organizations to minimize disruptions to cross-border trade and global supply chains—in particular those central to combatting the virus—while safeguarding public health concerns. It has sought to inform members of the impacts on trade and encouraged them to notify the WTO of any trade-related measures taken in response to COVID-19. The number of countries imposing trade restrictions, including curbs on exports, has increased significantly since the beginning of 2020, raising debate among analysts about the economic and policy rationales and impacts, plus questions about consistency with WTO rules. At the same time, other countries have committed to trade openness.

Members of Congress have expressed support for ongoing WTO reform effort, sought clarification on the positions of the Administration, and proposed trade-related legislation in response to COVID-19. In May, some Members introduced joint resolutions to withdraw from the WTO.

MC12 Delay and Implications

After the declaration of COVID-19 as a pandemic, Kazakhstan, the host for the WTO's MC12, cancelled the planned meetings, offering to host them in June 2021. Following mixed results from the last ministerial in 2017, the United States and other WTO members had hoped MC12 would mark a turning point to conclude some negotiations. They also hoped to announce significant progress on multiple initiatives, demonstrating the value of the WTO. MC12 was to serve as a critical forum for taking stock of various WTO reform proposals (see below). Some WTO activities continue virtually, including General Council meetings, and some staff returned to offices in mid-

May. Members are currently evaluating how negotiations and committee meetings should proceed virtually or in person, and when and how to hold MC12.

Select Ongoing Negotiations of U.S. Interest

Fisheries. Members had committed to finish negotiations on fisheries subsidies at MC12, an achievement many view as critical to upholding the WTO's legitimacy. The chair attempted to continue talks to limit subsidies that contribute to overcapacity and overfishing, but halted them after some parties voiced concerns about the virtual participation. The U.S. has supported equal obligations across members, with minimal flexibilities for developing countries. A new U.S. executive order aims to increase enforcement and resources to combat illegal, unreported, and unregulated fishing and promote domestic seafood production.

E-commerce. Members had extended the moratorium on customs duties on electronic transmissions until MC12, but it is unclear if the extension will be sustained, given the opposition of some developing countries. Separately, the United States and over 75 members are actively negotiating a plurilateral initiative on e-commerce. The United States seeks an ambitious, high standard digital trade agreement. The parties had hoped to publish a consolidated text at MC12, but are instead holding webinars on specific digital issues to educate members and attract new participants.

Agriculture. Some observers warned that MC12 would be deemed a failure without some agreement on agricultural issues. Talks have stalled in recent years, but members continue to exchange views in writing on issues, including public stockholding and special safeguard mechanisms for developing countries. Given renewed attention to lack of compliance with WTO notification requirements (e.g., on domestic support and export subsidies), some experts saw a transparency agreement as a feasible outcome for MC12.

COVID-19 and WTO Reactions

In the wake of COVID-19, the WTO Director-General emphasized, "Maintaining open trade and investment flows will be critical to protect jobs, prevent supply chain breakdown, and ensure that vital products do not become unaffordable for consumers." In early April, the WTO issued its trade forecast, estimating a plunge in global trade in 2020, ranging from 13% to 32%. A recovery is expected in 2021, but the extent depends on the duration of the pandemic and countries' policy choices. For the latter, the WTO has emphasized the importance of transparency; to date, many members have failed to notify new measures.

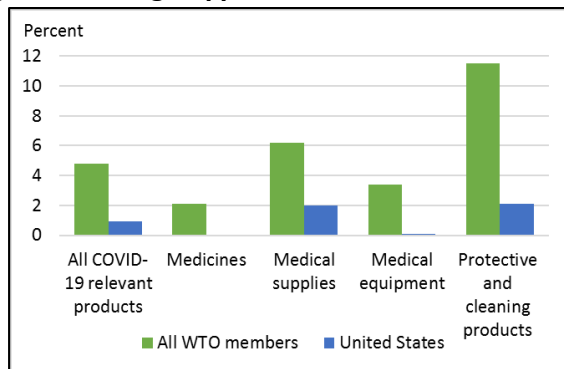
WTO Agreements and Trade in Medical Products

Several WTO agreements are relevant to health-related policy, such as technical barriers to trade, sanitary and phytosanitary measures, services, and intellectual property rights. Others guide implementation of policies, including the WTO's core principle of nondiscrimination and rules on

subsidies. Specific commitments have contributed to liberalized trade in medical products: (1) tariff negotiations during the Uruguay Round; (2) a plurilateral Agreement on Pharmaceutical Products, updated in 2011; and (3) the expanded Information Technology Agreement in 2015.

