



BDI

Bundesverband der
Deutschen Industrie e.V.

POSITION PAPER - SUMMARY

For a Strong and Modern World Trading System

May 2016

- **Create new market access worldwide, stop protectionism**

Subsequent to the December 2015 WTO Ministerial Conference in Nairobi, the organization's members must now not only finish the remaining issues on the Doha Agenda (*Doha Development Agenda*, DDA) with market access for goods being a top priority. They also need to embrace a new negotiation mode as the single undertaking principle has clearly failed. The WTO and the G20 should also step up their efforts to curb creeping protectionism, by strengthening monitoring mechanisms for example.

- **Develop and adapt the multilateral trading system**

The WTO's spectrum of topics, rules, and organization must be adapted to meet the challenges of the twenty-first century. The neglect of areas like investment, export restrictions, digital trade, public procurement, and competition must not be allowed to continue. The use of plurilateral and sectoral agreements to liberalize trade should be increased. The 162 WTO members must be more clearly differentiated according to their level of development. More advanced emerging and developing countries need to more fully embrace the obligations under the WTO.

- **Expand multilateral rules for preferential agreements**

The WTO members should create more precise rules and clearer definitions for preferential trade agreements in order to improve their coherence with the multilateral trading system. Greater transparency and closer monitoring of conformity with WTO rules will facilitate later multilateralization. Stricter regulations on preferential rules of origin in the WTO represent another important step.

Recommendations

Priority 1: Greater openness for trade and investment along the value chain

Global value chains have grown exponentially and become increasingly complex in nature. This has important consequences for trade and investment policy. In order to promote global trade links, it is not enough to reduce the obstacles to finished products. Instead, barriers need to be dismantled along the entire value chain. Further trade liberalization and the reversal of protectionist measures would stimulate world trade without adding burdens on state budgets. Multilateral agreements in the WTO framework remain the first choice for shaping world trade. The institutions of global governance such as the G20 should be used to prepare multilateral solutions.

Recommendation 1: Implement the Trade Facilitation Agreement quickly and comprehensively

- The WTO Trade Facilitation Agreement should be ratified without delay and implemented fully in order to eliminate unnecessary trade costs.
- The support measures for developing countries should be made available as soon as possible in order to enable rapid implementation in these countries. The funds available to the Global Alliance for Trade Facilitation should be reviewed regularly and increased if necessary.

Recommendation 2: Conclude the remaining issues of the Doha Round

- *WTO talks*: The WTO should seek new approaches to complete the negotiations on the remaining issues of the Doha Round. These include *non-agricultural market access* (NAMA), trade in services, intellectual property rights, and trade rules. The DDA does no longer offer a suitable basis for this. *The single undertaking principle* (“nothing is agreed until everything is agreed”) has failed. Where multilateral initiatives fail, plurilateral negotiations need to be sought, ensuring that they are as inclusive as possible and conform with WTO rules. Developing countries should agree to open their markets in line with the strength of their economies, not least also to promote south-south trade, which is still comparatively weak. Emerging economies in particular must live up to their growing importance in world trade.
- *Non-agricultural market access (NAMA)*: Liberalization of trade in goods should remain a central element of the WTO agenda. Non-agricultural market access to emerging economies needs to be significantly improved and tariffs in developing countries at least capped at the present level. Entire sectors must not be excluded from tariff reductions. Given that multilateral and multi-sectoral agreements are currently unlikely, plurilateral and sectoral solutions should also be considered.
- *Trade in services*: Multilateral efforts in the area of trade in services should no longer be made conditional on an agreement on agricultural. Measures should be adopted to simplify trade along global value chains, for example through more liberal rules for transportation and mobility of skilled labor. The WTO should create the preconditions for including the plurilateral Trade in Services Agreement (TISA) in the WTO system, thus preparing the ground for a later multilateralization.
- *Agricultural trade*: The decisions of the 2015 WTO ministerial conference on agriculture and development must be rapidly implemented. The German agricultural sector and associated industries require fair conditions of international competition. In future talks on agricultural trade, all WTO members should demonstrate maximum flexibility and willingness to compromise. The BDI calls on the WTO to comprehensively regulate and reduce market-distorting measures at the multilateral level. Internal subsidies should also be capped for developing countries and emerging economies.

Recommendation 3: Restrict protectionism

- *G20 standstill agreement on protectionism*: It is not enough to praise the G20 standstill agreement on protectionism. The topic belongs at the top of the summit agendas again. A commitment to refrain from introducing new localization requirements should be added, as well as an obligation to publicly state reasons for new or reintroduced restrictions. Trade barriers created since the most recent financial and economic crisis should also be dismantled more quickly. The G20 governments must cooperate more closely with the WTO, OECD and UNCTAD on registration of foreign trade measures.
- *WTO monitoring and reporting mechanisms*: The existing instruments and mechanisms should be strengthened. The regular WTO reports on the trade policies of individual member states should not only describe, but also assess barriers. Trade-related measures should also be notified more consistently to the WTO. The WTO members should more actively support the WTO's integrated portal on trade measures, I-TIP.
- *Horizontal mechanism for mediating conflicts over NTBs*: Today non-tariff barriers (NTBs) often represent a greater burden on trade than tariffs, and should therefore be rigorously dismantled. The horizontal mechanism discussed under the DDA would be very helpful for discussing and clarifying potential disputes over NTBs. It should be adopted quickly, independently of the Doha Round.
- *Dispute settlement*: The WTO dispute settlement system should be made more efficient (expand capacity, accelerate process, improve transparency). The cost and duration of the process should be reduced, and transparency over ongoing cases increased, while ensuring the protection of sensitive data. Further politicization of the process must be avoided, as must any extension of deadlines for developing countries.

Priority 2: A multilateral trading system for the twenty-first century

The rules for world trade have hardly advanced since the conclusion of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and the founding of the WTO. This leaves the WTO unable to respond adequately or at all to many recent trends. The WTO rules urgently need an update.

Recommendation 4: Update existing WTO rules

- *Agreement on Technical Barriers to Trade (TBT Agreement)*: In order to strengthen regulatory cooperation between WTO members, the regular reports on the implementation of the TBT Agreement and the committee's discussion should lead to a more rigorous application of the key principles (non-discrimination, harmonization with international standards, etc.) and an expanded TBT Agreement. Definitions, transparency rules, and processes should be formulated as clearly and precisely as possible.
- *Intellectual property rights*: The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) defines only very basic rules on intellectual property rights. Here too, the rules should be modified in such a way as to promote innovation processes in the economy and improve the enforcement of intellectual property rights.
- *Digital trade*: In order to strengthen digital trade and create legal and planning security, open questions regarding, among others, classification/mode of services, jurisdiction, etc. should be addressed without delay. The WTO members should make the moratorium on import duties on electronic transmissions permanently legally binding and clarify that it also covers the content of the transmissions. Trade in digital products should also be protected from other forms of discrimination. The technological neutrality of all WTO agreements should be explicitly confirmed. In view of the growing importance of digital trade the WTO must establish binding rules for free, secure, and reliable cross-border data transfer. Legal localization requirements should be minimized, and the freedom of businesses to decide whether and what data is transferred should not be curtailed. The transfer or access to source codes should not be a market access requirement for

software. Here – as well as for cross-border data transfer – existing rules on data protection and security that are in conformity with WTO law are still to be respected. The OECD and WTO should make progress on gathering and analyzing data on cross-border e-commerce and data transfer as well as international trade in services in order to facilitate negotiating processes.

- *Responsibility in world trade:* Differentiation between the 162 members of the WTO must more clearly reflect their level of development, in order for future multilateral agreements to be fair to all sides. Emerging economies must assume more responsibility. *The Trade Facilitation Agreement* offers initial proposals for differentiating obligations between members. The medium-term objective must be a fundamental and systematic classification that above all creates new categories in the area of developing countries and emerging economies. The justified interests especially of the weakest members must continue to be given special consideration, but without exemptions and privileges permanently undermining the WTO's core interests and underlying principles. Exemptions and transitional periods must therefore have concrete expiry dates.
- *Dumping and subsidies:* The WTO members should continue their efforts to establish clearer rules in the area of anti-dumping and subsidies, with the objective of promoting competition between companies in the world market and restricting state controlled practices.