WTO negotiations and agreements have improved market access for medical products, but barriers remain. An April 2020 report by the WTO estimates \$597 billion in annual trade in critical medical products with limited availability during the COVID-19 pandemic. For these products, the average applied most favored nation tariff is 4.8% (**Figure 1**). But for some, tariffs remain quite high, e.g., the average tariff on hand soap is 17% and for some countries as high as 65%. Tariffs on protective medical products range to 27%.

Figure 1. Average Applied Tariff on Medical Goods



Source: WTO, *Trade in Medical Goods in the Context of Tackling COVID-19*, April 3, 2020.

Countries have also reacted to the crisis with new trade measures, tracked by the WTO and Global Trade Alert. As of the end of April, 80 countries, including the U.S., have put temporary export restrictions on medical supplies, equipment, and medicines. Some have restricted food exports, despite no shortages. An April WTO report warned of the policies' long term costs in terms of lower supply and higher prices. Broadly, WTO agreements are flexible in permitting emergency measures related to national security or health, but require that they be targeted, temporary, and transparent, and not "unnecessarily restrict trade."

In May, the G-20 Trade Ministers committed to these same values in a ministerial statement. Seven countries, led by New Zealand and Singapore committed to "maintaining open and connected supply chains." 42 WTO members pledged to remove emergency measures expeditiously. The WTO has emphasized use of WTO-consistent tools to address critical shortages, such as unilaterally eliminating tariffs or other taxes, expediting customs procedures, and using subsidies to generate production. It has urged careful consideration of ripple effects of policies like export curbs, as most major countries are both exporters and importers of medical supplies. Many analysts point to more coordination in trade policy as critical. In the near term, like-minded countries are considering principles for a COVID-19 trade response, and some advocate for a plurilateral agreement on medical goods. New Zealand and Singapore recently agreed to an "open plurilateral," encouraging others to join.

Ongoing Developments

In addition to addressing the current crisis, WTO reform remains a key issue for the United States and other members concerned with its institutional viability.

Appellate Body (AB) Reforms

On December 10, 2019, the AB lost its quorum to hear new cases, following the U.S. blocking of new AB members and the term expiration of two members, effectively limiting enforcement of decisions. Successive U.S. administrations and some Members of Congress have long taken issue with AB decisions and practices. This stems from a view that the AB exceeds its mandate by creating new obligations not specifically negotiated, ignoring mandatory deadlines for disposition of cases, making impermissible findings of fact, treating prior AB decisions as precedent, and opining on unrelated issues in its decisions, among other issues. Other members have proposed various reforms, but the U.S. has yet to specify the solutions that would resolve its concerns.

In May 2020, 16 WTO members, including the EU and China, activated an *ad hoc* "multi-party interim appellate appeals mechanism" as a temporary measure to arbitrate disputes. This mechanism does not apply to cases involving WTO members who have not joined, including the United States, the largest complainant and respondent in WTO DS.

Institutional Reforms

Proposals for other reforms of WTO policies and procedures have garnered intensive debate. Some solutions appear to be gaining traction, while others remain controversial among members. Key U.S. priorities include:

- **Reform of special and differential treatment (SDT).** The United States seeks to have more advanced developing or emerging members forego the use of SDT. Brazil, Singapore, and South Korea committed to relinquish SDT; China and India continue to claim it.
- **Notification requirements.** The United States has proposed that members who do not provide required transparent notification of key decisions, such as subsidies, be subject to punitive measures (e.g., deeming violators "inactive members").
- **Nonmarket economies.** Since May 2018, the United States, EU, and Japan have engaged in intermittent discussions to push for expanded disciplines on subsidies and other practices of non market economies. In January 2020, the three proposed to prohibit more types of industrial subsidies under the WTO Subsidies Agreement and otherwise constrict use of subsidies.

Recent Congressional Activity

In May 2020, privileged resolutions to withdraw congressional approval for WTO participation were introduced in the House (H.J.Res. 89, Rep. DeFazio) and Senate (S.J.Res. 71, Sen. Hawley). The 1994 Uruguay Round Agreements Act provides for consideration of such a resolution every five years and may provide Members the opportunity to debate the merits of continued WTO participation. In December 2019, the House Ways and Means Committee reported H.Res. 746 (Rep. Kind) for the House to reaffirm its commitment to the WTO and press for reforms. For more, see CRS Report R45417, *World Trade Organization: Overview and Future Direction*.

Cathleen D. Cimino-Isaacs, Analyst in International Trade and Finance

Rachel F. Fefer, Analyst in International Trade and Finance
Ian F. Fergusson, Specialist in International Trade and Finance

IF11513

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.