Recommendation 5: Ambitious plurilateral initiatives in accordance with WTO aims and rules

- *Public procurement:* The number of signatories of the *Agreement on Government Procurement (GPA)* should continue to grow. In the longer term, the scope of the agreement should be expanded (especially at the sub-national level, fewer exceptions). The provisions should be monitored more energetically and discriminatory procurement practices more clearly criticized. Negotiations should be initiated on a multilateral transparency agreement for public procurement.
- *Information Technology Agreement (ITA):* The extension of ITA II was sealed at the 2015 Ministerial Conference. Now rapid ratification by all signatories is important if the tariff reductions are to come into effect as planned in July 2016. The declaration of intent to discuss non-tariff barriers in this sector also needs to be quickly followed by binding agreements. In the next step, further WTO members should be encouraged to sign the ITA (I and II). It is also important to regularly review and expand the product lists.
- *Plurilateral Environmental Goods Agreement:* Negative effects such as new bureaucratic costs and discrimination between products with similar uses and environmental benefits should be avoided wherever possible. Integration into the WTO should be built-in.
- *Trade in Services Agreement (TISA):* Trade in services should be liberalized as far as possible and all significant and interested WTO members included. The agreement should be rapidly integrated into the WTO system and the most-favored nation principle applied as soon as a critical proportion of world trade is covered.

Recommendation 6: New rules for world trade

- *Foreign direct investment:* The WTO rules on trade-related investment measures should be modernized. The G20 states should consider an international investment agreement (market access and investment protection) and discuss with the WTO whether such an agreement could be integrated into its framework.
- *Competition rules:* The WTO members should put competition policy back on the WTO agenda, and the WTO Working Group on the Interaction between Trade and Competition Policy should reconvene. The medium-term goal should be to anchor appropriate international principles into competition policy as best *practice* in order to achieve long-term convergence and a *level playing field*. This should include international principles and improved transparency rules for competition between state-controlled and private sector companies. All forms of export subsidy should be abolished at the same time within the WTO and a ban should be sought on market-distorting import subsidies for raw materials (such as import tax rebates).

- *Export restrictions:* In the WTO export duties and similar levies should be more strongly regulated and minimized wherever possible. Plurilateral agreements could represent an intermediate step. Continuous monitoring by WTO members should specifically expand the ability to quickly uncover potential violations in this area and respond appropriately.

Recommendation 7: Strengthen WTO and reform processes

- The WTO Secretariat should be given more resources, weight, and authority to tackle its growing responsibilities, for example assessing members' trade measures and managing negotiating processes. Expanded capacities for dispute settlement are also needed.
- Transparency and controls are preconditions for a functioning multilateral trading system. Room for improvement lies especially in the fields of WTO monitoring and members' disclosure obligations.
- The WTO's negotiating and decision-making processes should be reformed, following the failure of the single undertaking principle.
- The review of organizational structures agreed in Nairobi should be leveraged to reconfigure and strengthen the WTO framework. The goal must be to achieve results more quickly on old and new issues.

Priority 3: Strengthen coherence between bilateral/plurilateral free trade agreements and the multilateral trading regime

The number of preferential trade agreements (PTAs), first and foremost free trade agreements, has increased dramatically since the conclusion of the Uruguay Round. As of 1 February 2016, there were 625 PTAs registered with the WTO, 419 of which were in force. For all their advantages, the multitude of PTAs also creates confusion and can in the short-term reduce the incentives to seek multilateral solutions. Nonetheless, ambitious PTAs conforming to WTO rules can lay the basis for corresponding WTO rules and improve the compatibility of bilateral and plurilateral initiatives with the WTO system.

Recommendation 8: Free trade agreements must promote multilateral trade liberalization

- The compatibility of free trade agreements with the multilateral trading system should be improved with more precise rules and clearer definitions in the WTO system.
- Monitoring of free trade agreements should be expanded, for example by improving the WTO's transparency mechanism. The permanency of the mechanism must be agreed regardless of the outcome of the DDA.
- A mechanism should be developed to review the applicability of rules agreed in free trade agreements to the multilateral regime.
- The rules of origin in free trade agreements should be more strongly standardized through precise WTO rules.

Imprint

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Note

This report is a translation based on „Für ein gestärktes und modernes Welthandelssystem“ as of May 2016. A more detailed version of this paper with an analytical section as well as the summary will soon be published in German on the BDI website (www.bdi.eu).